

Newsletter

Retirement Villages – A New Lifestyle

Retirement for many is the start of a new phase of their lives, with opportunities for new leisure pursuits, new friendships and a new lifestyle. Many individuals celebrate retirement by relocating to communities of similar-aged people with whom they can develop and enjoy common interests.

What comes with a decision to embark on an exciting change of lifestyle, is the need to ensure that the village chosen by you is the right village for you, both on a lifestyle level, and also on a legal and financial level.

At Smith and Stanton, we can assist you in understanding the legal, and to a certain extent the financial implications involved in your choice of Retirement Village or Resort. In this article, we set out some important elements relating to retirement village documentation.

There are various ways to purchase an interest in a retirement village. These are freehold, lease and licence arrangements. In each case, a Public Information Document must be presented to an intending buyer.

The Public Information Document (known as the “PID”)

The PID details your rights and obligations concerning your future residency at the chosen retirement village.

It is a legal requirement that each village provide this PID to prospective residents. The most important particulars covered in the PID are your agreement to reside in a specified unit at the village, the way in which you will be granted a right to reside in the chosen unit (ie. you will sign a Lease, for example, but you will not get Title as such to the unit), and the amount of your ongoing contribution (the purchase price).

The PID contains various other information regarding the village itself, and usually contains plans of the village, the individual unit floor plans, and details the services and common facilities offered by the village.

Insurance

In all cases you are responsible for insuring the contents of your unit. The village operator is responsible for insuring the buildings themselves and the recreational and communal facilities on the property. You contribute to the cost of this insurance and this contribution is calculated as part of your general service fee.

Service Fees

You are required to pay a general service fee or residence charge, usually payable on a monthly basis. This charge is payable for services which are supplied to all residents and includes things such as gardening and minor maintenance, management and administration, recreation and entertainment facilities.

Funds – Where Your Money Goes

The Village Operator is required to keep two funds:

1. Capital Replacement Fund – this fund is for the replacement of the retirement village’s capital items, for example communal buildings, amenities, and communal

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equipment. A percentage of your ingoing contribution may be paid to this fund.

2. The Maintenance Reserve Fund – this fund is for the maintenance and repair of the retirement village’s capital items. Part of the monthly general service fee you pay goes towards this fund.

Exit Entitlement and Exit Fees

When you leave the village you receive a termination amount which is calculated depending on your ingoing contribution, the time you have resided in the unit and the subsequent resale value of the unit. The amount you are entitled to receive is known as your Exit Entitlement. An amount deducted from your Exit Entitlement and kept by the village operator is known as an Exit Fee.

The way in which the Exit Entitlement and Exit Fees are calculated generally varies from village to village, but this information is always set out in detail in the village PID. When advising you on a particular Retirement Village, we will give you a detailed explanation as to how these amounts will be calculated in your particular circumstances.

The Cooling Off Period

After the initial contract documentation has been signed, you will have a 14 day cooling off period to change your mind. The village operator will let you know once this period starts and when it is due to expire.

This article is intended to provide you with a brief outline of the important factors to consider when entering into a Retirement Village from a legal perspective. The all important lifestyle decision will ultimately be up to you!



Drink Driving

Occasionally we are called upon to help clients who have been booked for drink driving. If you are booked, after being processed through the watchhouse, you will have to appear in Court the following morning. We recommend that you call us for advice before the appearance to ensure appropriate and professional representation.



Small Business Growth Aid

The Queensland Government has announced a Small Business Solutions initiative providing Queensland’s small business owners with training support to boost skills and aid the growth of small business.

The program will be particularly useful to new business owners for researching a business idea and obtaining finance.

“Our new Small Business Solutions Unit will provide new and existing small business operators with the tools to assess their skills needs,” Queensland Training Minister Rod Welford said.

“It will develop and offer high quality, flexible programs so that training is available when, where and how small business needs it. Existing business operators will be able to get support to identify their specific skills needs and tailor programs to meet individual situations.”

“There will also be a program for new and intending business owners on researching a business idea, understanding the legal side of business, and obtaining finance.”

Small business operators seeking more information can call 1300 406 080, or go to the website, www.smallbusinesssolutions.qld.gov.au.

See Bruce Smith at Smith and Stanton for comprehensive advice regarding the legal issues involved with setting up a small business.



Referral Work - a BIG THANKS

Smith and Stanton would like to thank all their clients who constantly refer other clients to us. We believe that one of the things that sets us apart from the rest is our professional service and one of the greatest compliments you can pay us is to tell others of our good service. We are grateful for this and will strive to live up to our motto of being people you can talk to.

Conveyancing protocol

Conveyancing involves the transfer of real estate from a seller to a buyer. Recently, the Queensland Law Society invoked a conveyancing protocol as a guide to the minimum acceptable standards in a conveyancing transaction. One of the reasons the protocol was introduced is to overcome the increasing complexity of property transactions owing to the introduction of new laws dealing with, amongst other things, consumer protection. Another reason for the introduction of the protocol is to ensure that buyers and sellers receive the highest possible standard of care and skill from their lawyer in this type of transaction.

The objectives of the protocol are:

- to make the conveyancing process more transparent
- to ensure that buyers and sellers of real estate gain the maximum protection of the law
- to give lawyers some guidance as to the minimum acceptable standard of care and skill expected in a conveyancing transaction
- to ensure and encourage a good inter-relationship between lawyers and their clients in these transactions

Although the adoption of the protocol is not compulsory, we at Smith & Stanton have embraced the process. By so doing, a benchmark is established against which we can measure our own performance. Our expectations are that our conveyancing and property practice will measure up to the highest possible standards and that, as a result, our clients will benefit.



Your Important Documents

Where are the deeds to your home? From the early 1990s the Department of Natural Resources and Mines & Water (Titles Office) has a paperless title deed regime, which means that there are no paper title deeds issued from the Office unless you make a formal written request for one. We often get enquiries from clients who sell their home and cannot find their title deeds. It is becoming increasingly the case that many executors of estates cannot locate title deeds for estate properties. If you have borrowed money from a building society or bank, repaid the loan and never had the release mortgage registered, the deeds and the release mortgage may still be with the mortgagee or they might be sitting in a cupboard in your home.

It is a good idea as part of your estate planning if you keep all your documents in the one place and ensure that you have such things as your will, enduring power of attorney document, your superannuation papers including details of who your nominated beneficiaries are, your title deeds if you have them and any released Bills of Mortgage documents in the one place.

So far as title deeds are concerned, it is our view as property practitioners that clients would be far better served not to have paper title deeds which can be lost or damaged. Rather you should participate in the Titles Office policy of paperless title deeds which involves computer recorded and statutorily protected documentation of title deeds.

If you have documents you would like to keep in a secure place, please call us and we will allocate space in our walk-in safe for you free of charge. (Our building used to be the Commonwealth Bank and we inherited a very large safe).



“people you can talk to”

Our New Web Page

By the time this newsletter goes to print our new web page will be up and running. A brighter, more professional approach has been achieved thanks to the assistance of our marketing consultant Bruce Layton and our web designer Leighton Wood. Please visit the new web site which is still at www.smithstanton.com.au



Tank Installation Tips

Queenslanders are being urged to curb water usage in compliance with strict water restrictions, as a result of the severe and prolonged drought.

Consequently, the demand for water tanks has risen dramatically, and Fair Trading Minister Margaret Keech has a few tips to consider when installing a water tank:

- get detailed written quotes, preferably at least three
- check the identity and reputation of the supplier including the ABN and business name registration
- have all aspects of the job included in the quote, such as the site, preparation, installation terms and delivery
- read and understand the terms and conditions of quotes
- keep all receipts and paperwork
- if a plumber is required, make sure the plumber is registered with the Queensland Building Services Authority by calling 1300 272 272.



*“people you
can talk to”*

S M I T H & S T A N T O N
LAWYERS

News from the Smith & Stanton Staff

News from the Conveyancing desk

In April we welcomed Flora Wellington and Amanda Hofstetter to Smith & Stanton. They will help Beth Walker deal with our burgeoning conveyancing practice.

Flora is currently completing her Law Degree at QUT. She will be working with us two days a week on Mondays and Fridays. Flora and Beth worked together in the property department of Ward Keller, one of the largest law firms in Darwin and we are thrilled that Flora is able to join us albiet on a part time basis while she studies.

Amanda joins us with over two years solid experience in conveyancing and has already responded well to working under the constant pressure that this area of practice demands. She is a highly motivated, organised person and we are delighted to have her on our team.

Tid Bits

In April Judy Smith was invited to judge students in the Loius M Brown International Client Counseling Competition at the University of New South Wales in Sydney. This prestigious client interviewing competition is for law students from around the world and is the outcome of a pioneering initiative in the 1960s by Los Angeles lawyer Louis M Brown to address the failure of legal education to include the apparently assumed skills of interviewing and advising.

Judy has a long association with this competition, having trained the winning Australian team in 1995.

The guiding philosophy of the competition, with its emphasis on understanding the needs of clients, informing them of all available options, especially non-litigious solutions, has stood the test of time to be increasingly relevant. This year the entrants came from universities in England and Wales, Northern Ireland, Republic of Ireland, Scotland, Wales, Australia, New Zealand, USA, Canada, Finland, Singapore, Malaysia, Hong Kong, Tartarstan, India, Namibia, Sri Lanka and Ukraine.

Relay for Life

Smith & Stanton sponsored Cathy McKenzie when she participated with members of the Green Apple Gym in the Queensland Cancer Fund “Relay for Life” held 24 March at the Lawnton Showgrounds. Great effort Cathy who walked for 13 hours and did her bit for the Gym to raise \$60,000 towards the Queensland Cancer Fund.