

Topics: Services Diminished without Residents Consent and Increase in Administration Charges

Village: Frank Vickery Village, Sylvania

Operator: Wesley Mission - Uniting Church Property Trust

The Advocates: Malcolm McKenzie (RVRA Advocacy Chairman) was appointed as CTTT Advocate for the residents, ably assisted by Lorraine Beattie, Jean Whitelock, Ian Chesterfield and 100% of the residents' committee, who all agreed with the application.

The Dispute: Over a long period of time, the residents had been concerned about the cut back of services in the village, and lack of maintenance. Other concerns were:

- budgets which did not comply with the Retirement Villages Act,
- an increase in Head Office charges of 77% in one year and
- a lack of response to their many requests for information from the operator.

Residents finally came to the RVRA for assistance and advice. RVRA suggested a CTTT hearing may solve the longstanding issues.

Orders Sought:

1. Reinstatement of services that have ceased or diminished because of the operator's action, in closure by them of 70 rental units for the intended building of a new Aged Care Facility with new ILUs (RV Act Section 17 and 116 3A (b) (3).
2. Remove from current budget, line items involving Head Office charges (RV Regulation Clause 26 (e)
3. To reinstate the previous recurrent fee subsidy for closed dwellings, that was provided by the operators for the years ending June 2007, and 2008, but then ceased at the end of the financial year ending June 2009. (RV Act Section 153 (3)) At that time, June 2009, the Lifeline Cottage rent was also withdrawn. Request that compensation be paid to residents from 1st January 2009.

The Case History: There were two Directions Hearings followed by a day set aside for a full hearing. During this time, documents were forwarded to the operator by the applicant (as part of exchange between the parties) to clarify the issues, but with no response from the Operator. It was planned to have, at the commencement of the full hearing day, a session of mediation. In the days just before the planned mediation, the Operator sent a list of 68 questions to be answered by the applicants. The mediation session was on October 29th 2012, and lasted for a period of nine hours.

The Results: The mediation was highly successful. The Mediator appointed by the CTTT was a barrister, who was skilled in strategies to achieve results. It resulted in some 12 orders, with at least 25 specific line items being listed for the Operators to observe.

If the operator does not comply with any of these orders, the residents may return to the Tribunal immediately and have the case heard formally.

The committees ordered to be set up to achieve better cooperation have met, and many maintenance items are being done in the village. The residents have had almost \$100,000 returned to village funds as a result of this mediation.

What Has been Learnt: Mediation can bring a successful outcome to a case, if carried out well. The progress following the mediation has been slow, and constant vigilance is still required for all budgetary items, and the compliance with the orders.