



# NEWSLETTER

Residents of Retirement Villages Victoria Inc.

Issue No 24 November 2011

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## Welcome to the December 2011 Newsletter.

Please accept my apology for the lateness of the last Newsletter. I have plenty of reasons but no excuses for the delays experienced. In that issue I invited you to write more and many did, especially about not having the final detail about the Annual General Meeting. It showed me that you care, and that is good for RRVV.

We will be using the RRVV Website more for the posting of information and there are plans for RRVV to issue monthly one page notices to Members/RLO's on items of interest. Stay tuned.

This issue of the Newsletter has comment on the vital subject of Resident's Committees and why they must be established at each Village, why they must be effective and independent and how they can be enhanced within the letter of the law. RRVV supports the approach that, although your Village may be a happy place now, you never know when there may be events impacting on the happy Village which will need a strong Residents Committee to monitor the effects and to ensure that Resident's rights are protected. It is impossible to establish a Committee which is effective immediately. Section 36 of the Retirement Villages Act 1986 states quite clearly that:

**"In the case of a retirement Village where there is no owners corporation the residents may elect a residents committee to represent the interests of the residents of the village."**

Even recently RRVV was told by a member that the owners of her village had stated that they will not allow a residents committee at their village. We will be taking that up as appropriate!!

*Terry Macdonald*

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### To all you Lexiphiles ...

*(those who love playing on words)*

- To write with a broken pencil is pointless.
- When fish are in schools they sometimes take debate.
- A thief who stole a calendar got twelve months.

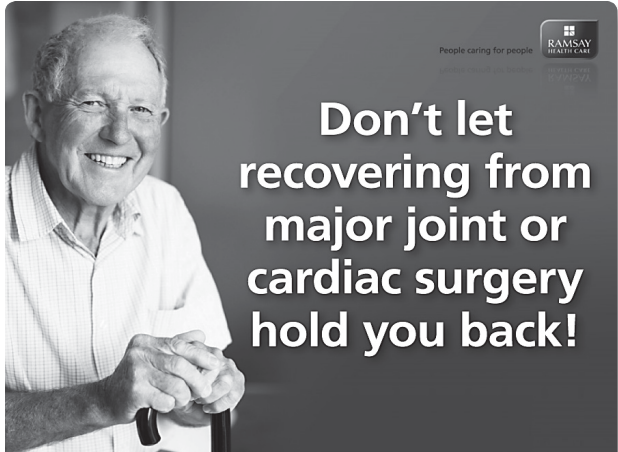
## RRVV Objectives

It was recently suggested that we let all readers of our Newsletter know the Objectives that RRVV follows in its quest for service to its Members. These are on our Website for the record.

**Residents of Retirement Villages Victoria** (the Association) is an active and representative group for all people living in retirement villages in Victoria; a voice for all the residents, a voice promoting residents' rights, and the voice to government at all levels. It is the residents' organisation putting forward residents' views, ideas and opinions by:

- Contributing to policy debate and to advocates on behalf of the community of retirement village residents.
  - Referral to legal/support services in cases where residents are in dispute with a retirement village operator or other residents.
  - The provision of information concerning the development and/or operation of a retirement village residents' committee.
  - Education of its members and the broader community of the issues affecting retirement village residents.
  - Facilitating a collective voice on issues, needs and problems regarding retirement village residents.
  - Liaison with relevant government departments at both State and Federal level, local councils and relevant peak organisations.
  - Promoting interaction between retirement village residents throughout Victoria.
- Providing general information concerning retirement village matters.
  - Encourage sustainability in existing and future retirement villages.

- A boiled egg is hard to beat.
- When you've seen one shopping centre you've seen a mall.
- A bicycle can't stand alone; it is two tired.
- A will is a dead giveaway.
- A dentist and a manicurist married. They fought tooth and nail.



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## **Lolita de Wever v. Long Island Village Services Association Incorporated**

**A Directions hearing at 10 a.m. on Monday 24 October at the Frankston Magistrates Court.**

Lolita came to live in Long Island Village Seaford in 2006. She has experienced a very difficult time there. She would like to leave, but she is trapped, and can't afford to get out, because of unconscionable clauses in her contract.

The Village is managed by the Association. It is run by a committee of the residents, the manager and a Stockland representative. The Stockland representative has 30% of the vote. Special resolutions need their vote, because special resolutions need a 75% vote to be carried.

In her case, Lolita says that the Association has been guilty of what is called "oppressive conduct". This happens when the majority of members gang up against a minority. The committee is the majority and Lolita and others are the minority.

The root of the problems is a failed management model. The committee are seen by many residents as being out of touch with residents opinions and with modern business practice. Lolita will be asking the court to appoint a statutory manager for twelve months. This will be a qualified person to replace the committee. She will ask for the rules to be changed to allow a churn of people on the committee,

i.e. a maximum term to be 3 years, and not the same people being elected, year after year. She will also request a court order that the management obey the rules and laws, such as the Retirement Village Act, the Associations Incorporation Act etc.

This is a David and Goliath situation. The Association has instructed William Street lawyers charging hundreds of dollars an hour. Lolita can't afford this sort of money and is taking on this case on her own. She lives on a Centrelink pension. She has been brave taking on this case. So this action is in the interests of all residents in retirement villages in Victoria, particularly those many residents who do not know or understand their rights. Because of the importance of this hearing a general invitation was issued to RRVV members to attend the hearing and show her support. The response was most impressive and a record of the hearing states:

"The Magistrate was surprised (and he made the comment that he was, saying that the matter appeared to be more serious, as obviously it affected many other residents from other villages and not just Lolita), especially as the court seating filled and many residents stood around the walls of the court; the doors had to be closed and the remainder of those attending spilled into the waiting area."

Just before the Court appearance was due, Lolita had received a letter from Consumer Affairs advising her that the method of conduct of a recent important Committee Meeting and its adjournment were not acceptable and that the Association had been so advised.

As a result of this and the following discussions in the Court the Magistrate asked Counsel for the Long Island Residents Association and the Village Manager if a month would be sufficient time for them to give their recommendation. Both parties agreed to this, with a date to be set in a month's time.

We all await the next steps with great interest.

## Are You a Lone Ranger?

In our RRVV experience of consultation, there is inevitably a ‘Lone Ranger’ in each troubled village, a feisty resident who is battling for their rights, usually without a ‘Tonto’ for support!

However, there is a hidden access of talent available to them, bearing in mind that the role of the Residents Committee is absolutely vital in a village, as it is the only means of controlling and monitoring any mal-administration by the Manager or Management company.

In most circumstances, the residents have a concerned son or daughter who are aware of their elderly parent’s plight (when compromised), so they are a source to recruit them onto the Residents Committee - to bolster it up with younger and more professional (e.g. even a solicitor) energy to protect their parents’ well-being. And ‘yes’, it is legitimate, as shown hereunder.

**Firstly**, under the **Owners Corporations Act 2006**, SECT 87 (PROXIES) says:

*(1) A lot owner may authorise a person in writing to act as proxy for any of the following-*

*(c) to represent the lot owner on the committee of the owners corporation.*

*(3) An authorisation under subsection (1) -*

*(a) must be in writing in the prescribed form (see below); and*

*(d) must be delivered to the secretary of the owners corporation; and*

*(f) lapses 12 months after being given or, if there is an earlier date specified in the authorisation, on that date; and*

*(5) A person authorised to act as proxy must act honestly and in good faith and exercise due care and diligence”.*

It is also relevant to note the power that under Section 113, *“A resolution of the committee of an owners corporation in respect of any matter has effect as a resolution of the owners corporation”.*

The actual form of the proxy can be printed from the Owners Corporations Regulations 2007 - Schedule 1 Regulations 6... paragraph “B” (*“to represent me **on the committee** of the Owners Corporation”.* (Ignore paragraph A as it is inappropriate). *Also note that the proxy (if continuing) will need replacing with a new one at the end of a year.*

**Secondly**, under the **Retirement Villages Act 1986** - SECT 36A – *“Resident’s right to act through representative”* says:

*Despite any resolution or decision at an annual meeting or at a meeting of the residents committee that is to the contrary, a resident may appoint another person to act in the place of that person at any annual meeting or **meeting of the residents committee.***

**Summary:** This strategy has been put into effect at a village, following an informal meeting of concerned residents and their daughters who subsequently contributed on the Committee with effective outcome. Hi Ho Silver!

*Jim Burrowes  
Hon. Treasurer*

- When the smog lifts in Los Angeles, U.C.L.A.
- The professor discovered that her theory of earthquakes was on shaky ground.
- The batteries were given out free of charge.

## **Consumer Affairs Review of Retirement Village Management Protocols**

Protocols about the way some processes should work can be found on the CAV Website, and the Coalition Government had, as a part of its Election Platform, an intention to review other issues of contention and to determine protocols for the information of all.

Earlier this year a Protocol Roundtable was established and included representatives of the “retirement” sector (RRVV, COTA, HAAG and ACCV) as well as RVA and CAV. By December this year protocols on:

- Changes to Services in a Village,
- Marketing Procedures when a Resident vacates a Unit,
- Charging of Fees on Vacation of a Unit,
- Presentation of the Annual Financial Statement,
- Refurbishment and reinstatement of loan licence Units,
- Recurrent and Capital Charges,
- The Maintenance/Service Charge and the Maintenance Process.

will be finalised by the Roundtable and submitted to the Minister for consideration, pending approval. These protocols will fill vacuums and be of great guidance to all residents on how things should be done in all Villages.

## **Association of Independent Retirees**

At the RRVV AGM on 21st September, 2011, Patsy Haywood spoke about the Association of Independent Retirees or AIR. It is a national Association, which began in 1990 in Queensland and swiftly moved to other states. The Victorian Branch started in 1994. There is now an Australia-wide membership of 12,000. One of the early gains was the introduction of the Seniors’ Health Card.

As self-funded retirees are on fixed incomes and many are in Retirement Villages, it is important for there to be a body to promote their interests. The association provides members with information and resources to assist them in making informed decisions in the area of finance, health and social inclusion.

Some issues that need support are:

- Advocacy
- Superannuation
- Information
- Forums

There are committees at National and State level, plus local branches. At State level, there is work for seniors to have more assistance as they age, so it is a good idea to work with other Associations, such as RRVV. Folders with information and the latest magazine were distributed to all participants.

*Elizabeth Paramanathan*

**Blackburn South**

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**Free sessions help older people understand Anxiety and Depression**

**Interactive information sessions available free of charge to your seniors group.**

Peer Educators are trained to present health and well-being topics to seniors groups. Sessions have a practical focus and simple strategies to deal with health issues are discussed. The sessions are free of charge and handouts are provided.

The two sessions offered are: **Beyond maturity blues: Anxiety and Depression in older people** and **Medicines and You**.

**1. Beyond maturity blues.**

In spite of the changes people may experience as they get older, having anxiety or depression is not a normal part of ageing. Around one million Australians live with depression and over two million Australians will experience an anxiety disorder each year.

**This session focuses on:**

- learning about anxiety and depression,
- ways to identify and prevent anxiety and depression,
- what you can do to stay mentally healthy.

Sessions are available to seniors groups; in particular to carers and volunteers, those living with chronic illness, men, veterans and rural communities. COTA also has bilingual Peer Educators available to deliver to non English speaking groups.

**2. Medicines and You**

Did you know around 140,000 people are hospitalised every year because of medicine-related problems – and more than half of these are preventable?

Older people are the highest users of multiple medicines in Australia, so for six years, COTA and National Prescribing Service

have been providing information sessions to help seniors use medicines safely and effectively.

**A Medicines and You session will help participants to:**

- Learn about their health and medicines options
- Effectively discuss their health and medicines options with health professionals
- Manage their health and medicines well

For more information or if you would like to book both or either of these topics, contact COTA Victoria.

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[www.cotavic.org.au](http://www.cotavic.org.au)

- You are stuck with your debt if you can't budge it.
- Local Area Network in Australia: The LAN down under.
- If you don't pay your exorcist you can get repossessed.
- With her marriage, she got a new name and a dress.
- Show me a piano falling down a mineshaft and I'll show you A-flat miner.

## **The RRVV Rates Reduction Campaign**

At the meeting on 29th September on our action to pursue our goals of reduction to Village Rates, we agreed on a campaign of petitions to Members of Parliament and gatherings at Parliament to present the Petition. Shortly after the meeting, these decisions we made needed to be put on hold because, following a meeting of RVA and RRVV earlier in the year, I received, out of the blue, on the 4th October a copy of:

### **“Valuer-General Victoria and Municipal Group of Valuers Guidelines on Valuation Methodology for Aged Care and Private Health Care August 2011”**

These are new guidelines which introduce the concepts requested by RVA/RRVV earlier in the year.

To have some form of guidance on the worth of these guidelines to us in RRVV I asked a friend (who is a long time but now retired Valuer) for his views. He said:

*“The August 2011 Guidelines appear to go a long way to sorting out some of the anomalies - page 15 I think is the critical one where it states quite clearly that only the freehold land and buildings are to be valued for rating and taxing purposes.*

*The difficulty of interpreting sales evidence remains - does the sale of an individual unit within a retirement village include something extra for management, etc.? However I am comforted by the comment regarding the use of freehold sales outside the villages - comparisons between both sets of sales will be important.*

*There is still the possibility of different interpretations between valuers, but I believe under these guidelines there is likely to be*

*more uniformity which can only be a good thing particularly as the Valuer-General will be in an auditing role and, in some municipalities, the actual valuing authority.*

*I therefore think a “wait and see” position is probably appropriate at this time, but keep a close eye on new revaluations as they start to appear next year. Discussions by retirement village management with the individual valuers should start to reveal the methodology being put in place.”*

I am continuing to meet with the RVA on this issue and am pleased that RVA supports the concept of reduced Rates. We will each do what we can to evaluate the effects of this change to the valuing process and to press for support for the concept. We know that Councils will oppose/resist any change which will lower anyone’s rates, but we all should continue to press our case. I have just recently sent off two “Letters to the Editor” answering rubbishy remarks in local papers. You all should do this as well.

*Terry Macdonald*

- Police were called to a day care where a three-year-old was resisting a rest.
- Did you hear about the fellow whose whole left side was cut off? He’s all right now.
- If you take a laptop computer for a run you could jog your memory.
- Acupuncture: a job well done.

## From the Captain's Table!

- At our recent Committee Meeting we decided that the 2012 FORUM will be on Wednesday 28th March 2012 and will once again be held at the North Melbourne Town Hall. Further details will be put on the RRVV website.

- One of the wishes we have at present is having as much communication as possible with you, our Members. As we grow towards a giant, all powerful organisation with unlimited financial resources (!) we need as many easy ways as possible. One of these is to be able to have your permission to use your email address. If you'd like regular information and news from RRVV send the Office an email to [rrvv.vic@gmail.com](mailto:rrvv.vic@gmail.com) and let us know your agreement to having your address on our mailout list.

- Another problem we have is the provision of their Newsletter to Members who are in Villages without Resident Liaison Officers (RLO's). Currently these members get all Newsletters or other information by individually mailed letters, at significant cost overall to RRVV. Whilst we support your right to be kept informed, if there was a cheaper but still effective way we'd prefer the option. In this case, if there were members in such RLO-less Villages who would be happy to distribute such info to the other RRVV members in the Village, we'd love to know. Please call 9015 8402 and leave your name and contact number and we'll be pleased to be in contact.

- One of the changes to the RRVV Constitution agreed at the 2011 AGM was the new Total Village Membership category, where whole Villages can become a "member" with all residents being regarded as Members whilst they are in that Village. At an overall fee of \$8 per unit per annum,

it is good value and the numbers of Villages interested or already joined is increasing. We will shortly have an information leaflet available for general circulation to tell you all about our brilliant idea!

- The Minister for Consumer Affairs (Michael O'Brien) has released a Discussion Paper inviting comment on the Contracts used at Villages and the Information Disclosure options for prospective residents. There are full details on the CAV Website in the Retirement Villages section. The RRVV Committee will be submitting a response, based on the enormous knowledge of these areas by our members, and this will be finally agreed at our December Committee meeting.

- In a democracy it's your vote that counts; in feudalism, it's your Count that votes.
- When a clock is hungry it goes back four seconds.
- The guy who fell onto an upholstery machine was fully recovered.
- He had a photographic memory which was never developed.
- Those who get too big for their britches will be exposed in the end.
- When she saw her first strands of grey hair, she thought she'd dye.