



Lynn MacLaren MLC

Member for the South Metropolitan Region
Legislative Council Western Australia



Unit 12 South Terrace
Fremantle Western Australia 6160
Telephone: (08) 9456 7207
Facsimile: (08) 9456 7207
Email: southmetro2@mp.wa.gov.au
Web: www.lynnmaclaren.org.au

Hon. Brian Ellis, MLC, Chairman
Standing Committee on Environment and Public Affairs
Parliament House,
Perth WA 6000

Dear Mr Chairman

Submission on Petition no 154 – Review of the Retirement Village Legislation Act

I refer to your letter dated 22 March 2012 and thank you for your invitation to make a submission in relation to the above petition, containing 51 signatures from the residents of Leederville Gardens Retirement Village.

The petition refers to the Department of Commerce Statutory Review of Retirement Villages Legislation Final Report dated November 2010 (the **Report**). It submits that “the review’s recommendation should contain a time limit on the period of sale of vacated units, counted from the date when the unit has been vacated, as well as that these changes be made retrospective.” I attach a copy of a letter written by the petitioner for consideration by the Committee, since it clearly sets out the rationale behind the petition.

I previously wrote to the Minister of Commerce regarding these matters. In his letter to me regarding the issues raised by the Leederville gardens residents, the Minister of Commerce states

“Wherever possible, the reforms aim to apply to all contracts entered into under the *Retirement Villages Act 1992*. However in the course of the review, the Department of Commerce found that some provisions should not apply to existing contracts for a number of reasons, for example because they could significantly disrupt the financial operation of a village established under current contractual arrangements.”

In fact the Report (page 123) does not state the reasons for recommending that this change to the legislation should apply only prospectively. I respectfully suggest that the Minister should be requested to detail all the reasons for not applying the legislation to existing contracts, since in my view this gives rise to a grave inequity for existing residents. If operators wish to avoid disruption to the financial operation of the retirement village they have six months in which to find an alternative resident, and only the operator, not the outgoing resident, has control over this process. Alternatively a “phase in” period, as suggested by Mr Boam, could be adopted to give the operators of retirement villages a period of grace in which to adapt to the new legislative requirements.

The Report also recommends “that the legislation provide that the operator must not attempt to recover these costs by increasing the recurrent charges payable by other residents” (recommendation 74). I respectfully suggest that the Minister should state whether this recommendation will be implemented in the new legislation.

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As a policy matter, the WA Greens believe that Older Australians have the right to maintain their independence to the extent and for as long as they are able to do so. I applaud the availability of accommodation in retirement villages, since this type of accommodation is one way in which this objective can be achieved.

It is also Greens policy that older Australians should be consulted on all legislative and procedural changes that affect them, and this occurred in the statutory review of the Retirement Villages Legislation. It is however something of an irony that overwhelmingly the residents in retirement villages supported the time limit on the payment of recurrent charges, and those are the very people who will now be deprived of the benefit of this legislative change.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lynn McLaren', written in a cursive style.

Hon Lynn MacLaren MLC
Member for South Metropolitan Region

30 April 2012

Attachment: Letter dated February 2012 from Mr Peter Boam to Hon Giz Watson MLC re Retirement Villages Act.

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