



RETIREMENT VILLAGE RESIDENTS ASSOCIATION INC

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ALL COMMUNICATIONS, TO THE SECRETARY, Jan Pritchett, PO Box 3176 NORTH TURRAMURRA, NSW 2074

RVRA position on appeals against CTTT findings

The RVRA recognises and accepts the right of any party to a legal ruling to appeal that ruling if they believe they have been disadvantaged by errors in law. Specifically, in the case of a Consumer, Trader and Tenancy Tribunal (CTTT) hearing involving the residents and operators of retirement villages in NSW, the RVRA does not seek to remove or deny the right, provided by Section 67 of the CTTT Act, for either the applicant(s) or the respondent(s) to appeal the finding, if they are dissatisfied with the Tribunal's decisions on matters of law.

What the RVRA does contest and seeks to change is the ability and practice of the operator to name the residents as defendants, sole or joint, when the operator chooses to appeal a CTTT finding. The appeal is to challenge the Tribunal's decision on matters of law. These are matters over which the residents exercise neither control nor responsibility, yet if the appeal is upheld they are held responsible not only for their own legal expenses but, most probably, the operator's expenses as well. These can amount to many thousands of dollars.

We believe that this is both unnecessary and unjust. The decision of the appeals court, if it does not affirm the original CTTT finding, can be to either issue its own order overriding the CTTT finding or to order the CTTT to rehear the application, taking into consideration the court's opinions. It is difficult to understand why the residents need to be made party to the appeal for the court to reach these conclusions.

Also, threats by operators, to appeal any CTTT finding favourable to residents, provides the operators with considerable coercive power to deter village residents from exercising the protections provided to them by the Retirement Villages Act. It also nullifies the intent of the CTTT to serve as an accessible, affordable and efficient means of settling disputes.

Malcolm McKenzie, President

John Cooper, Vice President

Jan Pritchett, Secretary

24th January 2011