***TEMPLESTOWE MANOR RETIREMENT VILLAGE***

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 CONSUMER PROPERTY ACTS REVIEW

 OWNERS CORPORATIONS

My name is George Selkrig. I am a former Owners Corporation practicing Manager with over thirty year experience in the industry. After my retirement some twelve year ago, I became a Lot Owner in a Strata Titled /Owners Corporation Retirement Village. Since taking up occupancy in my Village community and continuing, I have held positions on the Committee as Chairman, Secretary, Executive Committee, Finance Subcommittee and Assets Management Sub Committee.

My submission incorporates reliance on my professional experiences and knowledge gained over some forty years in the industries .My submission covers the following

* Conduct of Owners Corporation Managers
* Owners Corporations in Retirement villages

1...Whilst the Owners Corporation Act 2006 (Part 35) prescribes that an Owners Corporation may resolve to have its financial statements audited and in certain cases must have them audited, it does not prescribe that any monies held on behalf of lot owners and transacted under a Trust account operated by an Owners Corporation Manager must be audited.

The Estate Agents and Conveyancers Acts require that every person who carries on a business as an Estate Agent or as a Conveyancer is required to have their Trust records audited within 3 months after 30 June of each year and that in relation to certain breaches of these Acts penalties can be imposed

It is suggested that the Owners Corporation Act 2006 be specifically amended to include a requirement that all Trust Accounts operated by Owners Corporation managers have these accounts audited similarly to that of Estate Agents and Conveyances

2. My concern in relation Owners Corporation in Retirements Villages covers 2 areas

(a)Under Part 3 of the Retirement Villages Act 1986, Definitions, I can find no reference to the term “Retirement Village Operator” .This term is used in the industry and in the Consumer Property Acts Review Issues Paper No2.

If we refer to Division 2, Common Property, Section 30, of the Subdivision Act 1988, vesting of common property of the Subdivision Act 1988, it clearly states that common property vests in the owners for the time being of either a limited or unlimited owners corporation as tenants in common. The term “Retirement Village Operator “could imply that the “Operator” is acting in a number of capacities, such as the Management Company, Village Manager, Close Associate or Developer. Surely there is a conflict. To clarify any confusion and misunderstanding this term may convey to resident lot owners, a clear definition as to what a RVO is, must be inserted in the RV Act or any resultant legislation that may be enacted as a result of this review

(b)Voting by managers or related persons who have a majority voting power has been a contentious issue for a long time. The third model in the Issue paper states that the common facilities are located on common property owned by the owner’s corporation. Under this model some of the units are owner by lot owners resident and some are owned by subsidiary companies of developers/village operators in a nonresident capacity. Either the resident manager or executive from the management company is appointed to act as a proxy in any decision making

It is often the case the owner’s corporation manager or other person appointed is acting in a number of capacities but the primary focus is to serve the operators interests to use pressure and their voting power to influence the outcome any voting decisions

In instances such as increases in fees, striking special levies or decisions relating to Section 52 of the Owners Corporation Act ,2006 (Significant alteration to common property),a retirement village operator ,manager or related person who has a majority voting power in an owners corporation in a retirement village should be prohibited from voting