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Committee Secretary,
House of representatives Legal & Constitutional Affairs Committee,
PO Box 6021,
Parliament House,
Canberra,
ACT 2600.

10th November 2006.

CC The Hon Margaret Keech, Minister for Fair Trading.
The Hon Dean Wells, Member for Murrumbidgee

Dear Secretary,

I write in response to the advertisement featured in the Australian Seniors Newspaper, November edition.

First of all, my wife and I live at a very modern over 50s village, and I am an active committee member of our residents association. The new type villages that we live at are the modern version of the old mobile home park. Where the old type of mobile home park attracted residents that could afford only this type of low cost housing, the concept has moved rapidly forward to embrace very modern homes in lovely park like surroundings, and attracts retirees who now choose a lifestyle over affordability with homes costing from \$250,000.00 to \$378,000.00.

The basic principle of these villages is that each home is situated on it's own site like any other suburban home. The difference is, that while the home belongs to the occupant, the land is leasehold, so the home owner is subject to a site agreement that sets out the site rent and other conditions. In most villages, the home owner can sell their home at any time and realise the capital gain just like the sale of any piece of real estate.

Basically, the whole concept is very good, very nice modern homes, comfortable, secure and living in an environment shared with others of our own age group. Unfortunately, this is where the more pleasing aspects start to decline.

While the industry has moved forward, Governments at all levels of the spectrum, and the attitude of park owners and managers, sadly remain in some kind of time warp, trapped in the 1980s.

The legislation that controls the industry in Queensland is known as the Manufactured Homes (Residential Parks) Act 2003, which is currently under review, and should take effect around March 2007.

This Act was the successor to the old Mobile Homes Act 1989, but still describes a manufactured home as " a structure, other than a caravan or tent that—(a) Has the

character of a dwelling and (b) is designed to be moved from one position to another; and (c) is not permanently attached to land”.

This analogy was correct back in the 1980s, but the homes that have been built for the last eight years or so, are not built to be relocated like the homes that preceded them. The original relocatable home was built in two pieces, transported with reasonable ease on the back of trucks, and the two pieces joined on site to establish a home.

The modern home is built on site in the same way has the normal suburban home, same building code and same materials. To say that these homes could not be moved is not altogether true, any structure can be moved, it's what damage is caused during the procedure, and our homes fit into category of *not meant to be moved*, at least not without costly damage.

From talking to residents of other villages in Queensland, New South Wales and South Australia, this trend in the industry goes back some eight years, is encouraged by governments and loved by developers. To quote section 4 (2) of the Objects of the Act, after claiming to regulate the industry “ (a) *encourage the continued viability of the residential park industry in the state, (b) providing a clear regulatory framework to ensure certainty for the residential park industry in planning for future growth and expansion”.*

This is often quoted by park owners who use it to sometimes justify their own dubious actions, and public servants who claim to echo government policy by not deterring the developers.

It is almost as if the Act was written for the benefit of developers and park owners.

It is appropriate to remind the reader that at our own village (now nearing completion) that when all the homes are sold and occupied, our residents will have invested over forty million dollars in this park, at the invitation of the park owner through his advertising, in a park, that on the open market we are advised, would be worth between sixteen and twenty million dollars, so collectively, we residents hold the greater equity.

The park owners and their managers are something else, most are basically ignorant of the Act, but then they really don't need to understand much. The park owners have their own association, and in the South East region, all employ the same company of solicitors based in Brisbane. Should a resident dare to persist in questioning the actions of the park owner, a very threatening letter is despatched post haste to the offender via the solicitors, which is always meant to intimidate. It is the truth when I say that many aged residents are too frightened to speak out for fear of retribution. Those residents who are not scared off by this practice and continue to question or complain are branded as trouble makers and life can become quite difficult.

We residents are basically viewed as somewhat senile, and because we have worked hard and accumulated some wealth, we are considered a cash cow to be milked at will. If the reader would care to check with the Brisbane Office of Fair Trading as to the number of complaints emitting from the current Act, they will find my claims can be verified.

Any person with the appropriate wealth can become a park owner, regardless of character or qualification in dealing with the aged, and management and staff are obviously chosen based on the least expectancy of remuneration.

This is truly one industry that really needs appropriate regulation and not the add hock legislation that now exists.

The final chapter in all this, is that that these parks are openly allowed to advertise to encourage retirees to buy into these parks although no legislation is available under the current Act that offers retirees/pensioners the much vaunted protection that governments continually espouse. There are some ten thousand people residing in these park throughout Queensland and we fall through the cracks when it comes to true legislative protection.

The Act review should, once and for all, determine the true status of our homes. The question is: are our homes real estate, or, are they chattels. Some of our residents have received both answers from the same Office of Fair Trading, which clearly indicates, no one knows.

This is very important. Under the Act, the park owner can claim full REIQ commission for the sale of a home. The experience of most residents in parks scattered around the state is that park owners do nothing to promote the sale of homes and will resist any real estate agent entering the park. If they do sell a home for the home owner, they sign a couple of forms, there is no property titles to search, no conveyancing of any kind, and yet, put their hand out for the commission of seven to eight thousand dollars, not a bad half hours work really.

To complicate matters further, at the beginning of this letter, I quoted what the Act says in definition of a manufactured home.

The definition of real estate as per the internet says:

- (a) *Land including all inherent natural attributes and man made improvements of a permanent nature placed thereon.*
- (b) *Land and anything permanently affixed to the land, and those things attached to the building.*

Our homes are supposedly not permanently fixed to the land, but neither can they be moved as prescribed by the Act.

Because of the foregoing, it can reasonably be argued that our homes do not constitute real estate. Certainly the financial institutions don't think so, they will not consider a manufactured home as collateral. Furniture, cars boats and all sorts of belongings, but not a manufactured home sitting on a leased site.

An example of this was two of our residents wanting to buy into another park prior to moving into our village, They were \$12,000.00 short on a \$122,000.00 home and could not borrow the balance. They could afford to pay off the debt over time, their car and their piano were deemed assets, but not the \$110,000.00 they were putting in of their own money. We are then, just third rate citizens.

I hope that I have been able to demonstrate the plight of many of us retirees/pensioners we are just not getting a fair deal from any level of government.

Yours faithfully

David Paton.