Provided to Statutory review: Residential (Land Lease) Communities Act 2013 No 97 NSW

SUBMISSION PROVIDED BY

THE RESIDENTS' COMMITTEE SANCTUARY, LENNOX / 502 Ross Lane Lennox Head.
Contact person: Kim Wright Chairperson, [redacted]

Before describing the details of our concerns in regard to how the "Act" impacts on the lives of Residents within Residential Land Lease Communities we wish to point out a number of specific points.

We believe these demographics indicate the need for the Minister for the Aged / Seniors to be briefed on the matters raised by us and other representatives and individuals submitting

It is relevant to explain the demographics within the Sanctuary Community. We believe these demographics would be similar across all Residential Land Lease Communities.

Over 90. 9 Residents
80-90 43 Residents
70-80 16 Residents
65-70 20 Residents
60- 65 4 Residents.
Under 60. 6

In 'Sanctuary Lennox' the majority of Homeowners are single pensioners paying site fees from a single pension payment. The current Site fee is 33.9% of pension income.

The following is a quote from , Submission to Treasury by Operators of Residential Land Lease Communities and their Association.

20th April 2017

"Affordable housing

Any changes to the treatment of RLLC site rental income will result in the higher tax and investment costs being passed on to aged residents who are typically from a low socio- economic background.

Australia's growing pool of retirees is living longer. For people aged 65-69, some 70% have less than $100k in accumulated superannuation. For many retirees, the sole source of accumulated wealth is ownership of the family home. 50% of Australians have less than approximately $470k in total equity. Typically, those retirees who are looking to downsize and free up equity, will only be able to free up equity of between $60-120k. They typically cannot afford a retirement village villa or unit in their desired location.

Releasing equity while retaining pension and rental assistance from government is increasingly attractive and for some, the only viable option. RLLCs are becoming increasing popular as an affordable housing option as they allow retirees the conversion of home equity into a comfortable retirement in a community setting.

Currently, site lease payments average circa $140-$180 per week. After rental assistance, the rent works out at less than 20% of the pension. The rental covers the cost of management and maintenance of the community."

In the submission provided to Treasury by Operators and their Association they site that the average site fee is 20% of income.(2017).

Since 2017 the average site fee has risen to 33.9% of income (pension, plus rent assistance). (2021) Please note site fee increase is due in June 2021, so this percentage will increase as the Pensioner has had no increase is the past year.

1. **As an example, as of February 2021 the writer's income pf is $1083.90. The Current site fee is $333.40 PF = 33.9% of income**

- Living within a Community governed by the "Act" is no longer an affordable option for those on fixed, limited incomes such as the aged pension. Many of those living in Sanctuary (especially women) are of the generation where superannuation has not been available. Each time the rent increases, life becomes more difficult. The ability to maintain their homes and gardens is reduced, as these jobs are often performed by paid (at the expense of Homeowners) contractors. Though low income, pensioners with limited resources were identified and acknowledged as their target group in their above-mentioned submission to Treasury, this group is being priced out of the market, and those already owning homes within these Communities are being priced out, with no were to go. As noted above the percentage of income paid as site fees has increased from 20% to 33.9% in 4 years. **Since the review in 2013**

- There is a widening chasm of imbalance between Homeowners and Operators. Homeowners are primarily aged, on limited incomes, with no or little access to advocates and legal advice. Their one asset is their home, which they cannot pack up and take with them when Community living becomes too expensive and or too difficult. Their greatest fear is the loss of their home, which means they are often placed in a position whereby they will agree to changes, rather than partake in conflict/ argument with the Operator or their representative.

- When entering into home ownership within these Communities, people, rightfully understand that they are financially responsible for their homes and their site fees, which cover **access** to facilities and infrastructure, **not the maintenance or replacement of same.** Operators are now attempting to recoup costs for the upgrading of infrastructure such as roads and drains from Homeowners. Basically, Homeowners are being asked to fund the asset value of the Community for the Operator. This is occurring due to the lack of clarity within the "Act' in regard to Operators responsibility to maintain and pay for infrastructure and facilities.

- The new owner receives a Site agreement with no suggestions that they will be required to pay for improvements and maintenance to facilities and infrastructure (including roads). OPERATORS ARE CURRENTLY ATTEMPTING TO PASS ON THEIR COSTS TO HOMEOWNERS, VIA SITE FEE INCREASES. This is not what Homeowners signed up to do. Silence can be misleading and deceptive.

  Fair trading provides a summarised version of Consumer Law as follows:" *Business conduct is likely to break the law if it creates a misleading overall impression towards the intended audience about price, value or quality of consumer goods or services. Whether a business intends to mislead or deceive is irrelevant; what matters is how their statements and actions, the business conduct, affect the thoughts and beliefs of a consumer."*

The level to which governance is improved is dependent on the level to which the objectives are achieved. We would argue that the only objective achieved is

V1 *To encourage the continued growth and viability of residential communities.*

Objectives

a). To improve the governance of residential communities

The "Act" contributes no means to achieve this. If an Operator chooses to conduct business in a way that does not evidence "good governance" the Act provides no teeth to enforce this. The responsibility is placed on Homeowners to identify poor governance, seek an area within the "Act" that may cover their concerns, (many issues are not covered) document evidence, identify an order that the Tribunal may be able to deal with, and then spend endless time and expense in hearings (without legal support). If they are lucky, they may get a member that considers the issues and places an order on the Operator. Some Operators ignore the order, requiring the Homeowner to go through the whole process again, or to feel defeated and never complain again. This seems to have been an effective strategy in reducing complaint from Homeowners.

Governance must include processes that ensure accountability and regulation. There is a lack of tools, skills and / or will within Compliance authority to achieve this objective.

The process to lodge complaint regarding an Operators behaviour is beyond the capacity of the majority of Homeowners. Contacting regulators has proven to be of no value, and therefore Homeowners don't go through the process. This of course leads to the misplaced conclusion that Homeowners have no complaints.

Question 73 of your review questionnaire asks. "Are the Commissions disciplinary powers adequate". We are unaware of them ever being used. We attempted to complain via the Commission and found it impossible to find a means to do so. So the answer to this question has to be NO due to the lack of access to and transparency of the method of complaint procedure.
Question 76 of the same questionnaire asks, "Are the powers of Fair-Trading investigators appropriate" It is our understanding that Homeowners who lodged complaint never heard back from fair Trading. The word among homeowners across Communities is 'don't bother", and of course this allows for the misplaced belief that no one has complaints.

Operators should be licensed. At this time Operators basically operate the way they wish, and in the case of Sanctuary that means putting the investor first in all circumstances. Homeowners are seen as a means to afford dividends only. The responsibility to ensure security of tenure, **affordable housing** and a peaceful and harmonious lifestyle seems not to be high on Operators' agenda, within this business model.

Licensing

1. Fair Trading is understood to be the Compliance Authority exercising all or some of the powers of the Commissioner. One set of tools presently not available to the Compliance Authority, is a licencing regime.

2. Park owners should be licenced to own and operate a RLLC village on their land. As with many other business, trades and professions, operators should also be licenced to operate a RLLC park. So too, a park manager. The compliance authority should be empowered to issue licences at the appropriate compliance levels and to cancel, for breaches of duties and responsibilities, those licences.

3. There should be a licence:
    i. To erect and maintain a RLLC village on the Owners land.
    ii. For the owner or another related party (the operator) to operate a standalone RLLC village, on the Owners land, or within a mixed site, an RLLC village section on part of the land.
    iii. To be a village manager (either fulltime residential or part-time visiting) of a RLLC village.

4. An owner/operator would require both licences. And an Owner/Operator/Manager all three.

5. Each licence would carry licencing qualification requirements and obligations relevant to the level of licence. For example, the Owner licence would have a provision that only Currently Licenced Operators are permitted to perform the duties of 'operator' under the Act. Operators under their licence may engage only Licenced Managers.

6. The licence should contain a set of mandated obligations to be performed and observed by the licence holder at each level of licence.

7. An Operator licence should attract an annual non-refundable licence fee based on the number of leased sites in a village, payable by the operator, to the Compliance Authority. The fund created by the licence fee to be used to resource the compliance authority activities and obligations. Substantial enforceable fines (commensurate with level of licence) should apply for breaches of licence conditions up to loss of licence by the Owner to operate a RLLC village. Fine revenue should also be paid into this fund.

8. There are many precedents for such licences eg, licence to operate a hotel, homes for aged care, licence to operate as a real-estate agent, licence to drive a vehicle or operate machinery, plumbers' licence, chartered accountants, and many more. Licences are required to ensure only persons and organisations that are qualified and accountable, conduct business with government and the public, especially the vulnerable public. Exactly the public cliental RLLC operators deal with. If they fail to meet licence requirements, they can be removed from conducting that business.

9. Loss of an operator licence would immediately result in suspension of site fees payable to the operator. The village fees then payable into a suspense fund for use in ongoing operation of the village and the village going into administration generally as provided for in Part 13 of the Act.

10. Exposure to loss of licence is a powerful incentive to conducting business legally and ethically, reducing and simplifying the need for expensive court intervention by homeowners.

11. Licence requirements for managers should include a qualification system, leading to a Certificate IV or similar certification for both offsite line managers, and on-site managers.

Sanctuary Residents' Committee also believes that Operators who are buying and selling homes within Communities should be licensed as Real Estate Agents

Division 2 Conduct and education of operators

Section 55

This section covers the area of education of Operators and is totally ineffective. It is our experience that Operators employ solicitors and utilise their Association to find grey areas in the "Act" to best increase their profit, at the expense of vulnerable Homeowners. This needs to be addressed.

We believe, that the Managers may not be well versed in the "Act", but the Operators are indeed knowledgeable of the "Act" and with their legal resources are able to manipulate and veer from the true meaning of the "Act".

Our experience is that the Operators assume Homeowners have a lack of understanding of the "Act" and exploit this. This assumption is valid, as Legislation and the reading of same is not everyone's cup of tea. Homeowners tend to trust until proven otherwise the advice provided by the Operator.

Managers, the representatives of Operators do not appear to understand professional behaviour, such as their requirement not to breach confidentiality. It is our experience that Managers also take opportunity to "hinder the operations of the Residents' Committee".

One way to assist Homeowners would be to provide an increase in funding to places such as the Tenants union and re-fund an additional advocacy service specifically for Homeowners covered by the "ACT'. **NOT ARPRA. Many Homeowners do not see Arpra as representing them.**

In addition, strengthen the "Act" and leave less opportunity for interpretation by Operators, keeping in mind the need to ensure ongoing security, affordable housing and fairness within any action.

To attain fairness the "Act" needs to recognise the vulnerability of Homeowners within these Communities. Operators have been operating on bluff for a long time. The have rightfully considered that Homeowners do not know or understand the "Act".

Homeowners have trusted Operators, to be honest about can or can't be done. Sadly, this trust has been misplaced.

b) To set out the particular rights and obligations of operators of residential communities and homeowners in residential communities.

We argue that the rights and obligations are heavily weighted towards the Operator. An outcome for a Homeowner to a dispute can be loss of their home. An outcome for an Operator for a serious breach of their obligations will be (if a Homeowner is able to pull together an application for tribunal, attend hearings etc). will if lucky be an order to desist, which the Operator can choose to ignore.

The Tribunal Member has minimal capacity to apply the law that would be afforded outside of this legislation. The Tribunal Member needs to be given more scope to provide disciplinary action to Operators, or referral to those agencies that can.

Operators need to be licenced and the responsibilities required within a license need to have appropriate mechanisms to ensure adherence.

There is no fairness or equity within these rights and obligations. Pensioners/ fixed income earners having to argue for their minimal rights against large International (some) companies whose priority is money making for investors. This is not a fair match and therefore the "Act" must lean towards supporting Homeowners rather than what it appears to do, which is support large companies.

Homeowners priority is to be secure (as in be able to stay in their homes, be able to afford their site fees,) and safe in their housing.

Again, Operators need to be licensed and an accessible process of monitoring put in place. We believe that the majority of Operators are well aware of the "Act"., they choose to ignore many of their obligations because historically Homeowners have not been in the position to challenge.

As an example, Sanctuary Residents' Committee developed an application to the Tribunal claiming the Operator had acted in an unconscionable way, using bullying, intimidation, coercion and the breaching of confidentiality. The application was well evidenced. The development of the application took more than 500 hrs of the voluntary hrs of pensioners.
The Operator made agreements and encouraged the applicant to withdraw. We are still in the early stages of these agreements.

The Agreements came about because of the steadfast resolve of the Residents Committee. We have deep concerns for those Communities who do not have a Committee, knowledgeable of the "Act" and prepared to "stick their necks out"…and that is what is required.

c) to enable prospective homeowners to make informed choices.

It is our experience that the "Act" does nothing to "enable" this. An example. Homeowners are not provided with the dimensions of their site, though clearly articulated as a requirement in the Legislation.
Example
For over 15 years the Homeowners of Sanctuary have requested the boundary line of a section of the Community that includes a creek/ drain. The matter was never resolved until recently as it subjected the Operator/s to ownership of maintenance of the creek.
15 years it took Homeowners to be provided with this boundary information and information regarding the Operators responsibility.
Again, the actions of a tenacious Residents' Committee were required
Current Site agreements do not have the dimensions of sites identified.

Another example relates to **section 109.**
Our experience is that new Homeowners are not afforded their rights under this section part 5 and 6 relating to "fair market value"

This non-compliance by Operators has meant an increasing disparity in site fees within communities, and a reduction in capacity to sell houses.

Hometown is currently providing Site Agreements to new Homeowners that lock them into an ongoing site fee increase of 4% per annum. The rest of the Homeowners in the Community are on "By Notice" and have been successful in reducing site fee increases sought by the owners for 2 years.
The Operator is creating a larger disparity between site fees paid within the Community and therefore manipulating the "market value" for future purchases.

Chapter 2 (discussion paper)

SITE AGREEMENTS

Operators are currently adding many additional clauses to Site Agreements. Many of these clauses should be put forward as "rules" and afforded the correct process of consultation with Homeowners. They are not. Many of them are questionable in their legality, but as mentioned above potential Homeowners really have no ability to negotiate when considering buying.

One of these additional terms can only be seen as bullying, reducing the ability of Homeowners to take concerns and seek advice elsewhere and to silence the Homeowner by way of fear of retribution.

New Site agreements include a clause that a Homeowner cannot speak negatively about an Operator in the public arena. We are not public servants; we are not employed by the Operators., we are paying them money to sit our houses on a small site. We believe this clause is intimidation and an additional way to reduce the capacity of Homeowners to challenge the Operators actions.

The "Act" states that when purchasing a Home, the potential buyer can negotiate. This may well be the meaning of the "Act" but is not the case.

In Sanctuary potential owners are being asked to agree to long term site fee agreements of 4% per annum. The is cumulative. The Residents' Committee have received a number of phone calls from potential buyers, placing us in an awkward position.

The concerns being raised by potential buyers, are about the site fee agreement and the number of additional clauses within the Site agreements.

We wish to inform potential buyers that this site fee is much higher than others in the Community and that the majority of residents are on a Site fee increase by notice and that the majority of Homeowners do not have the same additional clauses, but we also don't wish to jeopardise the sale of a house.

These potential buyers have informed us that the Operators showed no preparedness to negotiate, so they withdrew their interest.

Existing Site agreements, inclusive of site fee agreements and terms should as a matter of urgency be allowed to be forwarded on to a potential buyer

S45 The word "tenancy" should be replaced with "Site" The use of the word "tenancy" in this case was a drafting error and has caused many disputes and hardship for Homeowners. A Homeowner must be able to assign their lease, when selling.

Example of how Operators, benefit from refusal to assign Site agreement
A house was for sale in Sanctuary for a period of time, for $270,000. People enquiring about the sale advised the Committee that they found the site agreement being provided by the Operator as unreasonable. The agreement included a fixed Site fee increase of 4% over five years. This amount is cumulative and does not reflect current site fees in the Community, which are primarily "By Notice"

The owners became desperate to sell and the Operator purchased the house for $207,000.
A decrease of $63,000.

The Operator then utilised the work hours of the maintenance person (salary identified as operational cost within the Community) to tidy up the property. Ie increase the Operators asset value and profit margin, using Community operational funds.

At the time of writing this submission, the Committee is not aware of the house being put back on the market and at what price, or what Site agreement will be offered to potential buyers.

d) To establish procedures for resolving disputes between homeowners and Operators

The procedures available are restrictive and legalistic. The majority of Homeowners are denied access to resolution, due to the complexity and complications of the processes required.
We remind the reader that when it comes to resolving conflicts, including site fee increases the opposing players are:
The stakeholders
OPERATORS/ Owners.
Sanctuary Community Lennox Operator is a subsidiary of an American company, and as identified by Hometown representatives their priority is increasing profit for their investors.

Hometown is a large International Company, having grown from 2 communities to approximately 40 in NSW in 4 years.
They have in house solicitors and access to solicitors and resources in and out of house. They have designated employees with legal expertise to take on any dispute initiated by a bunch of pensioners.

Operators/ Owners also have a large well-funded/ well-resourced Association to support them. This Association also has solicitors employed. This Association boasts that they have the ear of Ministers.
It is our understanding that this Association and perhaps Hometown as well pay donations to current Government
The above describes the "stakeholder" on one side of the dispute.

HOMEOWNERS
Primarily aged pensioners, on fixed and limited incomes, who own outright their homes that are placed on the Operator's site. Their priority is maintaining their homes, managing site fees that are becoming untenable, though when first moving in these Communities were seen as affordable living.
They may have in the case of Sanctuary Lennox have a Residents' Committee, with members representing the same demographic
They are not solicitors or people with understanding of legal frameworks. They are pensioners, who wish to get on with their lives in a secure affordable community

When they do attempt to challenge the monolith, it becomes an extremely stressful process, often carrying the weight of the entire communities, in relation to the outcome.
They may gain **limited** support from the Tenants Union, by phone. They once were able to gain limited support from PAVS, until the current Government removed their funding.
Arpra does not represent the majority of Homeowners.

This is a Sampson and Goliath situation.
It is unconscionable

Mediation in relation to Site fee increase disputes.

As it stands this is a compulsory process before applying to the Tribunal for a hearing. It is a farce. The compulsory section only applies to the Homeowners, not to the Operators. It is bound by confidentiality so

that Homeowners cannot raise within proceedings what actually happens in these meetings. This information may be enlightening to the Member in a hearing.

It is our experience that in mediation the Operator comes with no intention or information on which to assist in any negotiation, though the "Act" states that they should. There is bullying and intimidation that occurs within mediation, yet Homeowners cannot raise these issues within the Tribunal proceedings.

W note that it has been suggested that mediation is effective. What does that mean when no record of events is maintained or can be used, other than saying "successful"

If success is identified by numbers not applying for a Hearing in the tribunal, **this is not an effective measure.**

Homeowners meet with powerful representatives of powerful companies. If success is described as an acceptance of a site fee increase, we argue this is not success. What needs to be addressed is what actually occurred in mediation. A record should be maintained and either party should have the right to disclose it during and proceedings that follow.

These records should be on record so that a real assessment of "success" is possible.

It would appear that Operators are currently pushing to have a solicitor present at mediation, though **Section 152** seems, though again open to interpretation suggests this is not appropriate.
Outside of Covid restriction **Mediation should never occur via phone**. This provides a further opportunity for unfairness and disparity. Paperwork cannot be provided and often a solicitor is present in the room with the Operator. For successful negotiation and mediation body language needs to be viewed

"A Party to mediation may be represented by a person who is not an Australian Legal Practitioner in the mediation"

Prior to a recent mediation session, we challenged the attendance of the Operator's solicitor.
We were advised by the Operator that I could not refuse mediation on that basis, which I did not refuse I was requesting they follow the "Act".

The issue here is even with our knowledge of legislation, this like so many sections of the 'Act' provides no clarity and leaves open the ability for interpretation.

Any dispute resolution process between a group of Homeowners (primarily aged pensioners) and large Corporations/ International Companies needs to recognise the inequities between the parties.

It is totally unacceptable that there be any belief held that there is a level playing field in dispute resolutions.

e) To protect homeowners from bullying, intimidation and unfair business practices.

How? If a Homeowner feels bullied or intimidated by an Operator, they have to be pretty strong and well supported to put these claims to the Tribunal under **sect 157.**

If it goes to hearing they have to evidence these actions (statutory declarations have been invalidated by Members of Tribunal) and even if the Member of the Tribunal agrees that these poor behaviours have occurred, they are extremely limited on what they can do. The Member may place an order to desist and the Homeowner returns to their community feeling even more fearful.

If the Operator doesn't desist, the homeowner has to go through the whole process again to the toothless Tribunal.

- Licensing of Operators is required asap
- The regulator needs to be more accessible, user friendly and with "real teeth"
- Additional funding for the Tenants union to allow for real support, not a few phone calls.
- Refund a separate (to Arpra) advocacy service for Homeowners, that can actually support Homeowners make lodgements to regulators and apply and attend hearings.
- Increase the capacity for Tribunal members to apply real repercussions for breaches of obligations under the "Act", by Operators, including referral to criminal proceedings.
- Fair Trading to take seriously all complaints and maintain records of all complaints made on a public register. **These complaints not to be listed as per entity, but by the Companies name**

Unfair business practices
How does the "Act" aim to ensure that Homeowners are not subjected to "unfair business practices"?

The Current section of the "Act" relating to site fee increases, is but one section that needs to be changed if ensuring no "unfair business practices"

SITE FEES. Chapter 3

Site fee increases by notice.
Division 3 Sect.67 4(a) to include an explanation of the increase

What currently occurs is the Operator will provide some very broad terms in regard to their justification. No financial figures, no invoices, no audit. Homeowners are expected to take the Operator at their word. This section should read "**to provide evidence to support the request for increase, including invoices and receipts."**

How do Homeowners assess whether the proposed rent increase is fair and reasonable without this information?

This section of the "Act" must change to require Operators to provide financial records to support their argument for increase in rent. These figures must relate to operating expenses, which requires a definition,

The Act must demand specific information, to justify the Operators demand for an increase in site fee.

The Act must also demand evidence to justify an increase in site fees, be provided within the Site Fee Increase Notice,

As the Residents Committee for Sanctuary Lennox, we challenged a rent increase in the Tribunal, after many attempts for information and evidence to support the Operators claim for an increase.

We urge the reader to take note of the following information as it provides evidence in regard to "unfair business practice".

- At the first proceeding the Members made an Order, that the Operator provide all financial information, including receipts and invoices. **Without this order there would have been no means of assessing fair or unfair business practices. This Order should be incorporated into the "Act" as a requirement of Operators.**

- Within the folders of invoices and accounts provided, the Committee found **receipts of payments made for private/ personal items, the payment of other accounts for other businesses, $60,000 worth of Capital works and items the duplication of water bills and various accounting errors.**

- The Member awarded a no increase finding, but no option appeared available for him to refer on to potential criminal charges,

Please note: If the Member had not provided the order to provide the Committee with ALL financial information, these "unfair business practices" would never have been discovered. It is our understanding that they had gone undiscovered for at least 15 years, during which time Homeowners had paid an increase in Site fee every year.

Currently Operators are **demanding payment for essential services such as roads and drains.** They should not be used as bargaining points for Site fee increases. They are essential services/ infrastructure and access to, is included in site fees. It is the Operators' responsibility to ensure these services remain functional to the level of the development.

Capital and Capital works allows for improvement of the overall asset owned by the Operator and should not be included in Operating expenses. Definition of capital includes replacement of equipment and furniture, upgrading of facilities and infrastructure. The "Act "identifies that all of these capital items and works should be maintained to the standard, at the time of development.

It must be made clearer within the "Act" that this is the Financial responsibility of the Operator and not to be gouged from Homeowners via increasing Site Fees or Special levies

SPECIAL LEVIES should only be considered when Homeowners themselves seek something additional within their community. They should not be considered for basic infrastructure repairs/ maintenance and or upgrades to existing facilities.

Removal of "projected projects" within justification of site fee increases

Sect 74 should state that only operational costs incurred during the 12 months period prior to the site fee increase notice, should be recovered via site fees.

It is ridiculous that the Act includes in **Section 74 (b)** "projected outgoings "incurred by the Operator. **THIS SECTION MUST BE REMOVED**.

There is no valid reason for Homeowners to pay for "projected costs" It is the experience of Sanctuary and other communities that those "projected" projects, never occur. It is also our experience that these "projected costs" are of a Capital nature and should have nothing to do with site fee increases.

Sect. 64 should be amended to include a reduction in site fees, where there is a reduction or withdrawal of services / facilities in a Community

The review of the 'Act" should also remove the requirement for 25% of affected residents to challenge a site fee increase and clarity should be provided within the "act" as to what "opting out" means and what is required

The Hearings would be best served by having members who are specifically interested in and well versed in Residential Land Lease Communities and the vulnerability of the Homeowners.

The record of **ALL** hearings and outcomes should be maintained and accessible to all.

f) To encourage the continued growth and viability of residential communities in the State.

This may once have been a valid objective when residential communities offered affordable safe secure housing. It is no longer that. This objective has undoubtedly been achieved, at the expense of the security of Homeowners.

We are a captive audience. We cannot just pack up and remove our houses when the site fee becomes too high to maintain, when our ability to maintain our homes is reduced by our incapacity to afford repairs etc.

The Operators responsibility to investors is their priority. They do not have to consider the needs of Homeowners or their capacity to live a safe secure lifestyle in their later years. No matter what happens they will continue to receive the site fee for every house in every community.

In our Community, Hometown receives over $700,000 every year, from 83 houses.

The Operator has resources including solicitors to constantly seek ways around the "Act" and to force change on Homeowners. The Act has so many holes in it that a full-time solicitor can spend their days finding ways to avoid what may have been in the intent of sections of the Act. It is then the responsibility of Homeowners to challenge this. **This is not fair or reasonable**

The "Act" needs to reconsider the obligations to Homeowners. Return the focus to Affordable living and provide teeth to the Members, when the Act is clearly not being adhered to by Operators.

In relation to the tribunal it is my experience and the experience of other Homeowners I have approached, that it is a gamble as to the Member you have at the Tribunal and their understanding of Residential Land Lease living.

Chapter 4

Repairs and maintenance to residential sites.

It must be clearly articulated that structural issues on sites, such as subsidence are the responsibility of the Operator.

Repairs and maintenance of the home.
It is accepted that repairs and maintenance of homes is the responsibility of the Homeowner, but some repairs are required to structural issues on the site…such as subsidence.

It also needs to be noted that while Operators continue to increase site fees at the rate that they are, Homeowners will find it difficult to maintain their houses to the level they may wish to. This then affects the overall asset value of the community and the value of individual houses within.

We have previously noted that Hometown is refusing to provide approval of works on our houses, including the positioning of a window, without Council approval. This is in total disregard of the "Act"

Upgrades and special levies
As previously mentioned, special levies should only be for the purpose of an additional facility as requested by the majority of Homeowners.

Upgrades to facilities and infrastructure are the responsibility of Operators and this needs to be made clearer within the 'Act"

Community Rules
Currently additions are being made within Site agreements that should be within Community rules and be afforded the correct consultation process. All rule additions/ changes should be required to be voted on, with all Homeowners being afforded opportunity to vote.

Residents' Committees

One area of concern is that information regarding the formation of Committees various from the "Act" to information sheets provided by Fair Trading. This needs to be addressed.

Committees should be encouraged to create Constitutions that reflect correct and fair processes. Clarity of their role to support Homeowners is paramount. A data base of information from existing committees should be maintained to assist others
They are not resourced yet are the contact point for Homeowners in need of support and / or advice.
It is our experience is that a strong committee is a concern to Operators and attempts to undermine have been employed.

Chapter 6

Interference in sale
The changes to site agreements, to include a five-year increase of site fee is of its own an interference in the sale of a house.

The pages of additional terms in Site agreements is of its own an interference in the sale of a house.

The lack of preparedness to negotiate Site agreements is of its own an interference in the sale of a house.

Assignment of Site Agreements.

The assignment of site agreements to a potential buyer. The Operator must be required to advise the potential purchaser and seller of this arrangement. **This must be seen as a priority within the review**

Subleasing

Subleasing must be allowed. As Homeowners these are our Homes, our asset. The vast majority of Homeowners are retired and wish to take advantage of holiday options, which are only possible if we sublet while we are away.
The "Act" should also note that "rules" in conflict with this section of the "Act" are not enforceable.

Terminating a Site Agreement

The following section must be removed
"the use of the site as residential site is proposed to change"
This is unreasonable and unfair. The Land becomes more valuable if rezoned. The Operator stands to make a lot of money, the Homeowner loses their home.

There needs to be tighter controls on this point. Many Residential Land Lease Communities have recently been bought up by International companies with a keen eye on development opportunities.
There needs to be more security for Homeowners and their investment, their home.

I hope you can take the time to consider my points

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