

## INFORMATION FOR EXISTING RESIDENTS

**Retirement Views,  
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We have focussed in our article in this Retirement Views about “intending residents” on the start of a resident's journey into their new life. Some of the information and documents referred to in that article must also be supplied to existing residents.

But, what other information are existing residents entitled to?

### **Disclosure statement**

All existing residents are entitled to receive a disclosure statement for their village by 1 May 2008. As there are estimated to be over 20,000 existing residents in villages throughout New Zealand, this could become a logistical nightmare. However, advice from the Department of Building and Housing should simplify this somewhat.

The question was raised as to what form the disclosure statement should take. Should it be the generic disclosure statement registered with the Registrar of Retirement Villages setting out the current information relating to the village or should it be personalised towards each resident's individual occupation right agreement as effected by the Act?

The Department of Building and Housing have advised that they consider the disclosure statement to be a statement about the village as a whole, and not as it relates to an individual. Accordingly, existing residents should receive a generic disclosure statement at the time that the operator chooses to hand out the disclosure statement to the existing residents. It does not need to be adapted to reflect each resident's individual terms under historic occupation right agreements.

### **Financial statements**

Existing residents have the right to receive certain financial information during their stay.

Firstly, an operator must give to an existing resident, free of charge, a copy of the operator's audited financial statements, being those financial statements that have most recently been filed by the operator under the Financial Reporting Act 1993.

In some cases there will also need to be a set of financial statements that relate to the village as opposed to the operator. These village financial statements may be required where the operator has other business interests (such as a rest home) or where an operator might own, in the same entity, a number of villages. In these circumstances it might be useful for existing residents to know the information that particularly relates to their village as opposed to other villages or other business operations of the operator. The statutory supervisor decides whether or not an operator must prepare village financial statements in addition to operator financial statements.

In addition to producing these audited financial statements on request, an operator must present these to an annual general meeting of residents for their consideration.

Secondly, an operator must also prepare, at the start of each accounting period, a statement forecasting for that accounting period:

- The operating expenditure relating to the village;

- All expenditure relating to the village (including amounts repayable to residents, former residents, their estates);
- All income relating to the village; and
- The amounts of the operating expenditure that must be met by the residents of the village.

Each existing resident is entitled to have a copy of this statement within three months of the start of the accounting period.

The statutory supervisor might require this information to be further broken down so that an operating "budget" is produced for residents. Such a budget showing the annual expenses that are covered by weekly or monthly levies (as was a requirement under the Securities Act 1978), are likely to be of more use and interest to existing residents than the more extensive forecasts required by the Act.

### **Other information, S 34 of the Retirement Villages Act 2003**

We have previously discussed in Retirement Views (Conference Edition 2007) the right for residents (and intending residents) to be handed information promptly that would have any material impact on:

- an occupancy right or rights to quiet enjoyment of the resident, or intending resident, or
- the charges levied on the resident or intending resident for his or her occupancy right, or

- the right to services and facilities within the retirement village.

There are a raft of other areas (canvassed in our earlier article) which may be required to be notified to each resident and intending resident if the statutory supervisor so requires. Operators should ensure they are familiar with these requirements.

### **Code of Practice**

And of course there will be ongoing obligations under the Code of Practice (once adopted) to keep residents informed as to the policies and procedures set out in the Code. Operators must not forget to keep residents informed as to changes (this is a different obligation from consulting with residents which may also be required).

The village handbook will play an invaluable role in meeting these requirements under the Code of Practice.

**Helen Melrose**

### **Contact Us**

Please feel free to contact us for more specific advice or about any other matter relating to your retirement village. Our contact details are:

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