

**Retirement Village Residents Association NZ (Inc)**  
**Code Amendments proposed**  
**and**  
**Purpose of the RV Act**

**Proposed Amendments to CoP- Summary**

- **Better defining the purpose of the facilities fee or DMF**
- **Operator should be responsible for replacement or upgrading of facilities and retirement village property**
- **A committee formed by the residents of a retirement village if properly mandated, should be able to act on behalf of one or more residents in any dispute, negotiation, complaint provided for in the legislation**
- **If residents are required to maintain chattels, fixtures and fitting or when the need arises replace any such item inside a residence, the cost of such repairs or replacement should factor in the fair wear and tear already undergone by such item**
- **The cost of any periodic upgrading and/or betterment of village property should be for the sole account of the Operator**
- **The charges for outgoings (weekly fees) should cease not later than the date of vacation**
- **Fixed deductions (DMF) must not accrue past the date of termination**
- **The Operator should pay all sums due under a terminated ORA within 6 months after vacation**
- **A National Retirement Village Mediation and Disputes Tribunal should be formed to deal with mediation and adjudicating disputes that is easily accessible to lay people**

**Purpose of the Act**

- ❖ **To protect the interests of residents**
- ❖ **To provide an environment of security and protection of rights for residents**

**What is the Code of Practice (CoP)**

- **Its purpose is to provide an environment of security and protection of rights for residents**
- **BUT CoP wording is NOT consistent with and fails to give effect to the purpose of the ACT**

**Interpretation Act**

- **The Act describes various indicators used in the interpretation process the most important one is the purpose of an enactment**
- **In recent landmark cases the Supreme Court has also considered Parliamentary Contemplation as an additional interpretation 'indicator'**

**CoP provisions framed & used contrary to Contemplation or Intention of the RV Act**

- **In our opinion the court cases confirm that the wording of some CoP provisions and the way it is applied in practice, in substance defeats the purpose of the Act to protect residents against exploitation**

## **Defeating the purpose of the Act**

### **How CoP and ORA provisions defeat the purpose:**

- **Delays in obtaining a new resident to take-up an occupational right who theoretically is having to wait indefinitely for an operator to refund the capital and stop charging weekly fees with no compensation i.e. interest on amount due**
- **Total Refurbishment process not defined in the CoP**
- **Former resident has no say in the decision of Operator**

### **Conclusion**

- **We acknowledge that residents enter into an ORA after obtaining legal advice**
- **But some **outcomes** of CoP provisions & used in ORA drafting could not have been contemplated by either Parliament nor a resident when entering into a ORA in good faith**
- **RVRANZ is of the opinion that the Government must amend the CoP and/or Act to prevent unfair outcomes and injustices such as those demonstrated**