**VCAT Ruling: Wollert Lifestyle Community**

RRVV has had a number of queries from members regarding the recent VCAT ruling relating to the Wollert Lifestyle Village. In the main, members wish to know whether or not the decision applies to retirement villages. The short answer to this question is “no” as retirement village and lifestyle communities are regulated under different legislation.

In lifestyle communities, residents typically buy a home from the owners/operators and rent the land on which the home is located. They “are then required to enter a Residential Site Agreement (RSA) which requires them to pay an exit fee, calculated as a percentage of the price when they on-sell their homes. Also, on the death of a resident, the RSA says their estate must keep paying rent”\*, but the estate beneficiaries are not able to occupy the home.

A group of 80 residents from the Wollert Lifestyle Community, which is 26 km from the Melbourne CBD, took action against Lifestyle Management 2 Pty Ltd at VCAT (Victorian Civil and Administrative Tribunal).

At issue were “the validity of exit fees in residents’ Residential Site Agreements (RSAs) and covenants that allow rent to be charged after a resident dies”\*.

 VCAT President Justice Woodward delivered his ruling on Monday, 7 July 2025, finding that:

* “Exit fees in RSAs could not be charged if the amount of those fees is not disclosed up front. As the amount of a resident’s exit fees is not known until sale, Lifestyle’s model of exit fees as a percentage of sale price can never comply with and cannot be charged under s. 206S of the *Residential Tenancies Act 1997*(Vic) (**RTA**); and
* To require grieving relatives of a deceased resident to pay rent but not be able to occupy the home is ‘*harsh, if not unconscionable*’, and the RSAs are to be varied under s. 206G of the RTA to allow the estate of a deceased resident to sub-let the home before sale.”\*

The contracts that residents of retirement villages enter into are regulated by the *Retirement Villages Act 1986* (Vic) (RVA). The RVA permits exit fees/deferred management fees (DMFs) to be charged on the sale price of a unit.

RRVV has lobbied the state government regarding this situation and contracts signed after the *Retirement Village Amendment Bill 2024*(Vic) comes into effect on 26 May 2026, will have the DMF based on the purchase price. Also service fees/maintenance will not be able to be charged once a person has died.

Sadly, these changes do not apply to contracts signed before 26 May 2026. While some residents who have recently moved to a retirement village may have signed a contract which provides for a DMF based on the purchase price, longer term residents have not. RRVV will continue to lobby the state government on this issue.

***\* Quoted from Greens List (9/7/25); the full article can be found here:***

https://www.greenslist.com.au/s/blog-detail/a38RG000003JTZFYA4/landmark-decision-about-exit-fees-and-rent-charged-to-dead-residents-in-over55sGreens List