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SUPPORTING MANUFACTURED HOMEOWNERS OF VICTORIA

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**Issues affecting manufactured home owners,
with the potential for improvements
to the Residential Tenancies Act 1997 Part 4A**

National Plan to Respond to the Abuse of Older Australians

(Elder Abuse) 2019-2023

regarding

Abuse of Older Australians Living in Manufactured Home Villages

Submission dated 13 September, 2022

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Confidentiality

Maintaining confidentiality amongst the participants was one of the major challenges of the project, especially with people in local communities where the networks and associations between people and places are well known.

As a result, individuals have not been identified to protect the privacy of those who often expressed forthright opinions and views and fear retribution.

Many other residents who had raised issues with MHOA (Vic) did not want to have them included as they were too concerned about being identified and further abuse or action taken against them. We can provide the names of those that have contributed, if requested, for the information only of the government bodies concerned with this submission as confirmation of their truth and existence of these residents.

NOTE: residential “park” throughout this submission refers to either park, village or resort depending what the Owner has named it.

DEFINITIONS

RTA – RESIDENTIAL TENANCIES ACT 1997

Part 2: Rooming houses

Part 3: Residential tenancies

Part 4: Caravan parks

PART 4A: Site agreements and site-tenant owned dwellings

Types of “Parks”

There are a number of operating models for the conduct of a commercial park that offers residential accommodation:

(1) Part 4A Residential Park

Solely for Part 4A site tenants who own their own dwelling and enter into a site agreement to rent the site on which their home is occupied. Provides affordable housing in a gated community with facilities for use by the homeowners. These agreements cover the land that is being rented for the home. i.e. pre-fab home or cabin.

(2) Part 4A and Part 4 “Hybrid” park

Mixed customer base, comprising a mix of tourists on short stay visits, Part 4 residents who rent their dwelling from the park owner and Part 4A site tenants.

(3) Part 4 Tourist park

A park that is purely focused on providing accommodation for tourists in either the park's own cabins, on annuals' sites or on caravan or camping sites.

Legal definitions sourced from the Consumer Affairs Victoria website:

Retirement village

Not everything that looks like a retirement village, is one. A development that is a 'retirement village' covered by the *Retirement Villages Act 1986* is a community where:

- most residents are 55 years or older or are retired from full-time employment (or are spouses/partners of such people)
- residents receive accommodation and services, other than services provided in a residential care or aged care facility, and
- at least one of the residents, as a contractual condition of entering the retirement village, paid an ingoing contribution that was not rent. It does not matter who made that payment, or whether it was a lump sum or by instalments.

Retirement village continued

If a community meets this legal definition of a retirement village, every resident is protected by the *Retirement Villages Act 1986*, whether they paid an ingoing contribution, or own or lease their unit.

The owner of land to be used as a retirement village must lodge a 'retirement village notice' with the Land Titles Office. This notice is recorded on the land title, which can be checked on the Victorian Government's Landata website.

Residential parks

Residential parks sometimes seem similar to retirement villages but they are not the same. People moving into a residential park:

- do not pay an ingoing contribution
- buy their own prefabricated dwelling and rent the site.

People living in residential parks are covered under the caravan parks and moveable dwellings provisions of the Victorian *Residential Tenancies Act 1997*, provided at least one dwelling in the park meets the legal definition of a moveable dwelling.

BACKGROUND

Manufactured Home Owners Association (Vic) is a not-for-profit organisation.

MHOA (Vic) is a non-profit, unpaid, volunteer-staffed association, assisting manufactured homeowners in residential parks and villages throughout all of Victoria. We are currently advocating to the Victorian State Government for changes to leases and protections of residents' rights under the Residential Tenancies Act 1997 Part 4A.

MHOA (Vic) was formulated with the objective to promote, advance, maintain and safeguard the combined and individual interests of manufactured homeowners throughout Victoria. They should know that through us, they now have the right to be heard by the Victorian Government.

MHOA (Vic) will provide its members with information and insights on matters pertaining to the Residential Tenancies Act 1997 Part 4A, but the main thrust of MHOA (Vic) endeavours is to provide maximum assistance and advice when problems arise concerning residential park living.

There's no doubt that a really good village owner/manager can make a big difference. So can a bad one. Village managers, who make the extra effort to ensure the community and village they manage is successful, happy and harmonious, are very rare as attested to by the number of complaints.

Most of the owners/managers do not have the knowledge to resolve disputes. There are proven ethics issues when dealing with elderly residents and some are treated with no respect or dignity. Instead, residents are discriminated against because of their age and often taken advantage of.

Should a resident question management, sometimes bullying and intimidation tactics are used to persuade residents to do what they have been told, leading to great trauma for the vulnerable, disadvantaged seniors-

Some residents are reluctant to complain, fearing reprisal. Others are unaware of their right to dispute any action or inaction. Often a resident is reticent to engage fully with an operator for fear of retribution or eviction.

Some residents actually believe that management are without blemish, and that anything management says is therefore 'gospel'. The trust in them is management's tool to mislead and take advantage of vulnerable people.

Safe and suitable housing is a basic human need especially for elderly residents without which Victorians cannot aspire to live stable productive lives, maintain their physical and mental health, and participate in their community. Housing is more than just shelter, it is essential to the inherent dignity and wellbeing of the person.

Every Victorian has the right to equal and effective protection against discrimination and to enjoy their human rights. There are some residents in villages that are still able to participate in social activities within the village but have stated that they will not acknowledge or even speak to the owner/manager when they are in the village.

BACKGROUND continued

The experience of the people who live in these villages is that this is their home and is equally as important as the owners' business. Without residents, there is no village, and no business to be managed, residents have the right to dignity and respect in their retirement years.

MHOA (Vic) submits that manufactured homeowners are unique because manufactured home parks/villages (MHV's) have specific characteristics. Homeowners in these villages own their homes outright [no mortgages permitted] but do not own the land it is sited on. Therefore, they are not tenants as in rented premises, nor owners of a house and land.

This situation therefore, demands careful consideration and focus when drafting or amending legislation for this area. The future legislation and amendments should be able to move with the change in the manufactured homes growth and modifications of parks /villages / resorts of different formats and design.

"One rule fits all" does not now apply. Changes in manufactured home villages, with more upmarket facilities are making them more expensive. This results in more complex site agreements and many more rules are put in place by the park owners and their agents.

A lease can be manipulated in favour of the park owner and makes the homeowner open to issues outside of the Act that infringe on their rights and legal status.

Restrictions and rules are part of living in a manufactured home park / village / resort. The Act has not managed to address many unfair rules and behaviours of those who own and operate this housing sector. It is now timely to continue to address some areas of concern by homeowners in the Act, and to continue to maintain it as a fair and equitable bench mark for their rights.

MHOA (Vic) is cognisant of the fact that the Act cannot be overly prescriptive in nature and that it must address a balance of rights between park owners and homeowners. Never the less, the Residential Tenancies ACT 1997 Part 4A has no real protection for residents' rights and this needs to be addressed to retain a balance of the rights of both parties. MHOA (Vic) hopes that the concerns expressed in these submissions will be addressed in the future framing of amendments to the present Act.

SUMMARY OF SUBMISSION

Emotional and Psychological Abuse of Older People Definition and Points of Concern that Create this Abuse

Any act that causes emotional pain, anguish, distress, or is demeaning to an individual. This can include insulting or threatening a person, acts of humiliation or disrespect, and controlling behaviours including confining or isolating a person.

Other points creating an atmosphere of abuse and control are:

- Name calling, or treating the older person like a child
- Not obtaining or incorporating an older person's wishes
- Misleading an individual's capacity for decision-making
- Taking away decision-making powers
- Withholding or controlling mail
- Fear of reprisal when speaking up
- Feeling a lack of support in having their rights met
- Fear of approaching management with concerns about the park or personal issues
- Dictatorship of management on lifestyle and behaviour
- Lack of consideration and understanding by management of how to appropriately interact with older residents and dealing with their needs.

Financial Abuse defined for this Submission:

- using financial power and control over another
- refusing to include you in financial decisions
- taking control of someone else's finances
- taking money out of a person's bank account without authorisation or approval
- taking away your access to a person's money
- manipulating financial decisions
- withholding financial documentation
- incurring expenses that are not substantiated or consented to.

SUBMISSION POINTS AND RECOMMENDATIONS

The abuse of older people is a complex health and social problem that can have devastating physical, emotional and social consequences for them, their families, and their communities.

The abuse of older people occurs within a complex interplay of individual, interpersonal, community and social factors. It can be challenging to identify abuse when it occurs, as there is no single type of older person who is at risk, and no single type of person who may cause harm.

The World Health Organisation defines elder abuse as “...*a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person.*”

Abuse can be deliberate or unintentional. It can occur once or many times. Abuse does not have to be physical it can be misusing an older person’s finances, or threatening verbal and emotional abuse that then relates to psychological abuse. It can also lead to older people needing more help from the health and aged care systems, government benefits, and other services.

This submission is about highlighting the two areas of Financial Abuse and Emotional and Psychological Abuse in Manufactured Homes Parks by Park Owners and Park Managers. In providing this submission we also hope to build community awareness to create the momentum for change and build an understanding of abuse of older people. The community will then be better able to respond by also comprehending the different areas of lifestyle that older Australians live in, whether it be private homes, nursing homes, retirement villages, or manufactured home parks / villages.

There is a real requirement for a strengthening of the laws and putting in place a better understanding of how the financial, emotional and psychological abuse can differ from one situation to another depending on the persons living environment.

The building of manufactured home parks is increasing at a rapid rate. New lifestyle parks catering for the over 50's is a booming industry all over Australia. This submission, though being produced in Victoria and based on the research and information MHOA (Vic) has obtained from this State, this issue is not isolated to the State of Victoria.

This submission outlines the relevant points being addressed as concerns by MHOA (Vic) and manufactured homeowners under the Residential Tenancies Act 1997 Part 4A. The focus will be about issues in respect of abuse of older residents in a residential park/village/resort and will give attention to the two points of Financial Abuse and Emotional and Psychological Abuse.

**This submission addresses certain identified points in the
Residential Tenancies Act 1997 Part 4A extracts.**

Manufactured Home Owners Association (Vic) and its members are raising issues involving the matter of abuse of older Australians in manufactured home parks/villages, and we also raise the inadequacy of the present Act to address these matters in a manner that allows more accountability by the park owners and managers whose conduct falls into this category. This submission will outline those issues and offer proposals.

Recommendations will also include suggested changes for the park owners in the areas of responsibility and liability, in behaviour, communication and general dealings with residents in manufactured homes parks.

SUBMISSION POINTS

Residential Tenancies Act 1997 Part 4A has no protection for tenants against threats and intimidation by rental providers. However, 91ZK of the Residential Tenancies Act, as shown below, covers abuse of rental providers by tenants.

RTA - Part 2: - 91ZK Threats and intimidation to rental provider

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the renter or any other person occupying or jointly occupying the rented premises has seriously threatened or intimidated—
 - (a) the residential rental provider or the provider's agent; or
 - (b) a contractor or employee of a person referred to in paragraph (a).
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

MHOA (Vic) finds this omission in the Act to be an imbalance in favour of the rental provider.

RTA 4A in Victoria has a vague reference to quiet enjoyment which does not go far enough in protecting homeowners from unscrupulous park owners who threaten, bully and harass residents. As shown below, 206ZU in Part 4A - Quiet enjoyment, does not provide residents any protection. A residential rental provider must take all reasonable steps to ensure that the renter has quiet enjoyment of the rented premises during the residential rental agreement.

206ZU Quiet enjoyment – site owner's duty

- (1) A site owner must not unreasonably restrict or interfere with the privacy, peace and quiet or proper use and enjoyment of a Part 4A dwelling, Part 4A site and communal facilities by a site tenant.
- (2) A site owner must not unreasonably restrict or interfere with a site tenant's occupation of a Part 4A dwelling.

SUBMISSION POINTS continued

Victoria's Charter of Human Rights and Responsibilities contains 20 basic rights that promote and protect the values of freedom, respect, equality, and dignity. It is not right that some residents in MHVs are missing out on the quiet enjoyment that is in the RTA 4A legislation, and the Human Rights Charter because of mismanagement, unprofessional and unconscionable behaviour.

Queensland, however, has basic legislation protection, but even these do not go far enough. Any Act or legislation that, by omission, allows park owners to insult, threaten, humiliate or disrespect homeowners requires amendments that include basic human rights.

QLD's Manufactured Home Act Part 16 - Obligations about behaviour of park owners and home owners includes:

104 Park owner to respect rights of home owners and other residents

- (1) The park owner of a residential park must respect the rights of home owners and other residents of the park.
- (2) Without limiting subsection (1), the park owner—
 - (a) must not unreasonably interfere with, or allow interference with, the reasonable peace, comfort or privacy of a home owner or other resident; and
 - (b) must take reasonable steps to ensure a home owner or other resident, or the guest of a home owner or other resident, does not interfere with the reasonable peace,
 - (c) must use the park owner's best endeavours to ensure each home owner or other resident lives in an environment free from harassment and intimidation; and
 - (d) must not unreasonably restrict the right of a home owner or other resident to autonomy over their personal, financial, or other matters or possessions; and
 - (e) must not unreasonably restrict a home owner or other resident from exercising self-reliance in matters relating to their personal, domestic, or financial affairs.

For this submission, **MHOA refers to Part 16 (c.) (d) (e)** providing some protections for the homeowners and believes that these areas should be covered under Victoria's Residential Tenancies Act Part 4A.

SUBMISSION POINTS continued

Regrettably, Victorian manufactured homeowners have completely been neglected by our legislation in these areas:

- of ensuring a safe environment free from harassment and intimidation,
- the right of the homeowner to autonomy over personal, financial, or other matters of possessions,
- from exercising self-reliance in matters relating to their personal, domestic and financial affairs.

Older people's rights

Communities benefit in many ways from the experience and wisdom of older Victorians. 'Aged' is not a use-by-date and no-one should be treated unfairly because of how old they are.

There are laws in Victoria to protect older people from discrimination and to ensure that everyone can contribute meaningfully to society. There are also special protections for people in aged-care facilities.

Victoria needs a Charter because some basic rights, such as:

- **freedom of speech,**
- freedom of religion
- freedom from forced work,
- **freedom from degrading treatment,**

have no clear legal protection.

The Charter is essentially a form of insurance to ensure that human rights are a priority for present and future governments.

RECOMMENDATION 1:

That services be strengthened for older persons in this sector of residential parks and ensure the right support services are in place to assist older people experiencing abuse by:

- establishing a central register of residential parks and villages with CAV
- providing advertising which advises where to go to obtain further information, support and access to services prior to signing up to live in a manufactured homes park, such as MHOA (Vic), HAAG, Seniors Rights Victoria or COTA, or inclusion of contacts in the contract or site agreement documents prior to signing of paperwork.

Reasons for Recommendation 1:

Residents and operators would benefit from a central register of residential parks and villages. Currently it is not known how many residential parks there are in Victoria because there is no central register where site owners must provide their details. Registration requirements currently sit with local councils but it appears they all collect different levels of information.

- Consumer Affairs Victoria (CAV) could oversee a public register of residential parks, as they do for retirement villages.
- More information needs to be disclosed on the register about the site owner and the park.
- It should be legislated that a site owner must register their details with CAV or penalties will apply, enabling government, industry and other stakeholders to better understand the scope of the sector and its requirements.
- It would also enable prospective residents to potentially research their options, depending on the level of information made available to the public.

Prospective residents need to have more awareness of their rights by having this instilled in the paperwork that is part of their site agreements and where to go for advice. Many people do not have access to the internet, nor know where to go to seek assistance in this area.

The fear of segregation or losing their right to live in a park means that fear amongst the residents is almost tangible. This creates an atmosphere of having little or no rights or say in their living environment. Therefore, an awareness of actual and real-life scenario is important prior to considering moving into a residential park. There is, at present, not enough media, promotion or stand-out options for advice for these people.

MHOA (Vic), through our lived experience, can empathize and assist those to understand the environment and culture that exists in a residential park, also the social interaction framework that can create an environment of harassment and intimidation and restrict the residents' rights to live in a domain free of these actions.

RECOMMENDATION 2:

That a mandatory government accreditation scheme be established for parks to ensure the quality and safety of accommodation provided to residents.

- Compulsory for park owners to disclose their accreditation or how they meet the accreditation requirements in any publications to prospective and current residents.

Reasons for Recommendation 2:

The Executive Committee of the Victorian Parliamentary Inquiry into the Retirement Housing Sector in 2016 stated:

The Committee also recommended that the Victorian Government ensure that the Victorian Government give consideration to developing a model for mandatory accreditation for all retirement housing providers.

Accreditation should be a vital manufactured home village industry asset, designed to establish and continually improve a quality industry with standards for conducting these businesses. This is achieved by developing professional management systems, training park owners/managers on what constitutes elderly abuse which would lead to reliability, consistency and predictability of the business when dealing with homeowners resulting in improved homeowner satisfaction and wellbeing.

Accreditation encourages businesses to plan functionality and ensure that customer expectations are being met. Providing homeowner confidence and satisfaction will, in turn, lead to repeat business.

There is a need to strengthen precautionary measures for prospective older Australians who may be vulnerable to abuse or neglect, or who have become isolated from family and friends by moving into a residential park and accreditation would be an important first step

MHOA (Vic) can assist residents who have no access to internet and address information gaps for government bodies working in the area of older manufactured home parks, also support and provide resources that are needed to ensure residents are able to live safely, securely and connected.

With living in a manufactured homes park, unfortunately, elder abuse is mostly carried out by an individual or group that the older person trusts; for example, the park owner, park manager or even a Home Owners Committee member.

RECOMMENDATION 3:

That management be trained and informed of the actions that constitute abuse to residents.

- Professional development requirements for park owners/managers training is needed to be conducted by an independent organisation in the following areas:
 - Communication skills
 - Conflict resolution
 - Working with older people
 - Legislation and safety requirements
 - Administration skills
 - General management training
- Build more understanding of abuse of older people in this area of lifestyle choice, so we can better target the responses needed to address the sector of manufactured homes villages.
- Adapt the real estate training course on human rights to suit our industry.
- Establish and fund a group, such as MHOA (Vic), specifically for the area of manufactured home parks to report to government who have the knowledge to act on behalf of residents in dealing with management, or the person perpetrating the abuse.
- Then to have the authority to also be able to recommend further action, if necessary, to a body that can ensure that more than just a small fine or letter, as the consequence of this abuse,

Reasons for Recommendation 3:

Abuse of older people is complex and the following are examples of harassment:

- using threatening or intimidating language or behaviour towards a homeowner or prospective homeowner
- engaging in conduct that would make a person feel compelled to comply with conditions that are not necessary for the protection of the park owner's legitimate interests
- taking unfair advantage of the homeowner's or prospective homeowner's lack of understanding in relation to relevant documents

The manufactured home village industry is highly sensitive and heavily reliant on the standard of management, with the revenue generated a direct correlation to the systems of operational management within the venue. Inexperienced and/or poor management practices could lead to reduced turnover, which can diminish the value of a freehold going concern interest.

RECOMMENDATION 3 continued

QLD's Manufactured Home Act:

96 Harassment or unconscionable conduct:

The park owner for a residential park for which site agreements are in force must not engage in harassment or unconscionable conduct in the operation of the park or in acting as a homeowner's agent to sell, or to negotiate the sale of, a manufactured home.

Victorian Legislation Residential Tenancies Act 1997 Part 4A. The Act does not go far enough in deterring this behaviour and attitude. These protections for manufactured homeowners are omitted in our legislation.

RECOMMENDATION 4:

That an ombudsman for manufactured home village residents should be established.

- Homeowners may act jointly in relation to a residential park dispute
- Appoint an ombudsman with the power to enforce non-compliance.

Please keep in mind that not all villages have the same problems. The majority of feedback received is that an ombudsman with the power to enforce non-compliance would protect residents rights, thus stopping the imbalance of power. If legislation was tightened with consequences for bad behaviour, this also would improve management standards in this sector.

Reasons for Recommendation 4:

Manufactured home village residents have been calling for an ombudsman with the powers to intervene in disputes. Currently there is no representation to an ombudsman available for RTA 4A residents.

A statement by the Executive Committee of the Victorian Parliamentary Inquiry into the Retirement Housing Sector in 2016:

Stakeholders expressed their dissatisfaction to the Committee at CAV's limited powers and the fact that its decisions are not binding. ...& ..the VCAT dispute resolution process to be expensive and time consuming.

The Retirement Village Inquiry (currently being reviewed) has also requested an ombudsman for dispute resolution.

QLD's Manufactured Home Act Part 20 - General

141 Homeowners may act jointly in relation to residential park dispute

- (1) This section applies if a home owner who is a party to a residential park dispute (the individual dispute) may do any of the following things in relation to the dispute—
 - (a) carry out negotiations under section 107; [s 142] Manufactured Homes (Residential Parks) Act 2003 Part 20 General Page 112 Current as at 4 December 2020 Authorized by the Parliamentary Counsel;
 - (b) take part in mediation;
 - (c) apply to the tribunal for an order.
- (2) The members of a group of home owners for the residential park may do the thing jointly in relation to a residential park dispute arising out of facts or circumstances that are the same as, or similar to, the facts or circumstances of the individual dispute.

(Note: This is not allowed in Victoria. Each resident must take action separately which puts pressure on the resident taking action.)

RECOMMENDATION 4 continued

VCAT is a terrifying ordeal for pensioners whose only asset is their home. The realisation of legal fees and court costs forces them not to proceed with seeking any justice through VCAT.

The park owners have legal representation but residents cannot afford lawyers. Also, VCAT magistrates do not fully understand the complexity of the various retirement Acts whereas, we would hope, a specifically trained retirement housing ombudsman would.

MHOA (Vic) strongly supports the calls from different stakeholders, (including the following statements made at the Victorian Parliamentary Inquiry into the Retirement Housing Sector in 2016), for the establishment of an ombudsman to resolve complaints from residents and owners of residential living.

Dispute Resolution Apart from the vulnerabilities of age and disability, many stakeholders have pointed out the basic structural imbalance between village operators and residents and the consequences of the imbalance for fair and effective dispute resolution. Once a person has become a MHV resident, the financial and logistical difficulties of moving to a different village if they are unhappy with their situation make such a course almost prohibitive.

Effectively, they must remain in the village unless their care needs dictate a shift to an aged care facility or until they die. The unequal relationship is reinforced by a resident's dependency on the operator for the services that they rely on in the village, as well as the general expectations that a resident will fit in with the village's requirements and not be disruptive.

Most residents wish to avoid the risk of acquiring a reputation of being 'difficult' or 'disruptive' within their community. While many older Victorians might have the resources, time and energy to pursue their rights, it is unfair and unrealistic to expect all older Victorians living in MHVs to have as their only right of recourse the civil remedies that they could pursue through the courts or the Victorian Civil and Administrative Tribunal (VCAT) under their contractual arrangements or under the Act.

RECOMMENDATION 5:

That stricter guidelines be set in relation to the access by the park owners debiting of monies from residents' accounts.

- Strengthen regulation of fees and charges to ensure they are fair, easy to quantify and reflect the actual value provided to the homeowner.
- Park owners be restricted from adding extra fees and charges to existing leases agreements without written consent of residents and only after legal opinion has been provided.
- Park owners to direct debit site rental fee on the correct day to avoid homeowners being charged an overdraft fee by their bank.
- Site agreements must be clear and concise as to any financial outgoings.

Reasons for Recommendation 5:

Residents have had cost for extra services added to their exit fees without signed documentation, this allows for exploitation. Residents have the right to live with freedom of financial autonomy.

There are many instances of extra expenses purported by the park management to be payable and deducted without approval from the homeowner. For homeowners to be reimbursed is difficult and the only avenue open to them is usually VCAT. This can be time consuming, frustrating and confusing to many residents and so they accept it, and hence this misconduct is allowed to thrive.

Economic and financial pressures or difficulties associated with home ownership are a concern to all older persons. Living in a manufactured home there is a level of consideration of their finances and budget that many do not contemplate when signing their site agreements.

Increases in site agreement fees can be a significant factor in how they need to budget for the future and also any other areas of control of their finances.

IN CONCLUSION

MHOA (Vic) is hopeful that the decision-makers recognize and consider the fact that a substantial proportion of the manufactured homeowner demographic are older persons and often without the health or energy to battle bureaucracy, or to persist in the face of park owner's inaction or non-compliance.

Older persons should be able to enjoy human rights and fundamental freedoms when residing in any residential park, including full respect for their dignity, beliefs, needs and privacy, and for the right to make decisions about their care and the quality of their lives.

Where there is a large population of older Australians in an enclosed environment such as a manufactured homes park, this can create a habitat of availability for park owners or managers to act in a manner that is contrary to the law and human rights without fear of retribution.

Around 15 per cent of the Australian population is aged over 65 – approximately 3.7 million people. Australia has an ageing population and this number is predicted to rise to 23 per cent of the population by 2055. Older persons should be treated fairly regardless of age.

There is a lack of reliable prevalence data on elder abuse. The Australian Institute of Family Studies reports that it is likely that between 2 per cent and 10 per cent of older Australians experience elder abuse in any given year. In the residential parks there is an abundance of over 65s age group and therefore more open and susceptible to abuse.

Working with relevant stakeholders such as Manufactured Home Owners Association (Vic) would enable the government bodies to keep in touch with the residents of the manufactured homes parks and the issues that they are faced on a daily basis. MHOA (Vic) will work face to face with the residents and management in many matters and can be a voice of reason and a mediator at times of conflict and disputes.

Whenever a resident passes or moves into Care, management has the right to purchase the dwelling if it does not meet "standards". There is always aggression by management toward relatives regarding price and whether it should or should not be sold. Relatives are vulnerable at this time but management don't show any empathy.

Whenever residents discuss a problem with management, management do not treat them with respect; raising their voices, very quick to give excuses or place the blame back onto residents. Most times it is the tone of voice which is very intimidating and aggressive.

Things are said to residents which scare and worry them. Residents are too afraid to speak up or take it further in fear of recrimination. So, they live in fear – not the peaceful days they should be experiencing in their final stage of life.

Management also bullies residents and say things which turn a situation into the resident's fault, thus management don't have to fix a problem.

MHOA (Vic) would reiterate that people feel a little intimidated by approaching management. They do not want to make waves or feel like they are troublemakers just because they are simply asking for what they have paid for, nothing more and nothing less, and in a timely manner.

MANUFACTURED HOME DESIGN COMMENTS

Generally, the standard movable dwelling is not built with the older group in mind. Residential parks are mostly targeted at people over the age of 55, but they are not designed necessarily to consider that somebody who moves in at the age of 55 might have very different needs at the age of 75 or 80.

Interior doorways are much too small to fit ambulance stretchers and wheelchairs. Often the interior of the house is not designed for older age practical use, e.g. showers with a lip. Often expense is required to modify to suit their needs at a future date.

Access to homes is via steps and the difficulty is modifying on the outside because often consent by the park owner/manager depends on the aesthetic of the village and if ramps are permitted. Sometimes there is insufficient space to fit a ramp as homes are positioned quite close together with limited distance from the roadway.

Appendices and Examples of Reference in Support of Submission Given to MHOA (Vic) by Residents in these Parks

1. Case Study- Julie made a complaint to management, he responded with “what do you want me to do about it. if you don’t like it pack your bags and leave.” She told me later that she felt like a truant facing the principle and she went home and cried. Julie locked herself in her home and would not go out as she was afraid that she would return home and find her furniture gone or that she had been evicted.
2. Case Study - A resident told me that lot of the older residents here are afraid to stand up for themselves because they're under the impression the manager or the Park Owner, if they challenge or stand up to them, they can be evicted.
3. Case Study- Our manager when spoken to by a resident about his concerns stated “if you do not like it here pack your bags and leave”.

MHOA comments: 1, 2 & 3 Management used **humiliating tactics** and treated the older persons like children. They disrespected and *demeaned these residents*. *All residents should be treated with respect and dignity*.

4. Case Study- Our park has no privacy, as all mail gets delivered to management to sort and put into mail boxes. VCAT documentation against management was never received by the resident. There is no proof that management tampered with this mail but they have access to and deal with the personal mail every day.

MHOA comment: 4. **Mail facilities** - Resident said that although management have provided mail boxes, all mail is delivered into the office for sorting. Then management put our mail into our mail boxes. There is no confidentiality or privacy for residents.

5. Case Study- Lorraine accidentally locked herself out of her home so she approached management and was told that if this happened again, she would be charged a fee of \$26 to open her door. The resident in question has depression issues and has been hospitalized several times as a result of an abusive marriage.
6. Case Study- Grace was told in a meeting with management that “he hates talking to the ‘uneducated idiots’ in here” meaning (our village) residents.
7. Case Study- Management response on maintenance “if you annoy me, it will take even longer and everything will be done in our time table.” Bruce agreed that was what Management said.
8. Case Study- P & B S New residents were given their lease on 11.12.2020 the day they took up residence. The resident was told “don’t go to a solicitor you don’t need one”. When the resident complained his response was “if you don’t like it get out.”

MHOA comments: 5, 6, 7, 8, **Name calling** and treating the older persons like children has depleted the residents’ confidence to approach management with concerns about the park or personal issues. Some residents have told me they will not even use the facilities if management is in the office.

9. Case Study- Insurance – Judy. I was told it was obligatory to take out insurance. This was a tactic by management as I was ignorant of legislation and intimidated into agreeing.
10. Case Study- Insurance - Jenny “I bought my unit, I had it insured before moving in I was then informed by management that we cannot have outside insurance as I am required to use their insurance. I was shocked but cancelled my insurance anyway. I believed that the home was mine and that I should be able to insure with whomever I wish, for whatever value I wish.”

MHOA comments: 9, 10. **Insurance.** Management have manipulated residents into believing that it was obligatory to take out insurance with a specified insurer in the name of the village. There was nothing in legislation that required them to do so.

11. Case Study- Subject: Letter sent to residents November 2020 Management on Maintenance to Decks, Verandas, Balustrade, Window surrounds and Canopies.

“J and J have spoken to Management today and were advised that management prefer the maintenance be done by their trades, not our family and friends, this is something we do not agree with, we have decided as a group that we will make the decisions on who will do our maintenance works.

As management are aware the homes belong to us, and as home owners we have a right to appoint outside trades, or family/friends if we require, to complete the works on our behalf, some residents cannot afford trades, but they have also stated they do not wish to have extra costs added to their already excessive exit fees, so family and friends are their choice unless management prefer to do the works at no cost to the Resident.

We understand that Management only wants to do what’s best for the Residents in the village but requiring us to use village tradies is not on, this is our home and we are adults and capable of making our own decisions, on who to hire.”

MHOA comments: 11. **Maintenance Front of our homes,** Residents were told if they could not pay upfront that the costs would be added to their exit fees [DMF]. This allows management to use the imbalance of power in financial situations in having control over residents. Forcing residents to use village trades and not being able to shop around or use family and friends, give residents the impression that they are required to do anything that management say, this was playing on resident’s fear and ignorance of their rights, allowing every area of elderly abuse to be used in this scenario.

DMFs are already excessive and I believe this is unconscionable. Adding extra fees should not occur. How would our estates know what is owing to management at the time of the sale of our properties, when most of our families don’t even know that there are any DM fees.

Is adding extra cost an ongoing practice by management and, if it is, how would the accounting and accumulation of these costs occur. Some residents are unaware of what’s in their leases and have no idea what their rights are under this agreement should they not obtain legal advice before consenting to any extra fees.

We believe that this is an additional DM fee, and if so, should management not have informed the residents of their rights to be able to carry out the works themselves or obtain help from their families, instead of the village management inferring in their letter and stated verbally that it was a requirement to use the village trades. This then is an imbalance of power.

12. Case Study- A resident rang me on 14.12.2020 to say a management tradie was knocking at her door and she had hidden as she did not want to talk to him until I had met with management the next day and obtained a decision on behalf of the stage one residents. She stated she preferred her family do her works not the village tradie. The same resident was told by management that her family could not do her maintenance and her daughter was with her at the time of this conversation.

I suggested she should ring management to ask that the tradie not go to her home or any residents' homes until I had spoken to management the next day, but she was so distraught she asked me to ring on her behalf,

When I rang management, I had the phone on loud speaker and my husband said he was proud of me for not losing my cool. Some comments directed at me were "we own this village' management have made a decision that our trades will do the work as family and friends could not do it to a good enough standard., I was also asked to give management the name of the resident that complained as the residents tell me one thing and her another.

Five minutes after hanging up from this phone call with management, the village tradie knocked at my door requesting the name of the resident who had complained as management had rung and abused him. I told him it was a privacy issue and I could not give out names.

MHOA comments: 12. Resident was so intimidated by managements' insistence that village trades were required to be used, that she was too frightened and intimidated to even open the door to the trade's person, instead she hid.

13. Case Study - 30.06.2015 Heater Locks were placed on the heater control panels in the community centre. The residents were unable to adjust the heating to suit our purposes The residents would take a strip heater to the centre when playing cards at night and sit with coats on to keep warm.

We are being treated like children. In our homes we are able to adjust our heaters to suit the climate. Nights are colder than days and there are times when we are more active and do not require the heater to be as high. Why should the heaters be on the same temperature all the time even if no one is using the facilities? (This, is a waste of power.) We requested that the plastic covers be removed so we can get back to enjoying the facilities that we pay for.

When the resident approached management to remove the covers, management threatened eviction. It was only that management was told by their lawyers that they were unable to evict the resident, that the locks were removed. The resident felt that they had been threatened, intimidated and bullied by management.

MHOA comment: 13 **Heater Locks**- Threats of eviction, reduction in service, bullying and intimidation tactics should never be used on vulnerable elderly residents.

14. Case Study - 3.10.2018 Resident reported – "my confidential documents were used by management without my permission. This is an abuse of my privacy. I gave my social security card to management for the purpose of applying for rental assistance only. I was not informed that my card would be used for any other purpose. On September 3rd 2013 I wrote to management asking for an explanation and never received a response:

14. continued

“My information is private and should only be used with my approval, if an application was made on my behalf, should I not have been informed, and should I not have received the refund? Which would have alerted me to the fact that I was doing something that I believed is incorrect. I asked management to provide me with the answers to why my information was provided to this company without my permission.”

I have been informed by Kara at Goulbourn Valley Water that management had applied for a discount on water rates and that the discount had been paid to village management since 2015.

It was made clear at the time of buying my property that I do not pay water rates or land rates and am not responsible for either. Village management are solely responsible as per my lease agreement Section 7C.

If I do not pay rates, how can I apply for a refund? I believe that would be illegal. Also, how could a refund be applied if I knew nothing about it? And does this also apply to the land rates?

Response from Goulbourn Valley Water 5.1.2021 Email: “I can confirm that the concession has been removed at your request. The water account will no longer have the concession rebate applied until you advise otherwise.”

MHOA comments: 14. **Privacy Issues-** Using resident’s confidential documents without permission to obtain concessions is misleading and an abuse of privacy. This is another instance of people being misinformed.

Confidentiality and trust are two of the most important aspects between management and residents. This trust should never be abused, however. legislation does not give residents any protection in these sorts of cases.

15. Case Study – Comment received recently: “The ability to talk to someone in the same situation is terrific. We feel that we are no longer alone, that we now have support. Living in a village is like learned helplessness. -Elderly abuse. We are not transients and get no value for money.”

MHOA comments: 15. This case study shows the loneliness of some residents in these villages when there is no one to discuss issues with, even though surrounded by other residents. Residents are not willing to discuss management issues. Instead, residents would rather put their heads in the sand which isolates any other residents that will stand up for their rights and dignity.

16. Case Study - Deceased Estate-

“ My Mother and Father owned the unit up until they passed away 2 years ago. I inherited the unit through them and I reside there as per their wishes.

When my new agreement was signed it came with the DEFERRED MANAGEMENT FEES CLAUSE but prior to that Mum and Dad did not have that in their agreement I did not purchase the unit as stated - **I inherited it**, so I will be required to pay 20% of the sale price to park owner who really does nothing for the residents anyway.

16. continued

I was absolutely incensed over this as when I come to sell at say \$400,000, they are going to take \$80,000 of my money. Where is the justice or fairness in that? That is my only savings, no super etc.

My husband took his life 6 months before my parents died and I have struggled ever since. I work a part-time job to keep paying the site fees but to be robbed of that type of money is inconceivable.

Thank you for standing up for us all and if you need any more information, please contact me. “

MHOA comments: 16. Deceased estates are a product of the neglect in our legislation, as so many of the disputes in these villages mostly result from legislation not protecting residents.

17. Case Study- Lady in her 80s fell and broke her wrist which resulted from her temporary inability to maintain her front garden. She was sent a nasty letter from park manager stating that if it was not done, they would send someone around and charge her for it. They knew of her fall and her broken wrist. It was resolved by neighbours cleaning it up for her. Treating elderly residents with contempt and disrespect occurs daily in this village. Residents are too scared to speak up or they will be isolated.

18. Case Study- Flooding in back yard. For several years Minnie complained to management about the excessive water pooling in her back yard.

She could not get management to look at it, let alone fix it. The Residents' Committee acted on her behalf with management but was told "it's her problem". The RC member realized that there was water also coming off her neighbor's hard surface footpath. The footpath had been laid without permission. Pathways on sites must not be hard surface as draining is a problem.

The resident hired a drain specialist who used a camera in the underground storm water drain and discovered it had broken and was leaking. Management then had their own do the same. Management was adamant there wasn't a problem. Minnie is now taking the park owner to VCAT.

Management has visited her recently and tried to talk her out of VCAT and became quite intimidating and spoke aggressively. Minnie was very shaken.

MHOA comments: 17, 18, Ageism the abuse, neglect and bullying of elderly residents.

19. Case Study - Case Study – Jack – garage conversion. When Jack moved into a pre-loved dwelling, the garage was a garage with roller door at front and built-in glass sliding door at back.

He was lining the inside of it so make another room for leisure purposes when management told him it had to be removed as it was a carport. Management gave many excuses as to why it should not be done. Arguments ensued. Voices were raised and management continued to intimidate.

Jack continued and is enjoying his room. He said "when I die, management can do what they like with it."

19 continued

MHOA comments: 19.. Management and resident were unable to agree on this issue, which resulted in an argument. The rules of the village should always be adhered to as long as they are reasonable. If a resident does not believe they are reasonable they are then able to go to VCAT. However, residents in residential villages have very limited resources, relying on Government Aged Pensions. VCAT is a terrifying ordeal for pensioners whose only asset is their home. When attending VCAT an elderly resident is usually confronted by the lawyers representing village management, who intimidate and threaten at every level. Once again, perfect example for ombudsman,

20. Case Study – Geoff, weeds in garden. Geoff had not been well. The weeds in his garden had grown rather high. When passing one day management yelled at him and said he would be reported to Council and receive a \$50,000 fine. Council has nothing to do with our sites.

MHOA comment: 20. Management will tell a resident anything to obtain compliance even untruths, threats and intimidation.

21. Case Study – Jean. Bullying from Residents' Committee (ex- police commissioner) and Carol who is a (jail warden) who stand over you and intimidate you. It's sad that residents are so scared even of their residents committee that they will not complain.

MHOA comment: 21. Residents' Committee are there to be a voice for the residents. They are not there to intimidate residents. There is no area of legislation that defines the duties and responsibility of a residents' committee.