

**ECONOMICS AND INDUSTRY  
STANDING COMMITTEE**

**INQUIRY INTO KARRINYUP LAKES LIFESTYLE VILLAGE**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
MONDAY, 12 MAY 2008**

**SESSION TWO**

**Members**

**Mr R.C. Kucera (Chairman)**  
**Mr G.A. Woodhams (Deputy Chairman)**  
**Dr J.M. Edwards**  
**Mr M.P. Murray**  
**Mr A.J. Simpson**

**Mr A.P. O’Gorman (Co-opted member)**

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**Hearing commenced at 11.46 am****FITZGERALD, MR RAYMOND JOHN****Director, St Ives Group/Retirement Villages Association,  
examined:**

**The CHAIRMAN:** This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. Have you completed the "Details of Witness" form?

**Mr Fitzgerald:** I have.

**The CHAIRMAN:** Do you understand the notes at the bottom of the form?

**Mr Fitzgerald:** Yes.

**The CHAIRMAN:** Did you receive and read an information for witnesses briefing sheet regarding giving evidence before parliamentary committees?

**Mr Fitzgerald:** I did.

**The CHAIRMAN:** Do you have any questions relating to your appearance before the committee today, other than the normal questions we will put to you in the course of the hearing?

**Mr Fitzgerald:** No, not particularly. I think we put it in a letter to the committee that the Retirement Villages Association has no direct involvement with the subject of the inquiry.

**The CHAIRMAN:** We will get on to that in a little while. Would you please state the capacity in which you appear before the committee?

**Mr Fitzgerald:** I am here as a nominee of the Retirement Villages Association, Western Australia.

**The CHAIRMAN:** The committee has received your submission. Do you wish to propose any amendments to that submission?

**Mr Fitzgerald:** No.

**The CHAIRMAN:** Before we ask any questions, do you wish to make any statements in addition to the submission, other than what will come up normally in the course of examination?

**Mr Fitzgerald:** No.

**The CHAIRMAN:** Could you firstly give us an overview of the association; what its aims are and how you came to be a member of it etc, for the benefit of the members here?

**Mr Fitzgerald:** At present, the association is a national association, and we are a regional member of that national association; in other words, it is the Retirement Villages Association of Australia Ltd, and Western Australia is but one region. There are six others; it is like a federation situation.

**The CHAIRMAN:** How does one get membership of it?

**Mr Fitzgerald:** By making application and by being either the owner or manager, or having direct involvement with—this is as a full member—a retirement village, and that retirement village having a memorial registered against it under the Retirement Villages Act.

**The CHAIRMAN:** How would you describe the retirement village industry in Western Australia, for instance? Is it a growth industry?

**Mr Fitzgerald:** I think everybody understands the demographics that are driving the industry. Certainly it is a growth industry, and it has been for the past, perhaps, 25 years. My group has been involved in the industry since 1980, and the industry has increased in size immeasurably during that

period. The market for retiree accommodation has increased also—not just the physical numbers, but also the ability of people to be more financially empowered, if you like, and to make various financial decisions has certainly improved over that period.

**The CHAIRMAN:** You mentioned your group. What group are you talking about?

**Mr Fitzgerald:** The group that I represent is the St Ives Group. We have eight villages that are either owned or managed with a number of different institutions, organisations, and units that we own ourselves.

**The CHAIRMAN:** Are you a mixture of, not-for-profit and profit organisations? How would you describe yourselves?

**Mr Fitzgerald:** Well, a mixture. By way of example; we own one village at St Ives, North Shore, which is a strata title village. We have another village at Melville, which is an extra care hostel and a retirement village.

**The CHAIRMAN:** So additional commonwealth regulations apply to you there?

**Mr Fitzgerald:** We do, yes. We have interests in not only what they call ILUs, or independent living units, but also residential care facilities. As part of our expansion laterally and vertically, we also have quite a considerable interest in community care. We operate community care programs on behalf of the commonwealth government and the state government.

**The CHAIRMAN:** So that is outreach with PAC funding and that kind of thing?

**Mr Fitzgerald:** PAC funding, or community aged care packages from the federal government, nursing packages, that sort of thing. Going back to what we actually operate; we are currently doing a development with Murdoch University, for instance, on its land. We have done developments and continue to manage and/or market developments for the City of Perth, the Town of Cambridge, the Town of Vincent and the City of Belmont. We have quite a variety of arrangements and situations whereby we have developed villages in all sorts of situations such as different title arrangements etc.

**The CHAIRMAN:** Have you taken a village through from the purchase of a piece of land, or the vesting of a piece of land, right through to residents beginning to move in. Some of them are not necessarily retirees, are they? Some of them are lifestyle villages that are retirement villages.

[11.50 am]

**Mr Fitzgerald:** No. All our villages are retirement villages. Those that have a memorial registered against them are registered under the Retirement Villages Act; those that are not, are registered under the Aged Care Act as hostels or nursing home-type situations.

**Mr A.P. O'GORMAN:** Do you accredit members that join your association?

**Mr Fitzgerald:** Are we accredited?

**Mr A.P. O'GORMAN:** No. If I wanted to become a member of your association, would I need to go through an accreditation process?

**Mr Fitzgerald:** Part of the constitution of the Retirement Villages Association is that members must be accredited within three years of becoming a member. However, a couple of difficulties are involved in that. It was a noble ambition, if you like, of the association's some years ago. However, the actual logistics of being able to accredit all the villages within Australia was a bit more than it could handle, so that time frame has been slowly but surely expanded. It is still part of the constitution, and a requirement. However, the three-year requirement has slipped a bit because of the difficulty of getting qualified surveyors and human resources people, and just general resources. The association in Australia has about 2 500 or 3 000 villages on its books. It is difficult to get around to all those to get them accredited. All our villages in Western Australia are accredited,

because basically the accreditation scheme for Australia was started in Western Australia. That has since been expanded from Western Australia to the eastern states and now nationally.

**Mr A.P. O’GORMAN:** What is involved in the accreditation process? What does a village need to do for the RVA to recognise it as an accredited village?

**Mr Fitzgerald:** There is quite an extensive list of procedures and practices. The documentation requires certain approval processes. It basically is quite a comprehensive tick list of making sure that everything has been complied with from the point of view of the Retirement Villages Act, and from the point of view of other legislation that affects it, and also from the point of view of occupational health and safety, risk management, compliance with health regulations and compliance with building regulations. It is also, importantly, to do with management and compliance with codes of practice and that sort of thing. The surveyors initially do a desk-top survey; in other words, they do the administration side of it. They then do an on-site survey. That is done by independent surveyors. The accreditation scheme of the Retirement Villages Association is actually accredited in itself as an independent accreditation arrangement. Therefore, although it is named the Retirement Villages Association accreditation scheme, it is run not by the association but by an independent body. What I was getting at is that there is then consultation with members of the villages themselves; in other words, the residents. They do resident interviews and reports that go back to the accreditation people to gather whether it is compliant or not.

**Mr A.P. O’GORMAN:** You have said that all your members in Western Australia are accredited.

**Mr Fitzgerald:** I did not say all of them are. Ninety-seven villages in Western Australia are registered with the Retirement Villages Association, and about one-third of those are accredited. Until recently, the Retirement Villages Association comprised mostly what I would call for-profit or private organisations. More recently, the church and charitable organisations, or not-for-profit, have become involved in full market value developments of retirement units. In other words, they are offering units for full market value, I think so that they can make surpluses—they are not allowed to say profits—that they can pass on in order to fulfil their obligations under the charities situation. They have now swelled the ranks of the Retirement Villages Association by becoming members, and they are currently undergoing training and mentoring to get their villages accredited.

**The CHAIRMAN:** Is Karrinyup Lakes Lifestyle Village one of your members?

**Mr Fitzgerald:** It is.

**The CHAIRMAN:** Is it accredited?

**Mr Fitzgerald:** No.

**Mr A.J. SIMPSON:** How much does it cost to be a member?

**Mr Fitzgerald:** It varies from state to state, and it varies depending on the size of the village and the size of the organisation. It is quite a potpourri. The cost is about \$1 500 a year.

**Mr A.J. SIMPSON:** Would you knock anyone back?

**Mr Fitzgerald:** We do. The decision is not made by our local committee, although we obviously have input into it, being more at the coalface, if you like, from a regional point of view, but it would depend on the organisation and its record.

**Mr A.J. SIMPSON:** Just to digress a little, one of the issues that we are dealing with here is that a lot of things have gone wrong in this process. However, one thing that is clear to the committee is that a body like the Retirement Villages Association could be the driving force in helping to ensure that the industry can regulate itself, such as is the case with the Real Estate Institute and so forth. Do you ever see yourself stepping up to the mark a bit more and becoming more involved in that process? It seems to me, from where I am sitting today, that if the industry wants to get its credentials up so that it can be more on the ball at the coalface and with the day-to-day running of retirement villages and the set-up process, that would certainly flow through to the industry. One of

the main things the residents have told us is that they did their research and went to their lawyers, and they thought they were safe because they are covered by this legislation and that legislation and the whole thing of having a title.

As I sit here today I wonder why your body does not have a stronger role to help regulate the process? Do you regard your body as having that role?

[12 noon]

**Mr Fitzgerald:** We are involved in that process. Part of that process included amalgamating the individual state organisations into a national organisation. That has taken a bit longer, as most things do, than we had anticipated. In the meantime, the accreditation has taken some time. The problem is that Australia has six different retirement villages acts and each state has different title arrangements etc. It is not a one-stop shop arrangement. It has taken a long time to get general retirement village accreditation. It is quite strict and must be renewed every three years. One of our villages is coming up for its fourth renewal. It is one of our older villages. We are the people who got this accreditation moving in Western Australia and slowly but surely it was accepted in the east. Now that it has gone national—it has taken some time to achieve that—the prime aim of the Retirement Village Association is to be self-governing and self-accrediting.

**The CHAIRMAN:** Is there a role for government to assist you?

**Mr Fitzgerald:** As you quite rightly pointed out earlier, part of our organisation is involved with nursing homes and hostels. We submit to the accreditation and certification as required by the commonwealth from that point of view.

**The CHAIRMAN:** Is there a role for state governments to assist you?

**Mr Fitzgerald:** There is a role for governments to require that villages be accredited. It would be overt to consider a separate government accreditation scheme. The accreditation scheme that has been developed has been developed on the basis that it will stand all scrutiny inasmuch as it is a valid and independent scheme.

**The CHAIRMAN:** I refer to Western Australia in the context of this inquiry. Does your accreditation scheme reflect the codes and the requirements of the existing legislation?

**Mr Fitzgerald:** In each state it does. Part of the reason that it has taken some time is that we have had to adjust it for each state, because each state has a separate act and they were reviewed at different times. Yes, it does.

**The CHAIRMAN:** At the moment DOCEP overviews the operation of that legislation. Is there a role similar to what exists in many other industries in this state for DOCEP to administer that legislation whilst your organisation remains the accrediting body?

**Mr Fitzgerald:** We would welcome more interest from DOCEP in our accreditation scheme. We have made it aware of what we have been doing. I will not say that there has been reticence, but we have not had a lot of involvement from DOCEP. We have invited its involvement, but such liaison has not been forthcoming.

**Mr A.P. O'GORMAN:** What does it cost to accredit a village? Who pays for that cost?

**Mr Fitzgerald:** Again, it varies. The accreditation is paid for mostly by the developers. Some villages—I am not aware of which ones—charge part of that to the village operating budget. That is not the practice in any of our villages.

**Mr A.P. O'GORMAN:** Is it an expensive process?

**Mr Fitzgerald:** It depends on the size of the village.

**The CHAIRMAN:** What about 54 residential units with no high care or hostel care?

**Mr Fitzgerald:** I do not have the exact figures. It would be in the vicinity of \$3 000 or \$4 000.

**The CHAIRMAN:** That is every three years, so that is probably \$1 000 a year, which can be amortised. I can see the marketing sense in having an accreditation process.

**Mr Fitzgerald:** From the point of view of the St Ives Group, we take a lot of comfort in the fact that we were able to get accredited because it means to us and our residents that we are running a good ship. It is well run and well managed. The systems we have in place have checks and balances. It means that we are complying with everything and that the residents have a sense of security knowing that that is the case. That in itself has a downstream effect in being good for marketing, but only if the residents or potential residents have an understanding and belief in the credibility of that accreditation.

**The CHAIRMAN:** I refer to the problems that have been exhibited during this inquiry. I asked you earlier whether you had taken the development of a village from stage 1 when there is only land through to the time residents move in.

**Mr Fitzgerald:** Nine times.

**The CHAIRMAN:** Do any of those villages reflect the kind of structure that we are talking about with Karrinyup Lakes Lifestyle Village. It has residents; it does not have hostel or high-care residents.

**Mr Fitzgerald:** I am not familiar with the Karrinyup Lakes Lifestyle Village.

**The CHAIRMAN:** It is a potential 52-unit development with a clubhouse. It is a fairly simple development. It has other amenities. There is a designated area -

**Mr Fitzgerald:** In other words, it comprises independent living units. Is it leasehold or strata?

**The CHAIRMAN:** It is leasehold.

**Mr Fitzgerald:** The answer is yes.

**The CHAIRMAN:** If a person purchased a unit in one of your villages, would he or she presume that all the necessary planning and building approvals have been taken care of before the purchase?

**Mr Fitzgerald:** They could be confident that that is the case, because that is what we do.

**The CHAIRMAN:** In terms of the management itself, do your villages have a residence or an advisory committee, as is suggested under the code?

**Mr Fitzgerald:** In all cases, yes.

**The CHAIRMAN:** Do your residents receive annual financial statements.

**Mr Fitzgerald:** We more than comply with the code.

**The CHAIRMAN:** Rather than go through the individual things, you simply comply with the code.

**Mr Fitzgerald:** We liaise very closely with the residents. We have a good relationship with our residents. We work with them. I think one of the things that you need to understand with the industry is that it is a difficult industry from the point of view that we do not know who we will be dealing with and the age group of the group that we will be dealing with. We need to be able to look ahead. The average age of people who move into our villages—I am talking about those in the St Ives Group—is between 72 and 75. Within 10 years the average age correspondingly will be 80-plus. We have villages at the moment—the Melville one is the oldest one—in which the average age is 87. The requirements of managing that village are quite different from managing a village in which the average age is 67, which is what it is at our Mandurah village.

**Mr A.P. O'GORMAN:** You created that. At St Ives Northshore, which is in my electorate, it is anticipated that residents stay for 10 or 15 years and then they move on. The life expectancy of the people in that village has gone up quite significantly; it is much higher than what it was when the village opened in the 1980s.

**Mr Fitzgerald:** To some extent, we are a little different from the developers. Because we have hostels and because we are involved in community care, we were one of the instigators of the federal government's retirement village care packages. We were involved in the pilot program. We were allocated 40 per cent of all the care packages Australia-wide. It was a three-year trial program. As a consequence of that, it was deemed to be successful. That program is now mainstream; in other words, it is applied Australia-wide, and that is for not only low care, but also high care. In other words, we can provide low-care assistance—for example, assistance with showering and other simple care services—right up to nursing care in what they call extended aged care at-home packages, which involve full nursing care.

That is full nursing care. The best analogy is that we are a private Silver Chain organisation.

[12.10 pm]

**The CHAIRMAN:** You talked about the development of the residential villages. Are there recognised milestones in the package that you give prospective residents? How do you go about the development of that village? If you are promising certain facilities such as a clubhouse and other facilities that will support the memorial and the fact that it is retirement village, does your organisation provide that first up or is that part of the developmental process? Are there certain milestones that you reach with people who move into that village?

**Mr Fitzgerald:** It depends. An example is our Mandurah village. It was our intention to provide the clubhouse upfront but because it is on a peninsula and it is basically reclaimed land from the Serpentine River, physiologically, the area that was allocated for the clubhouse could not be built on for 18 months after we started. That was all planned and residents were aware of that. That is the case as far as possible but there are sometimes circumstances that mean that they are not upfront. For instance, we started the Northshore village in the recession we had to have so there were economic reasons for building in stages. We built the clubhouse in stage 3 but we did not fit out the kitchen and some of those more capital-intensive areas because we believed that the need for meals would not be viable until such time as the resident population increased. We made that projection as far as possible and people were aware of when that was going to happen.

**The CHAIRMAN:** What happens when you have a variation like that? Let us say you have completed one stage of a three-stage development and you have 20 residents on board already. Do their costings or their fee structures vary? For instance, if the facility is not there, they should not be paying for something that they do not have.

**Mr Fitzgerald:** That is the case. We generally adjust the fees dependent on the budget that is required. In other words, if you have a fully built facility, there is a bit of difficulty for a developer. I will take our Murdoch village as an example. It is a \$3.5 million facility with 16 staff just in the village centre itself. We built the village centre in Murdoch upfront. From day one, we had most of the staff on site. Some of those were not needed because of their volumes. There were about eight or nine staff at the time. Obviously, the residents cannot afford to pay for all of those staff because most of these villages are resident funded, so the developer supports that budget. We try to set a series of fee increases up to fully operational fees as at the date of completion. Date of completion can vary for all sorts of reasons, including how the units are selling, how long it takes builders to build the units, the availability of approvals and goodness knows what. The answer is that as far as possible, we try to make it fair and equitable for the residents. Although they might not have the bowling green or the swimming pool in or whatever, they would not be paying the full, as finished, fee. Obviously, that "as finished" fee may well be guesstimated. That is probably as close as we could scientifically put it. Some of the bigger developments may be 10 years off completion. For instance, Murdoch has been going for nine years now.

**The CHAIRMAN:** There are swings and roundabouts. If you win on one side, you may lose a little on the other side. There are two issues surrounding the "lease for life" arrangements. There are the issues of the section of the lease that talks about the return of one's money on one's investment and

all of the things one would expect in a normal lease arrangement. Do you also include in your lease the day-to-day management issues such as putting a nail in a wall or putting up an additional building? Do you have a separate schedule for those issues? How does that occur in your villages?

**Mr Fitzgerald:** The lease is a fairly extensive document, a lot of which is brought on by the need to comply with the Retirement Villages Act. The other part of the lease, by necessity, is purely the administration of the lease from a financial, security and tenure point of view.

**The CHAIRMAN:** Is that clearly spelled out—for instance, the cost of it, how much you will receive if you leave unexpectedly and all those kinds of things?

**Mr Fitzgerald:** As far as possible, the lease document is quite succinctly set out because it is of great benefit for our residents to know exactly what is going on too. We do not want to end up having arguments over a lease, though not necessarily with the residents because if the residents pass on, we will be dealing with the beneficiaries of their estate. The expectations of the lessee and the lessor need to be very clear upfront.

**The CHAIRMAN:** What about issues such as maintenance if it is a lease for life? It is your premises; it is not the residents'. They purchase the right to live there. I am talking about the everyday nitty-gritty things like who does the street verge and who deals with maintenance.

**Mr Fitzgerald:** There are really two levels. I speak from our point of view. All the documentation is different but I am speaking from the St Ives Group point of view. We have a village operational budget within which is a sinking fund or a maintenance charge. That looks after all the day-to-day things such as replacement of consumerables, things that might go wrong, light bulbs etc. There are really three areas, including the communal area, which includes all the grounds, except for those behind or included in the residents' exclusive use lease area. That is all operational budget, with the sinking fund. That sinking fund in our village is very strong—say, 15 per cent to maybe 20 per cent of the operational budget income, depending on the complexity of the village and how it is set up. That money is basically put aside in a fund and drawn on. We have a three-year rolling budget. Other than for daily things that are untoward or unforeseen, we have a program to maintain the village using those funds. Then we have the residents' obligation to maintain the units that they have leased. In other words, it is their obligation to keep them in a clean and tidy condition. It is their obligation to comply with health requirements etc. Again, we have to remember that we deal with people who come in fit and healthy and they go through normal changes in life of increasing dependency and inability to look after themselves in some cases. That is set out as an obligation of the lessee.

**The CHAIRMAN:** This is actually in the lease papers themselves?

**Mr Fitzgerald:** Yes. Then as a lessor, we have a common law obligation relative to the structure of the building in providing a clean, serviceable and proper development or units and we have to comply with structural requirements and the Health Act and all the other legislation and regulations. That money is something that the lessor has to find in the long term. Some of our villages are 25 years old. One is currently undergoing a \$3.5 million restoration. The residents do not pay any of that. That is us as a lessor improving our property and protecting our investment. One of the reasons for doing that is that we are making it more attractive in the marketplace, bringing it up to date and generally remodelling it to bring it up to modern standards.

[12.20 pm]

**The CHAIRMAN:** Also, that would be a benefit to the existing residents.

**Mr Fitzgerald:** It becomes a benefit to the existing residents.

**The CHAIRMAN:** The value for their lease for life rises.

**Mr Fitzgerald:** Basically, that is funded by what people call deferred management fees, deferred facility fees or whatever.



**The CHAIRMAN:** How do you communicate? Do you communicate the status of all those arrangements on a regular basis to your residents? Do they get an annual report? There are certain requirements under the code, are there not, to, for instance, report on operating funds that they are paying into?

**Mr Fitzgerald:** That is quite clear under the code of conduct or code of practice—I forget what it is now; it changed recently. There is a requirement that you report to your residents. We actually report to a residents' committee every three months. We have a progressive budget review—budget against actual—as we are going through the year. Then we put together a budget and we get that approved by the lessor when we are not the owner or lessor, such as Murdoch, the City of Perth, the Town of Vincent or whatever. That then comes back to the residents' committee. We go through that with the residents' committee. They then discuss it with their residents and then they come back to us. If it is all fair and square and we are going to put it up to all the residents; we have a general meeting of residents and it then goes to the general meeting of residents. There is quite an extensive process. We find it better within our organisation for that to be continual, otherwise you get some nasty surprises, such as a few years ago when we had huge jumps in insurance costs and things like that.

**The CHAIRMAN:** How do you handle dispute resolution between the residents and management?

**Mr Fitzgerald:** I am not experienced all that much in that because, fortunately, we have not had a lot of problems. I am touching wood, of course! Basically, it is set out in the act and the regulations as to how that should be managed. We do it very much by consultation and mediation. It very rarely goes further than the village itself.

**The CHAIRMAN:** I refer to the day-to-day running of a resident's house. For instance, residents might want to put a vegetable garden in the backyard, put a pathway down one side of the house as opposed to the other because that side is more conducive to their medical condition, hang paintings on their walls or have a skylight put in, which is not in the original plans of the house. Do you have provision for dealing with that sort of stuff? How is that dealt with?

**Mr Fitzgerald:** We do —

**The CHAIRMAN:** Because you would not write things like that in the lease, would you?

**Mr Fitzgerald:** — to some extent, but, no, you have to get permission or consent, basically. We consider a number of things. If it is to do with the external face of the building—in other words, the front yard, the carport or anything that other residents can see or that might affect the overall ambience or amenity of the development itself—we take a pretty close look at what that effect is going to be. If we consider that it is going to be derogatory or detrimental to others —

**The CHAIRMAN:** Or it is going to cause dispute.

**Mr Fitzgerald:** There are a number of things. We would say no, but we would not just say no; we would explain that and say, “This is the reason: the lady across the road has been looking at that view for goodness knows how long and that is the reason we didn't put that fence up that high and kept it down to that level. You want to put it up there. It is not on; it is not necessary.” The other area is in their backyard, if you like. We purposely treat our lease areas as though they are lots or sites, if you like. We do not subdivide any of our developments.

**The CHAIRMAN:** No, but there is clear delineation.

**Mr Fitzgerald:** They have a fenced area and some of them have quite large backyards. Within that, a lot of people want to put up awnings, extend verandas etc. We do not have an objection to that either, provided that, again, it is not detrimental to other neighbours and also that it complies with the requirements of local government building by-laws. If it needs a building licence, it has to be paid for and we make the application, because it is our property obviously, provided that it can be approved.

**The CHAIRMAN:** If somebody adds on a patio, that then essentially becomes your property.

**Mr Fitzgerald:** The other problems with that are that if you put big sheets of metal out there and we have drainage problems, we have to work out how we are going to dissipate that drainage. There are lots of things to consider, but these are all done by consultation and we generally do not have a major problem with that.

**The CHAIRMAN:** I now move on to this particular inquiry. I understand that Karrinyup Lakes Lifestyle Village is a member of your association. You said earlier that it is not accredited. Are you aware of some of the issues that have arisen over the past few years? I understand that you were not aware until —

**Mr Fitzgerald:** Given that I was nominated to represent the Retirement Villages Association, I did take time to read the *Hansard* and I guess I have read the paper, so other than that —

**The CHAIRMAN:** Would you call this a typical lifestyle village from what you have seen?

**Mr Fitzgerald:** I think the performance is probably not typical, no.

**The CHAIRMAN:** To paraphrase some of the evidence that has been given to us, the original leases that were issued and offered—we have copies of the brochures—quite clearly set out a number of facilities that were required. Given that you spoke earlier about some of the problems that arise with fulfilling time frames, do you have any comment on the difficulties that you have seen so far, the way that that appears to have progressed and how that has been treated?

**Mr Fitzgerald:** I do not really think it is our place to comment; however, I will say that it is also my experience that there are two sides to a story. I do not know what is behind any reason for delaying the delivering of the facilities, so I really cannot make a meaningful comment on that other than to say that I am aware that there are claims that there have been delays. I do not know the other side of it and whether there has been a reason for it.

**The CHAIRMAN:** Your obvious answer to this is going to be no, but I am trying to get some sense of feeling. When planning approvals are put in place for these particular kinds of developments, I suspect that it would be normal for the developers to make sure that all the boxes are ticked and the t's are crossed and the i's are dotted before you start to offer leases and before you would allow anybody to move into a premises. Surely, that would be a normal assumption, would it not?

**Mr Fitzgerald:** You would think so, yes. Let me put it this way: there are two areas. When you say “offer leases”, there is the ability to offer a product up for expressions of interest —

**The CHAIRMAN:** Of course, yes.

**Mr Fitzgerald:** — but we would not enter into formal leases until such time as all approvals were complied with.

**The CHAIRMAN:** For instance, in *The Australian* this morning there is quite a large article in relation to a Queensland development in which that exact situation appears to have arisen. People have been offered expressions of interest. They have then put money into a development and it appears that, in some instances, the promises have not been forthcoming. In your case, you would offer expressions of interest. Given the market situation with premises at the moment, I suspect that those expressions of interest would be very quickly taken up. At what stage would your residents start to move in? Would all those promises have been complied with?

**Mr Fitzgerald:** When you say “promises”, do you mean compliance with approvals or gaining approvals?

**The CHAIRMAN:** Yes.

**Mr Fitzgerald:** We would not really start development until such time as we had all those approvals in place.

**The CHAIRMAN:** Building licences for individual residents and those kinds of things?

**Mr Fitzgerald:** I imagine that our financiers would not be all that happy if we trudged ahead and invested their money, if you like, on the ground without due approval.

**The CHAIRMAN:** Understandably, developers would use some of the funds that come from a staged development; for instance, some of the funds would flow from stage 1 into stage 2 etc. That is understandable business practice.

Do the residents in your development have an understanding of that kind of arrangement, or is that simply a commercial arrangement with you as a developer?

[12.30 pm]

**Mr Fitzgerald:** They very much understand the situation. When a lease is registered, or when we enter into a lease and the resident enters into a residency agreement if you like, that basically formalises the security that the Retirement Villages Act gives to the resident when we register a memorial against the land. That gives the residents probably better rights in my view than the strata title situation because they have a statutory right to that interest in the land and it is protected by the Retirement Villages Act.

**The CHAIRMAN:** From your previous comment, I understand that you have taken an interest in some of the issues that we are inquiring into. Having seen some of those issues, and given your own experience, have you given any thought to how this committee could assist with ensuring that these kinds of problems are not encountered in the future? Is there any way, for instance, that the legislation could be varied? A review of the act is underway, but have you formed any views after reading about some of these issues?

**Mr Fitzgerald:** My view of this situation—as I said, I do not know both sides of the story; I only know what I have read in the paper and in *Hansard*—is that many of these issues could have been avoided if there had been a serious attempt to accredit this village. One of the problems we have is the stage at which accreditation is insisted on. Should it be asked for before a development starts, which would be next to useless because the residents could not be interviewed, or halfway through when dealing with only half the residents when you do not know what all the implications are? There is a grey area. If the clubhouse is not built, for instance, it is very difficult to get accreditation because you cannot say that you are complying with the code or with the scheme or whatever. Accreditation is a critical issue and we certainly are pushing it very hard in the Retirement Village Association. That is one area where I think that the government should take a more serious view.

**The CHAIRMAN:** Accreditation can be much more proactive than perhaps a carrot and stick approach, can it not? That is what we have at the moment.

**Mr Fitzgerald:** The association tries to make it easier for our members to get accredited. Quite a lot of work is involved. It involves probably two or three months of fairly intensive work to get all the manuals and procedures and goodness knows what together. We hold workshops and provide mentoring sessions for members. From that point of view, we make it as easy as possible. We assist them by providing manuals and all the requirements that they need to comply with. Quite a number of our members are taking advantage of that—in fact, more so than we anticipated during the past year.

**The CHAIRMAN:** Given that you do that, it would seem to me that it would make it far easier if you were building in an accreditation system in the development phase of a village to say to people that, given we are doing all these things, this is the expected up-front cost for you on an annualised basis. That would surely give you a better estimation of what the cost to residents would be.

**Mr Fitzgerald:** Do you mean from an accreditation point of view?

**The CHAIRMAN:** It might cost more to have all those processes in place, but it seems to me that if a resident who wanted to move into St Ives in Murdoch asked you how much it would cost, you would have that fairly well —

**Mr Fitzgerald:** I do not think that the accreditation has a lot to do with the weekly cost to the resident; the cost is more to do with the professionalism and thoroughness of the manager. From that point of view, it is incumbent on the manager to provide a level of service that complies with the accreditation.

**The CHAIRMAN:** Given the likely growth in this industry and the demographics that we are all aware of—I certainly am in terms of age; I get told that—and having been involved in management boards—I was on the board of Swan Cottages for some time—there are always situations when residents can be difficult and when management wants to do something that the residents are not happy with. When there appears to be an irreconcilable breakdown between the residents and management, and given the unique nature of retirement villages—the fact that the residents are locked into an agreement—and their management, should there be a mechanism in the act or in the code for dealing with that, given that there will be an additional cost to the residents if someone must step in and sort things out, or should that be the role of DOCEP or SAT? SAT is not an inexpensive process, I might add.

**Mr Fitzgerald:** I understand that. The current system provides for that if it is actively pursued. It appears from my reading that that has not been the case in this instance. We must try to avoid having a situation of resident versus resident because that is not what they went there for. That is one of the reasons that we used to have disputes resolution committees comprising residents. That was never popular and it was very difficult to get residents to put up their hands to judge other residents, and I understand that fully. It must be an arm's length process. I think we have that at the moment. As to how it is followed up and the procedures involved —

**The CHAIRMAN:** You have not really thought about that? What about the role of DOCEP in all of this. You said that you have had some dealings with it. Have you had any experiences with the association in dealing with DOCEP?

**Mr Fitzgerald:** We have had a pretty close relationship with DOCEP over the years. We have had regular meetings with it. We are in a review situation and that probably has been shelved a bit for the moment because DOCEP wants to be impartial. It talks to us as much as it talks to the residents' groups etc. The relationship is more formal than it has been in the past. When we have had concerns we have told DOCEP about our concerns and we have asked for its advice on how deal with them.

**The CHAIRMAN:** Have either you or any of the organisations that your association represents had many instances when issues within the retirement village industry have ended up before SAT?

**Mr Fitzgerald:** No.

**The CHAIRMAN:** It is a fairly new process and has been in place for only two years.

**Mr Fitzgerald:** We have had only one instance in 24 years when an application was made to the Retirement Villages Tribunal I think it was called previously, and that was done with the blessing of the residents' family. We needed to terminate a contract because a lady had moved into a nursing home and did not have the capacity to look after her own affairs.

**The CHAIRMAN:** That was a legal issue of guardianship.

**Mr Fitzgerald:** That is the only time we have had occasion to appeal to a tribunal or to be involved at that level. As I said, we have mostly sorted everything out.

**The CHAIRMAN:** I am mindful of the time. Evidence has come to us that virtually anyone who has the ability to purchase a piece of land and apply for a memorial on it to establish a retirement village can do so if they wish to. There is no embargo on doing that. They can issue a prospectus and commence the process and get to stage 1 and have one-third or the residents living on site.

To some degree I agree with your comment on accreditation. At what stage should accreditation kick in?

[12.40 pm]

**Mr Fitzgerald:** One of the things that obviously comes to mind is that there needs to be more education on how to operate a retirement village. I am talking about educating developers. As you said, any person can buy a block and develop a retirement village. That person does not need to have any experience at all in managing a retirement village but because he or she is the boss, or the owner, he or she has the right to manage it. I believe there should be, not necessarily some sort of educational qualification but certainly some education and compliance with a requirement to show that they can manage a village, otherwise it operates as it goes along.

From a residents point of view, and DOCEP do undertake some education, residents and potential residents need to have available to them the opportunity to understand how villages work and what is the relationship between the developer and residents. Approximately 99.9 per cent of developers are doing the best thing they can for their residents. It is a frustrating business some times because you are dealing with people who are becoming less able to manage themselves; therefore, you have to manage people with diverse capacity to make a decision.

**The CHAIRMAN:** Also, people are coming from living in a totally independent lifestyle to living in a communal setting.

**Mr Fitzgerald:** Sure, and in a lot of cases they are not too happy about that particular aspect of it, because it may well be that they have less capacity to look after themselves and, therefore, they are begrudgingly making a change. There are a lot of aspects from a human relationship point of view that need to be considered. A developer does not necessarily consider those when he is looking at feasibility.

**The CHAIRMAN:** Another thing that concerns me, and again it is something with which I have had personal experience, is the transition that people undergo. As part of the code for building a retirement village that adequately caters for people who are living independently in residences, should there be an understanding that there will be a need for change in that process or is that something that should simply be presumed?

**Mr Fitzgerald:** You have to be careful there because a lot of people do not want to live in a situation where they are surrounded by people on walking frames and whatever. I am thinking of a free market situation. A lot of retirement villages are described as “lifestyle villages” to try to attract younger and more active retirees.

**The CHAIRMAN:** This one does.

**Mr Fitzgerald:** Other villages are described as “retirement villages”. There have been instances in which the question raised by the Retirement Villages Association has been whether we should get rid of the word “retirement” because it is derogatory. I have never believed that. I have always believed that retirement is becoming more attractive, certainly to me, and it is our job to build better villages and environments so that retirement villages become more attractive and the concept becomes more accepted. That is certainly happening. Where I was coming from is that it is very difficult to legislate that “you will have”.

**The CHAIRMAN:** That is understandable. Do your leases reflect the fact that it is a residential village as opposed to high care etc?

**Mr Fitzgerald:** Because we cannot guarantee that we can provide places in our hostels and hospitals or offer community care packages that are funded by the government—they have to go through the ACAP process—we certainly make that very clear and, in any event, it is clear in the disclosure statement. Also, because we have the wherewithal to do it, we offer what we call elective services. They are user-pay services that mirror those services. The take-up on those is not huge, but

it is an option if we cannot find an available package or whatever. As an organisation we tend to attract older retirees who perhaps have an eye on needing some care, whereas those that do not go that extra mile to attract other people.

**The CHAIRMAN:** Raymond, thanks for your time and for being so frank with the committee. It is a privilege committee and we expect that it is undertaken that way.

Thank you, as I said, for your evidence before the committee today. A transcript of the hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 days of receipt. If the transcript is not returned within this period, it will be deemed to be correct.

When you have thought through what has happened today, if you have any other suggestions or issues that you think would assist the committee would you please advise it accordingly. As well as trying to deal with the current issues involving this village—I suspect a number of those will be taken care of by SAT—we need also to know whether there are any systemic issues that would assist your industry and the government in terms of its deliberations on the current review of the legislation. If there are any further issues that you think would assist you, particularly in terms of accreditation, we would be more than happy to hear from you.

**Mr Fitzgerald:** I will put some thought into accreditation, education and management.

**The CHAIRMAN:** Quite frankly, they would be areas for sensible suggestions. Again, thank you for your time.

**Hearing concluded at 12.46 pm**