

Parliamentary Inquiry recommends Village prices with + without DMF

Rachel Lane, Principal, Aged Care Gurus

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The Victorian Legal and Social Issues committee recently published their recommendations following a 12 month Inquiry into the Retirement Housing Sector. There are 15 in total, addressing supply and demand, contracts, costs, operator and resident relationships, dispute resolution and changes to the legislation.

One of the recommendations the committee made is that operators be required to provide a choice to residents of a **purchase price with and without a DMF.**

Operator's negotiating the amount they charge upfront and adjusting the amount they charge as a DMF has become much more prevalent since the pension reforms on 1 January this year. The changes to the asset test create a significant disincentive to downsizers – for every \$100,000 they exceed the asset thresholds their pension reduces by \$7,800p.a. With conservative investments lucky to earn 2.5% to provide the same cash flow pensioners need to eat into their capital at 5.3% p.a.

Of course on the other side of the transaction is a Deferred Management Fee which is also reducing their capital. It is no wonder many pensioners want to find another way.

Let's look at how the numbers work.

Sally is looking at moving to a retirement village, the unit she would like to buy has a purchase price of \$450,000 and a DMF of 30% after 6 years.

Sally's current home is worth \$850,000, she has \$80,000 in the bank and \$10,000 of personal assets. She currently receives \$888pfn of Age Pension.

If Sally downsizes without negotiating her purchase price and DMF she will lose \$18,720p.a of Age Pension. If she can earn 2.5% on the \$400,000 she receives from the sale of her home this will provide her with \$10,000p.a – meaning she needs to dip into her capital by \$8,720p.a to maintain her cash flow.

On the other side of the transaction the value of her \$450,000 is being reduced by \$22,500p.a.

Over a 10 year period Sally's assets will be reduced by more than \$300,000.

But if Sally negotiated to pay \$850,000 with No DMF. She could receive \$850,000 from the village when she leaves in 10 years' time while maintaining her pension entitlement of \$888pfn.

If you would like to offer you residents flexible financial arrangements, we can help call 1300 855 770

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Where there's a will ...there's a stepchild

Troy Palmer, Special Counsel, Mills Oakley

Earlier this month the Victorian Court of Appeal dismissed an appeal against a 2016 decision of the Supreme Court concerning the ability of stepchildren to make claims against the estates of their deceased step parents.

The Court of Appeal confirmed that the children of de facto spouses are 'stepchildren' within the meaning of that term in the *Administration and Probate Act 1958* (Vic), and that a de facto stepchild relationship survived the death of the biological parent.

This is in keeping with other provisions of the Act, which do not distinguish between married and de facto couples. Where there was previously some ambiguity by what was meant by the term 'stepchild', the Court of Appeal's decision confirms that it is to be given the same wide reading as biological or adopted children.

The case, *Scott-MacKenzie v Bail*, concerned a claim brought by a stepchild pursuant to pt IV of the Act, which allows Wills to be challenged where they do not make adequate arrangements for certain 'eligible' family members. Here, the stepchild's biological parent had been the domestic partner of the deceased for 40 years, until their death in 2001. Although the stepparent passed away 15 years after the biological parent, the applicant sought to have their step relationship recognised as ongoing.

The Supreme Court at first instance held that "the relationship of stepparent and stepchild continues unless, before the death of the deceased, the relationship is ended in the sense of dissolved otherwise than by the death of the natural parent". This was confirmed by the Court of Appeal.

Importantly, this means that stepchildren meet the 'eligible person' test under the Act, which then allows them to bring claims against an estate where the Will does not adequately meet their financial needs. Of course, such claimants will still need to show that the deceased did not make sufficient provision for their needs in the Will.

It is all too easy to focus on accumulating wealth without regard for the importance of estate planning and the transfer of such wealth when we are gone. A key takeaway from this case is that you must consider any stepchildren when writing your will, or risk a challenge on your estate upon your passing.

Need assistance?

Mills Oakley provide a complete range of estate planning services, from standard "husband/wife" wills to complex testamentary trust wills. Our Wills and Probate team assist in the administration of deceased estates, ranging from small to large and complex estates, and trust administrations phone (03) 8568 9574.

Important note: this information is current as at 1 June 2017, and does not constitute legal or financial advice. You should seek legal or other professional advice before acting or relying on any of the content.

Happy EOFYS – End of Financial Year Strategy

Julie Lockeridge, Principal of Lockeridge Financial Advisory

Many people think about the end of financial year as a great time to take advantage of the End of Financial Year Sales – now just called EOFYS! But the end of financial year can be a great time for aged care residents too.

The rules around gifting for aged care are the same as for social security, which allows gifts of up to \$10,000 in a financial year and \$30,000 over five years. This means a resident (or prospective resident) could gift \$10,000 on 30 June and \$10,000 on 1 July, reducing their assets by \$20,000 in 24 hours.

Gifting within the allowed amounts can be a great strategy for people whose assets fall between the aged care asset free threshold (currently \$47,500) and the first asset threshold of \$162,087. It can also assist people whose assets exceed the first threshold but after the gift means that they eligible to be a low means resident.

It comes as a surprise to many but gifting assets can produce an equivalent return of 17.5%.

Let's look at an example.

Shirley is considering moving into aged care. Her home is exempt as her son is living there. Shirley has \$100,000 in the bank and \$2,000 of personal assets. Shirley receives the full Age Pension.

Based on Shirley's Assets and Income her Daily Accommodation Contribution would be \$26.20p.d or a Refundable Accommodation Contribution of \$165,450.

If Shirley gifts \$10,000 on 30 June and again on 1 July her Daily Accommodation Contribution would be \$16.59 or a Refundable Accommodation Contribution of \$104,764.

By gifting \$20,000 Shirley has reduced her Daily Accommodation Contribution by \$9.61p.d or \$3,508p.a, which is equivalent to a 17.5% return. The equivalent saving as a Refundable Accommodation Contribution is just over \$60,000.

Of course if Shirley's assets were \$172,000 then such a strategy could change her from a market price payer to a low means resident – the savings could be even greater but she would need to check if the facility would accept this arrangement.

There is no substitute for quality financial advice.

Call Julie on 07 55 975 550.

Julie Lockeridge and the Lockeridge Financial Advisory are authorised representatives of Meritum Financial Group Pty Ltd ABN 93 106 888 215, AFSL245569. Level15, 60 Albert Rd, South Melbourne, VIC 3205.

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