



ANDERSONS
S O L I C I T O R S

LawTalk Blog



Elder Law: Moving into a Retirement Village

Author: [Antony Boonen](#)

Email:

Phone:

Date: Tuesday December 4, 2018

Have you decided to move into a Retirement Village? You may wish to downsize and live a simpler life, be apart of a community and increase your social activity, or you have recognised that maintenance of the family home is getting too hard.

The lure of a Retirement Village will often come at a time when a retiree is still active and healthy, but recognises the need to transition to a new phase of life.

However, it's important to know that buying into a retirement village is not the same as buying or selling the family home. There are a host of contractual, financial and legal issues that need to be considered when moving into a retirement village. These contracts relate to your own personal needs and circumstances, and are always best dealt with by a legal adviser.

[Andersons Solicitors](#) now specialises in [Elder Law](#) and can provide tailored legal advice that involves the review, negotiation and advice of retirement village contracts.

Your Own Circumstances

When looking at any agreement or any significant change in your life, it is always important to consider your current circumstances and the potential for adverse changes. For retirees, there are often many unknowns in terms of health, finances and family, and it is important to undertake a thorough self-review.

At this stage, questions that you may wish to consider include:

1. What is my financial position and how will this change over time?
2. What is the state of my health and what is my health outlook?
3. What is my network of support including family, friends and carers?
4. How do all these factors affect my future plans and estate planning?

The answers to these questions will not only inform you of your readiness for a retirement village, but also the key characteristics, features or functions you should be looking for.

Types of Retirement Accommodation

There are different types of retirement villages which can be categorised as follows:

- **Resident funded units** are sold like property, based on the market rate at the time. Residents purchase either a lease or licence to live in a specified property and to have access to common areas.
- **Serviced apartment** is similar to resident funded in that entering into the lease or licence is based on a purchase at market rates. This model generally caters to residents needing greater in-home support and may include services such as meals, cleaning and laundry.
- **Entry contribution models** are generally run by church or not-for-profit organisations. They cater to residents with limited assets or funds but whose circumstances suit retirement village living. Financially they are served by the resident making a donation upon entry.

The most common types of retirement villages found in South Australia are resident funded units and entry contribution models. Each model and operator function in different ways, and treat entry fees, exit fees and ongoing fees in a different manner. It is important to know and understand your obligations, as each village has their own policies, processes and fee structures.

Legal Ownership

There are a number of different legal structures regarding residents rights to reside in a retirement village:

- **The Right to Occupy** is generally formalised in a lease or licence arrangement and is the most common method. You don't own the land or unit but have the right to occupy it, subject to a lease or licence.
- **Direct Ownership** is similar to how an interest in property is held in residential housing and similar to community living arrangements such as Strata Title or Community Title.
- **Indirect Ownership** involves owning shares in a company or trust that give the resident the right to occupy the unit.

Any legal agreement will usually cover the duration of the life of the resident, but legal title varies between different operators. [Our lawyers](#) at Andersons Solicitors are familiar with the benefits and pitfalls of each method and can advise on the particular agreement you wish to enter.

Retirement Village Disclosure Statements

All village operators are required by law to produce a disclosure statement that details the fees payable under the proposed contractual terms. For any potential resident, it is extremely important to understand the fees payable at entry, during the occupancy, and upon exiting. The fees will vary and may involve a donation upon entry or a significant fee upon exit. It is important to know and understand your exact obligations and the disclosure statement should be a tool to assist you.

The disclosure statement also confirms the type of legal ownership that you will be entering into, so you can use this to assess whether it is right for you.

As a potential purchaser, you should not feel the pressure of needing to agree to any arrangement upon your first meeting. Legally, contracts can only be entered into 14 days after you have been provided with a compliant disclosure statement. During this time you should speak to a lawyer for advice before making any commitment to purchase.

Summarising Elder Law in relation to Retirement Villages

Buying into a retirement village is a very serious investment decision made at a time when people can be highly emotional and vulnerable.

We know the decision is a big one. Big decisions required an informed choice and assessment of the available options. Take care, get advice and don't rush.

[Andersons Solicitors](#) specialises in [Elder Law](#), let us review, advise and negotiate on your behalf to protect your interests.

This blog has been written by Law Clerk, Antony Boonen and settled by Partner, [Felix Hoelscher](#).

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.