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**By email: [retirementliving@propertycouncil.com.au](mailto:retirementliving@propertycouncil.com.au)**

Retirement Living  
Property Council of Australia  
Level 7, 136 Exhibition St  
Melbourne VIC 3000

Dear Sir/Madam

### **Submission – Draft Retirement Living Code of Conduct**

The Consumer Action Law Centre (**Consumer Action**), Residents of Retirement Villages Victoria (**RRVV**), Housing for the Aged Action Group (**HAAG**) and COTA Victoria welcome the opportunity to comment on the most recent Draft Retirement Living Code of Conduct (**the Draft Code**).

We support genuine attempts to improve standards in the retirement housing sector. However, we do not consider the Draft Code as a genuine attempt to improve industry standards or respond to the key concerns of residents. The vast majority of the issues raised in our February 2018 submission on the previous Draft Code have been ignored. We have **attached** our previous submission for your information.

While there has been significant material added in the Appendices to the Draft Code, it appears these are predominantly compliance resources for operators. The amendments do not appear to have addressed the core concerns of residents, which include:

- complex and unfair contracts including excessive fees;
- difficulty achieving binding resolution of disputes;
- lack of mandatory training and qualification standards;
- inadequate skills and poor attitude of management;
- problems with maintenance including delays, poor quality work and lack of clarity about responsibilities; and
- lack of resident consultation and limited opportunities to participate in village/park decision making.

Code administration and enforcement remains weak, despite our previous submissions that the Code should be administered by an independent body with effective remit and powers, and adequate resources to fulfil its functions. The 'self-certifying' compliance certificate in particular lacks accountability mechanisms and is likely to be ineffective. Moreover, there are almost no sanctions or remedies for residents if an operator breaches the Code. In fact, the retirement housing industry has added new

clauses to the Draft Code that even further absolve the Code Administration Committee from responsibility for monitoring and enforcement:

*“The CAC will not take a view on questions of legal interpretation, the outcome of confidential mediation settlements, or tribunal or court rulings.... CAC views the legal framework as the appropriate channel for civil and criminal matters and asserts that primary disciplinary action arises out of those jurisdictions where relevant.”*

The complaints process also remains convoluted and is likely to result in complaint fatigue. The complaints flowchart in Appendix G is almost indecipherable. Two-stage internal complaints processes are poor practice, and are unlikely to satisfy the Australian Standard on Complaints Handling. Further, our concerns about mediation costs being borne by both parties have not been addressed. The dispute resolution process outlined in the Draft Code does not meet the needs of residents, nor is it a suitable replacement for an industry ombudsman that can provide free, binding and independent resolution of disputes. We note that the industry has committed to the establishment of an ombudsman, but has yet to take any meaningful steps towards achieving this.<sup>1</sup>

Overall, the Code continues to have a disproportionate focus on promoting industry interests and fails to address the harm caused by bad practices in the retirement industry. We reiterate our previous submissions that it appears that this Draft Code is simply another attempt to ward off long overdue legislative reform and improve the industry’s image, rather than a genuine attempt to improve outcomes for residents.

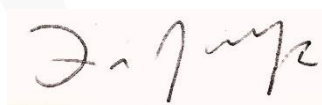
On this basis, our organisations will continue to advocate for a stronger and more effective regulatory framework that protects the interests of residents and their families.

Please contact Katherine Temple on 03 9670 5088 or at [katherine@consumeraction.org.au](mailto:katherine@consumeraction.org.au) if you have any questions about this submission.

Yours Sincerely,



Gerard Brody  
Chief Executive Officer  
**Consumer Action Law Centre**



Fiona York  
Executive Officer  
**Housing for the Aged Action Group**



Ronda Held  
Chief Executive Officer  
**COTA Victoria**



Lawrie Robertson  
President  
**Residents of Retirement Villages Victoria**

<sup>1</sup> Property Council of Australia, *Retirement Village Industry Eight Point Plan*, August 2017, <http://www.retirementliving.org.au/wp-content/uploads/2017/08/Eight-Point-Action-Plan-Policy-platform-for-retirement-living.pdf>

**Encl:** Consumer Action Law Centre, RRVV, HAAG and COTA Vic, *Submission: Retirement Living Code of Conduct*, February 2018, available here: <https://policy.consumeraction.org.au/2018/02/13/submission-retirement-living-council-retirement-living-code-of-conduct/>

