

# How to Improve and Protect the Rights of Older People Living in Retirement Housing

Housing for the Aged Action Group Retirement Housing Assistance Team

The power imbalance between tenant and landlord in Australia in 2024 is well known.

Thankfully governments have started taking the first steps towards addressing that imbalance and provide better protections for renters.

But for people who live in retirement housing<sup>1</sup> there is often an even greater power imbalance between them and their housing provider.

For these 250,000 older people in Australia,<sup>2</sup> this power imbalance, created by serious gaps in consumer protection laws and access to justice frameworks, can destroy their ability to enjoy a happy retirement.

Retirement villages, residential parks and independent living units provide critical affordable housing options for people as they grow older. However, unlike the relationship between renters and real estate agents, there is no regulatory framework in Victoria that sets out the rights and obligations of owners, managers and residents.

Retirement housing is particularly important for older women who are part of the 'missing middle': those who retire without owning a home, have minimal assets, and are ineligible for public or community housing, but cannot afford other housing options. Women are disproportionately represented in this 'missing middle' due to disparities in wages, workforce participation and lower superannuation. The number of older women renting increased at a greater rate (77 per cent) than the number of men renting (69 per cent) in the decade to 2021.<sup>3</sup>

Take 72-year-old Glenda. She's currently living in a unit she owns

in a retirement village in regional Victoria. When her marriage broke down, she was left with enough assets to be ineligible for public or community housing, but too little to afford a house of her own.

*'Obviously I needed to find something quickly when the marriage failed,' she says.*

*'I probably didn't realise it at the time, but I was caught in the middle. I didn't have many options. The money I've invested in this little unit was the best option for me at that time.'*

*'I considered buying a campervan and just being a nomad. But that probably wouldn't have suited me. We pay a maintenance fee here monthly, which is a small amount compared to what rents are these days.'*

*'Even though my place is tiny, it's a wonderful thing to have that security of tenure and you're not at the mercy of a landlord who might evict you because they're selling or something like that.'*

With the private housing market becoming more and more unaffordable for those on low incomes, the number of people relying on different forms of retirement housing is expanding.

Housing for the Aged Action Group's (HAAG) Retirement Housing Assistance Service (RHAS) supports people living in retirement housing who are experiencing difficulties which often arise from the aforementioned power imbalance between them and their housing provider.

Over the past year the RHAS team has supported older people who have signed holiday agreements in caravan parks which forego their rights as

residents, despite their intention to reside in the park as their principal place of residence. We have heard from residents in retirement villages which have attempted to ban their friends from entering the premises for trivial reasons, an issue that took many months to be resolved. One resident sought support when management attempted to raise the monthly maintenance fee by 23 per cent. The average service charge for a two-bedroom unit is around \$518 per month.

Without structural reform, complaints like these will become more and more commonplace. HAAG is currently advocating for a four-pronged approach to secure the rights of older people living in retirement housing to ensure they are protected from exploitation and abuse.

## 1. Address complex and ambiguous contracts

There are no standardised contracts in the retirement housing industry. These contracts can be quite complex and, as one resident explains, there is often an urgency to sign:

*'We were given the lease on the day we were meant to sign it. You're meant to be given 20 days to look at it. We were sitting at the desk with the owner and the manager, and we had to try and read it then,' they said.*

*'We were also given a piece of paper and they said 'oh, sign this too' and it's a piece of paper to say we have to sell it back through them. You're sitting there with a truck full of furniture, there's lots of pressure and it's not explained clearly.'*

Making matters more difficult is a lack of expertise within the legal sector to assist residents regarding these types

of contracts. Then, when disagreements arise, it is often a large organisation, with lawyers to match, taking on residents who cannot afford the same level of legal help. Organisations are incentivised to approach matters in an adversarial manner to dissuade other residents from bringing up grievances of their own.

## 2. Introduce training and accreditation standards

Residents frequently report that managers lack basic skills in working with older people, or management skills generally. Manager conduct can range from disrespect to overt ageism and discrimination, harassment and bullying. This is a common reason that older people seek support from HAAG's RHAS team.

Unlike property managers in residential real estate, there is limited training and no accreditation standards for managers working in retirement housing. Because it is more difficult for them to move elsewhere, people in retirement housing are more vulnerable to these kinds of behaviours. A resident of retirement housing has fewer options available and may be charged an exit fee they can't afford (more on those fees later).

Retirement housing employees should be required to meet minimum training and ongoing professional development standards. This should include a minimum Certificate IV qualification under the Australian Qualifications Framework and meeting a fit and proper person test.

## 3. Establish a Retirement Housing Ombudsman

An industry-funded ombudsman service would provide free, fair and binding determinations when disputes do arise across the full spectrum of retirement housing types. Currently,



Image courtesy of HAAG

residents must go to the Victorian Civil and Administrative Tribunal (VCAT) to resolve their disputes with operators.

Running a substantial matter through VCAT is beyond the financial capacity of most people living in retirement housing, and certainly those women who find themselves in the missing middle. As a result, many are unable to take their claims to VCAT.

## 4. Put a stop to excessive fees

Some forms of retirement housing require residents to pay a significant fee if they decide to leave a property. This is sometimes called an exit fee.

These types of fees are currently unregulated. They often appear to have no relationship to the value of the services provided. One of the most problematic exit fees is a deferred management fee.

These are generally between 20 per cent and 40 per cent of the sale price of a unit and are applied in both residential park and retirement village contracts. These fees may not be clear to residents when they move in, making informed choice and comparison difficult, if not impossible.

Proper reform and regulation would ensure they are charged in fair, consistent ways and do not incentivise exploitation and misconduct by site owners. This reform should also seek to ensure that residents can decide how and when to sell their dwellings.

Retirement housing is an important affordable housing option for many women as they grow older. As other affordable housing options have declined, retirement housing has experienced a period of rapid growth. That has created a mismatch between existing legal regulatory frameworks and dispute mechanisms, and the size, scale and nature

of housing of this type. A robust consumer protection and dispute resolution framework would improve trust and confidence in the sector, and foster growth and innovation. Implementing these solutions would improve daily life for the thousands of older people living in retirement housing and make a huge difference for those older women stuck in the missing middle, for whom retirement housing is one of their only affordable housing options.

### Endnotes

1. Housing for the Aged Action Group (HAAG), *Housing Options*, <https://www.older tenants.org.au/i-need-help/housing-options>
2. Retirement Living Council 2023, *Better Housing for Better Health*, November 2023.
3. Stone W, Reynolds M, Veeroja P, Power E, Perugia F and James A 2023, *Ageing in a Housing Crisis: Older People's Housing Insecurity and Homelessness in Australia*, Swinburne University of Technology, Melbourne.