**Submission to Productivity Commission on Aged Care.**

The following report follows from my concern that the several successive owners of our village have taken advantage of aged, and mostly no longer able residents, by only offering anti-competitive contracts. This practice appears to be universal by all the big operators and sanctioned by their lobbying association the RVA.

Potential residents do not fully understand the full ramifications of the contract when they sign and most residents never do. All they understand is that it is an irrevocable commitment to that village.

Their contracts have what is euphemistically called a Deferred Management Fee (DMF) which imposes costs in a form that effectively precludes the majority of dissatisfied residents from exiting.

This anticompetitive element has troubled me especially when I see what happens once you are locked in. Our village owner, is so concerned, having effectively locked in residents that it coerced the Residents Committee, a group of uninformed residents, to agreeing to recommend a token settlement to an unsatisfactory situation by signing a confidentiality clause in a contract amendment. I was the last in the village to sign and am bound by that agreement.

This enables the Australian operators to extract a much higher return, much earlier than their US Retirement Community operators from their aged uninformed customers.

So on a recent trip to the USA I took the opportunity to visit some villages to find out how their retiree housing system works. My hopefully self explanatory report follows.

Should you seek clarification of any part of report, I am happy to respond.

Charles Adams

2010-06-30

**Report - Comparison Australian Retirement Villages and USA Retirement Communities**

The anti-competitive nature of the Loan Lease contract with Deferred Management Fee, or similar, that is almost universal in Australia is very concerning. Also misleadingly, only the word ”lease”, is used in contract titles, which is less than transparent.

So during a personal visit to Washington State of the USA in late May 2010, I took the opportunity to visit six retirement communities. In the US a Retirement Community is the equivalent of a Retirement Village in Australia/England/NZ . Two of the village visited are in a small town, Mt Vernon about 150 km north of Seattle, one is at Everett, a city about 60 km north of the Seattle. One at Redmond is towards the edge of a large highly prosperous residential suburb, while the remaining two were about 25 km east of the centres of prosperous Seattle/Bellevue just beyond the urban fringe.

Generally they are similar in standard to our retirement villages, tho the range seems to be more diverse with more studios and single bedroom units than are available in Australian villages. Unit rentals are priced according to size.

Five of the six communities visited were single large apartment blocks. The sixth, comprising 6 contiguous named villages had a mix of apartment blocks and single story unit duplexes. This community was the largest with 1010 residences. Most communities have studios, presumable for single retirees. A studio is a unit with a single main living, eating, sleeping room.

The principal difference between Australian and US communities is that they generally have straight rental agreements, while Australia almost without exception uses the complex Loan Lease, or similar device, to make it very expensive for disenchanted residents to leave. The US system is transparent and competitive. There were no “Deferred Management Fees” (DMF) to lock residents into villages that did not meet their expectations. With a rental agreement there was no need for long contracts, just a simple standardised form as provided by the legislation in Victoria by the “Residential Tenancy Agreement” form. Incidentally one retirement community I am personally aware of in Victoria has already successfully adopted this rental form. Another Victorian village I am aware of does not apply the “Deferred Management Fees” (DMF) until the customer has been in residence for 12 months. That is a very substantial recognition, by that village alone, that some people will not find the reality of village life suits them.

The other significant difference is that most US communities have a wider variety of units. They have some studios, that is small units designed for people without partners. They also have some single bedroom units, as well as the more customary two bedroom unit which is the Australian norm. The larger communities also offer assisted living, as well as nursing care as integrated services, all quoted to prospective residents. Most had “Pea Patches” for residents who wanted the pleasure of a working in a little patch of garden.

The attached tabulation summarises features and prices quoted in writing with the brochures provided to the writer.

As a consequence of this investigation I believe all Australian state’s legislation should be amended to make it essential for all prospective residents to be offered an alternative to the lower entry cost “loan lease”, (with Deferred Management Fee) which locks most in.

The two alternatives which should always be available are a simple purchase (without Deferred Management Fee) or the generic monthly rental as in the US. These two alternatives would allow alert potential resident s to avoid the anti-competitive, lock-in “Loan Lease” with DMF as foisted on the aged in Australia. These two alternative would also reduce capital risks for the operators. It would appear Australian operators fail to understand their customer’s needs, or ignore them. The operators take appear to take the view there will be no repeat customers.

As an exercise I have done cost comparison for three residency periods, between what appears as comparably featured two units in the US and Australia. This exercise is only for two bedroom units so popular in Australia.

The comparison suggest Australian retirement village costs are significantly higher for the first few years, but after tenures for somewhere between 3 and 9 years, depending on the rate of application of the Deferred Management Fee (DMF) the Australian system will be increasingly attractively priced. Some Australian operators are also accelerating the DMF cost application which will increase the initial price disparity in Australia. The flat 4% annual increase in the rental (only ascertained for one community) in USA is much higher than the CPI has recently been in Australia and would mitigate further for that village and any similarly affected communities

The really significant difference is between the complex and anticompetitive Australian contracts that lock most residents in, and the simplicity of the US rental arrangements.

The Deferred Management Fee (DMF) does have attractions for some potential residents since it makes entry to retirement village housing more affordable for a considerable number of people who otherwise would not be able to enter. On the other hand without any alternative to consider, such contracts lock residents in and to protect the village operator from depredations by predatory and litigious residents(always assuming there is among such aged people those with enough time, interest and determination to take on large companies and their phalanxes of lawyers)! It is a pity operators in Australia are so lacking in understanding of their customer’s needs and expectations.

You would think the operators would have understood that final decision and trauma of moving into a village would on its own by be sufficiently inhibiting to lock in 99% of residents without the need of the double lock of the Deferred Management Fee (DMF) to make it practically impossible for even the grossly dissatisfied to change villages. Even so the writer knows personally of three residents (in less than a 100) who have paid the DMF ransom to move out of a village that did not meet their promises.

Generally Australian operators know that they are taking advantage of their customers ignorance. They take advantage of the customers lack of knowledge of the real nature of the contracts and the total nature of the commitment they make. Also in many cases, if not most, the prospective loan lessee is under stress of medical or age problems. Of course the rank and file sales people are in many cases equally lacking in understanding but it is thought most are more motivated and conditioned by the commission on each and every loan lease. The use of the unqualified term "lease" in these contract is also improper. In what other generic lease is there a requirement to hand over the "capital value" of a property as well as paying a weekly or monthly rental usually described as a "service fee". All such contracts should have the term "loan lease" in the documentation title to be at least partly transparent.

The misnomer term Deferred Management Fee (DMF) was misappropriated from villages operated by charities and municipalities, where it is can be justified as the only contribution that many of their residents are able make for a roof over their heads.

Documentation and pricing as presented to prospects for each of the first five US communities is available. There is only brochures (no pricing) for the up market Timber Ridge Community.

Australian state legislation should be changed to ensure all future potential retirement village consumers have a choice of contracts. At least one of these must allow them an alternative which does not include anticompetitive restraints such as the deferred management fee or euphemistically named equivalents. A simple standard form rental contract similar to the "Residential Tenancy Agreement" is also needed as one option.

Charles Adams June 28, 2010

Comparison of Cost Aust v USA for three representative periods.
US Costs Converted to Aust $US0.85

| | 1 yr 1 day | 10 years | 20 years |
|---|---|---|---|
| **Representative "Loan Lease?", the most popular RV contract in Australia** | | | |
| Service fees $450 monthly | $5,850 | $54,000 | $108,000 |
| Simple Interest @ 5% on the up front loan $400,000 | $21,667 | $200,000 | $400,000 |
| Deferred Management Fee 11% x $430,000 ending after one year and one day | $47,300 | | |
| Deferred Management Fee 32% x $430,000 ending after 9 years and one day | | $128,000 | |
| Deferred Management Fee 32% x $430,000 ending after 20 years and one day | | | $128,000 |
| Food for 2 persons $100 a week | $5,300 | $52,000 | $104,000 |
| Gas $250 annual | $271 | $2,500 | $5,000 |
| Water $140 annual | $152 | $1,400 | $2,800 |
| Electricity $350 annual | $380 | $3,500 | $7,000 |
| Municipal Rates $750 annual | $750 | $7,500 | $15,000 |
| Totals | $81,670 | $448,900 | $769,800 |
| $ Per diem. | $223.45 | $122.90 | $105.38 |

| | | | |
|---|---|---|---|
| **Generally Similar Standard Representative USA Community on Monthly Rental** | | | |
| $3545 x 13 months = @ A$ = US$0.85 | A$54,217 | | |
| $3545 X 12 x10=$ US510480 @ A$ = US$0.85 | | $A500,470 | |
| 20 years $3545 X 12 X 20 @ A$ = US$0.85 | | | $A1,000,941 |
| $ Per diem. | $A137.01 | $137.02 | $137.02 |

A year of 365.25 days is used in the calculations. An average month comprises 30.44 days US figures calculated at $3545 x12/365.25days= $116.46 @ US$0.85 = $A137.01.

For clarity, recognizing the limitations of the aged demographic that will be interested enough to read this, the above is a simple comparison ignoring CPI increases and ignoring interest compounding on the entry loan capital cost. Regardless of how it is done there are so many factors, time will introduce so many variations that estimates such as this will have a very small likelihood of being achieved in practice. For instance DMFs are highly variable, there is no provision for transport to shops since this will depend on what the resident provides and what the village provides. Hobbies , internet, insurance and entertainment costs will vary with people and village. Calculations also do not take into account the US flat 4% annual rent increase of one village which appears exorbitant.

It is clear Australian retirement village operators get their profits, and repeat profits much quicker than in the US, tho this is done at a high risk during tight liquidity periods when finance cost increases can and have caused too many villages to fail.

If you are of short life expectancy, move to the USA and save money. If you have an expectancy of above about eight years, stay in Australia.

# US Retirement Community Comparisons, May, 2010

| Community | Location | No of units | Studio monthly rent | Single bed range monthly rent | Two bed range monthly rent | Assisted Living |
|---|---|---|---|---|---|---|
| Mountain Glen* | Mount Vernon WA | 174 | $1545 - $1935 | $2040 - $2735 | $2845 - $3335 | Available |
| Logan Creek | Mt Vernon WA | 47 | $1430 - $1760<br>$359 Extra Person | $2275 - $2370<br>$359 Extra Person | $3070<br>$359 Extra Person | |
| Garden Court **<br>*** Rent Increases. | Everett WA | 148 | $2100 - $2275 | $2595 - $2895 | $3445 - $3645<br>With den $4050 | Available at extra costs |
| Fairwinds ❖ | Redmond | 167 | - | From $2500 plus<br>$600 for double occupancy. ❖❖❖ | From $4350<br>$600 for double occupancy. ❖❖❖ | 24/7 $400 month. Medication package $500 month. Others options up to $1200 a month. |
| Providence Point Comprising 7 ❖❖ contiguous villages | Issaquah | 1010 | | | ❖❖ | Available including nursing care |
| Timber Ridge | Issaquah | ? | Prestigious village, with assisted care and full care under development. Prices not available | | | |

Note all figures are in US $ (Aus $1 = $US 0.85 in June 2010) All communities visited are in Washington State on the West Coast. * Covered parking $35 a month, Cable TV $20 ** Had lunch with resident friend who is also a community hostess. ❖❖❖ Monthly rental includes $300 allowance for meals at community dining. *** Flat annual rent increase 4.0% ❖ Residency Fee (Entry charge) $2500 Pet Entry Fee $500 ** Incl 2 meals/ day

❖❖ This may be the model on which the Australian practice is based with many duplex single level residences. Typical purchase price for large two bedroom duplex and two car garage $445000 plus $5000, property taxes + $700 a month.

All of the above except Providence Point are what we would call large apartment buildings. Most community areas are more lavishly decorated than villages in Australia. While most have basic kitchens the more deluxe have full kitchens. Most prices include two or three meals a day with some also offering snacks. All have 24/7 presence of operator staff living on the premises. Generally the "literature" provided is comprehensive, more transparent and less wordy, less voluminous and simpler than in Australia. Attached are two exemplary explanatory listing of inclusions in the rental cost. In no case was I able to find any of the anti competitive "Deferred Management Fee" as is used to inhibit unsatisfied residents from moving to another village.

The first two villages were selected from the yellow pages as nearby (Mt Vernon). Garden Court because the writer knew a resident. Fairwinds was selected from the yellow pages for proximity to where the writer was staying in Bellevue and Issaquah host knew of the two Issaquah Villages.

Note 2 The major difference between the US and Australian models is that the former is a simple rental agreement, while the latter is mostly either a "loan lease" or indistinguishably a "loan Owners Corporation", each with deferred management fee, to provide a lower entry cost but also effectively preventing most dissatisfied residents from leaving, other than to a nursing care facility or feet first.