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Welcome to the third edition of Legal Insight for 2013.

Before You Sign A Retirement Village Contract

Buying into a retirement village – just like purchasing a house, right? There's a vendor, a purchaser and a dwelling. How different can it be?



Quite different, actually. Whether you're looking at a self-contained villa, serviced apartment or some other retirement accommodation, it may be helpful to be aware of key – and potentially costly – pitfalls.

Costs to Move In

The first thing to understand is that while it's easy to think in terms of "purchasing" a retirement home, you may actually be paying for a long-term lease, making an interest free loan in exchange for a "license" to occupy, or buying shares in the village or units in a unit trust. Because actual freehold complexes are rare, you most likely will not actually "own" your dwelling, even though the price may be comparable to similar properties in the area. This brings limitations in what you can do with the property (i.e., mortgages, caveats, renovations etc).

Costs to Stay

Most people choose retirement community living because of the lifestyle and facilities that are available. Of course, these are not free,

Words to the Wise
"Anyone can do something when they want to do it. Really successful people do things when they don't want to do it."
 Dr Phil

and the variously-named "maintenance", "ongoing" or "recurrent" fees can range up to hundreds of dollars per week. Find out who decides what services are offered at the facility, and how much input residents have into the decision making process. What are your rights if unwanted and expensive services are being provided at the cost of exorbitant weekly fees?

Additionally, residents are also generally responsible for the cost of repairs. Make sure your contract provides a clear formula for identifying resident expenses, as disputes can arise over residents being charged for "maintenance works" that should really be classified as "capital improvements" – and should be borne by the village owner.



Costs to Leave

Many operators make their real money when the time comes for you to leave. "Deferred Management Fees" or "Departure Fees" are based on complex formulas and can cost you a third of the re-sale price of your unit. In addition, operators generally require the outgoing resident to pay for the refurbishment of the dwelling prior to sale, and this may cost you tens of thousands of dollars. Plus, you may be liable for the normal ongoing fees for the entire time your unit is vacant.

Did you know...

If you work in the city, our Melbourne office is ideally positioned to meet your legal needs. For a convenient lunch time appointment or consultation, give us a call.

If you would like to receive an electronic version of Legal Insight, please:

- call Tristan Tottenham of our office on 9870 9870
- write to us at PO Box 450, Ringwood 3134
- send an email to office@hutchinsonlegal.com.au

Be aware of how your prospective contract deals with capital gains and losses. Most villages require the resident to make up any shortfall between their purchase price and the re-sale value. However, many do not allow the resident to share in capital gain profits, with the operator taking the entire increase.

Be Informed

These are just some of the contractual issues which purchasers of retirement homes should consider. A number of government agencies and consumer bodies provide general information that may assist you in making your decisions. However, it's always wise to obtain professional legal advice from a lawyer familiar with retirement community contracts before signing something you might regret.

To speak with our experienced Eldercare Legal team, call 9870 9870 or email office@hutchinsonlegal.com.au

Dividing Property – Without a Divorce

Unfortunately, unforeseen situations can impact our lives or the lives of those we love. When a person suffers a serious medical condition that no longer permits them to live at home with their spouse, is it possible to obtain a court order to divide the assets that have accumulated over the duration of the relationship even though there is no separation or divorce?

The High Court has recently taken a fundamentally different approach to property division and confirmed its power to divide property where the marriage has not broken down. In *Stanford & Stanford* [2012] HCA 52, children of an elderly couple initiated proceedings for a division of their parents' property...

To continue reading, visit www.hutchinsonlegal.com.au/dividing-property-without-divorce



The Business Innovation and Investment Visa



In its effort to foster continual investment and innovation, the Australian government has developed a visa scheme to encourage migration of high net-worth contributors to Australia. The provisional Business Innovation and Investment Visa is part of the Australian Business Innovation and Investment Program, and it is aimed at attracting overseas individuals to invest in Australia, ultimately strengthening the Australian economy.

Generally speaking, this Visa is for people who already have a successful business or investment history, own adequate personal and business assets or were nominated by a state or territory government.

The Visa has three streams:

- **The Business Innovation Stream** is for individuals who want to own and manage a new or existing business in Australia.
- **The Investor Stream** is for individuals who want to make an investment in an Australian state or territory

and want to maintain business and investment activity in Australia after the original investment has matured.

- **The Significant Investor Stream** is for individuals who are willing to invest at least \$5 million into particular investments in Australia and maintain business and investment activity in Australia after the original investment has matured.

Applicants must lodge an Expression of Interest through the Department of Immigration and Citizenship's 'SkillSelect' and be invited to apply for the Visa. The specific eligibility criteria required to be met will depend on which stream an individual intends to apply for...

To read more about the Business Innovation and Investment Visa, visit www.hutchinsonlegal.com.au/business-investor-visas.



Faten Awad is a solicitor and registered migration agent.

A Super Deal for Employees

On 1 July 2013, new requirements increasing superannuation guarantee ('SG') contributions from 9% to 9.25% come in to force. Furthermore, employers will now be required to also make minimum SG contributions for employees aged 70 and over who satisfy all relevant requirements.

If you are a director of your company, you can be held personally liable for outstanding SG payments, so it's a good idea to know your obligations and ensure that the company's following them. If you're confused about your responsibilities or struggling to make SG contributions on time, give one of our employment or commercial lawyers a call.

Suds a Fuss!

The Moorabin Magistrates' Court recently ordered two elderly neighbours to do their laundry at different times of the day, the Bayside Leader reported. The women have been forbidden from using their complex's communal laundry at the same time, with interim mutual intervention orders requiring that one do her washing before 1 p.m. and the other only being permitted use of the facilities later in the day.

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FastFACTS

\$1.9T

Australia's total superannuation assets

.139mm

length of the smallest known insect, the fairyfly

1,292

Jamaican visitors to Australia in 2012

116yrs

duration of the Hundred Years' War

1

Australian who has run 100m in less than 10 seconds

Visit us at hutchinsonlegal.com.au

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