



Downsizing into a  
“Retirement Village” is great,  
it is the legislation and contracts that spoil it.

1. Legal “Retirement Villages”

2. Legal “Owners corporation Retirement Villages”

both covered by the Victorian

“Retirement Village Act 1986”

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3. “Lifestyle, manufactured home, transportable home, resort & caravan park Villages.

**Not covered by the above Act.**

**Why it is essential to improve  
the legislated retirement village  
definitions  
in the Victorian Retirement Village Act,  
1986.**

*retirement village* means a community—

- (a) the majority of which is retired persons who are provided with accommodation ~~and services other than services that are provided in a residential care facility;~~—  
and—
- (b) ~~at least one of whom, before or upon becoming a member of the community,~~ pays or is required to pay an in-going contribution;

Current definition of **ingoin** “**contribution**”  
means the payment made---

- a) By way of **donation** because of an understanding between a person and an owner or manager to the effect that on the making of the **donation** person will be entitled, resident of the village; or
- b) In consideration of acquiring shares in a company if the shares confer on the holder the right to become a resident of a retirement village; or
- c) In consideration of the right to become a resident—  
whether paid by or on behalf of the person who wishes to become a resident and whether in a lump sum or by instalments but **does not include rent**

# “Definition Effects”

1. Promotes the “Deferred Management FEE” (DMF)
2. Makes for **incomprehensible** contracts.
3. **Anti-competitive** because DMF contracts hide cost until after contract termination.
4. Prior legal advice makes a **gravy train** for the legal profession and a **wonderful marketing tactic**.

# “More Definition Effects”

1. Encourages **initial** “bait” fee setting.
2. Traps some **lessees** who would choose to leave.
3. Cost discriminates against **older entrants**.
4. Tempts **shonkey operators**.

# “Other Definition Effects”

1. Municipal rates are **charged twice**, the lessee pays directly for the unit and indirectly for the common property via the service fee.
2. Enables sophisticated **exploitation** of lessee retirees.
3. Retirement villages units **don't depreciate???**
4. The reason developer/operators managers presentations admit **no fault**, is their **conflict of interest** between the benefit of their incentive compensation bonus, and any cost of benefits to the lessee.

# Loan/Lease cost rate components

- 1. Foregone interest** on the inflated capital cost of the unit, including the common property and common facilities. **This is by far the largest component of total equivalent monthly rental.**
- 2. The service/part maintenance fee which is disclosed at entry.**
- 3. The management fee (misleadingly called deferred).**
- 4. Refurbishment or **updating cost**.**
- 5. Sinking fund used to split maintenance costs.**

# More Loan/Lease cost rate components.

6. Agents fees at departure.

7 Fees for legal adviser to review the entry contract documents ??????????.

8. Fees for an accountant if you can find one with real expertise in this field to verify that the figures provided by the operator are valid.

Ethics of developer/operator.

CPI/Inflation

Cost of maintenance

Cost of service

Sinking fund arrangements

Competence of manager

**DMF rate schedule.**

**Whether DMF based on cost or sell.**

No of units in village

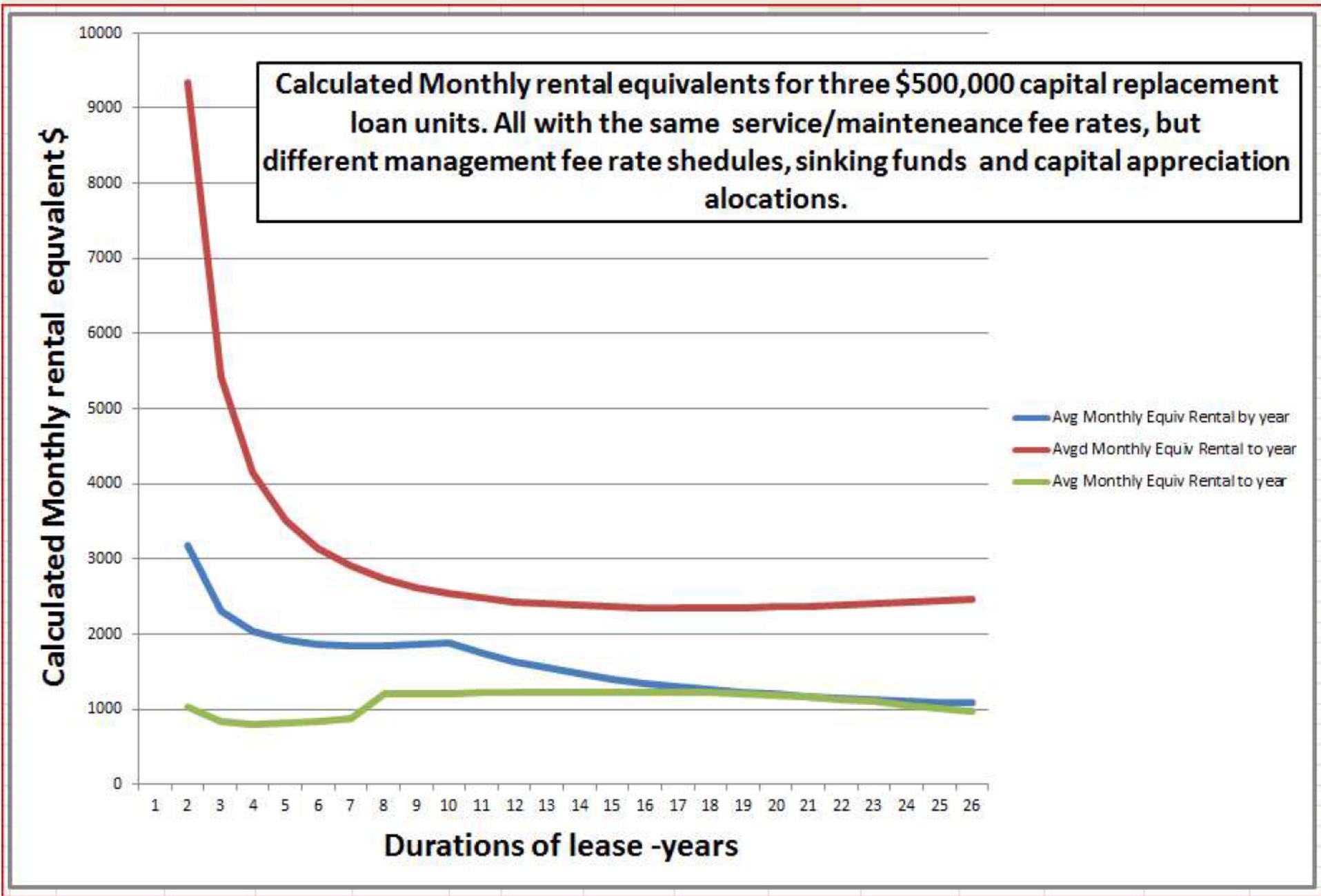
Separation of common property

Quality of property

Property appreciation rate?

Age ----- Life expectancy at entry

Gender



- Value In-going of Capital Replacement Loan
- Rate of management fee
- Duration of management fee schedule
- Sinking fund, if stipulated
- Proportion of Capital Appreciation  
that accrues to lessee
- Rate of service/maintenance fee

Table taken from Dr T Kyng submission

Scenario	Age/gender	Entry Cost	DMF %	DMF Term years	Share of capital gain	Monthly <u>equiv</u> rent
1	75 female	\$1,000,000	6%	5	0	\$4,279
2	75 female	\$1,000,000	10%	5	0	\$5,321
3	75 female	\$781,175	10%	5	0	\$4,279
4	75 female	\$1,000,000	6%	5	50%	\$3150

Melbourne figures in earlier slides are about 30% lower than Sydney. The \$500,000 entry costs previously shown are for peripheral Melbourne villages several years ago.

**Service, maintenance, sinking fund and refurbishment or updating cost would likely add another \$400 - \$600 a month to the equivalent rentals.**

# A simple USA Residential Tenancy Village disclosure statement.

29/10/2016

We have provided you with this simple worksheet so that you can compare your current costs to those of living in a private residence in our community. Often times, people are shocked at just how much all those little monthly bills add up to.

<u>Monthly Expenses</u>	<u>Present Home</u>	<u>Garden Court</u>
Rent/Mortgage	\$ _____	\$ _____
Home/Renter's Insurance	\$ _____	\$ _____
Personal Telephone	\$ _____	\$ _____
Utilities		
Gas	\$ _____	Included
Water	\$ _____	Included
Electricity	\$ _____	Included
Sewer/Trash	\$ _____	Included
Cable Television	\$ _____	Included
Internet	\$ _____	included
Property Taxes	\$ _____	Included
Yard Care/Landscaping	\$ _____	Included
Home Repairs and Maintenance	\$ _____	Included
Transportation (gas, registration, insurance, maintenance)	\$ _____	Included
Weekly Housekeeping	\$ _____	Included
Food - Two meals per day	\$ _____	Included
24-hour Emergency Communication System	\$ _____	Included
<b>Total Monthly Cost</b>	\$ _____	\$ _____

# A suggestion for a revised Retirement Village definition.

Retirement village means a community  
the majority of which are retired persons who are provided  
with accommodation

offered with residential tenancy lease, with secure tenancy  
for independent life, including service, all maintenance,  
sinking fund, and refurbishment cost included in one daily or  
monthly rate.

Also every prospective entrant **may** be offered the  
**alternative** of a paying an **ingoing capital interest free loan**,  
with miscellaneous fees not disclosed till months after  
contract termination.

## Gateway pricing vs median house price<sup>1</sup>



From [Villages.com.au](http://Villages.com.au) 2016-10-19

See the [Gateway Lifestyle](#) chart above. They are delivering homes for an average sale price of \$207,000 to \$270,000 depending on the state and location. This is two-thirds the price of the cheapest homes or apartments, even **in regional areas**.

Gateway makes an average of \$100,000 development profit, **close to 50%**, on each new home sale they make. Traditional village developers struggle to make **20% on a \$350,000** home, or \$70,000.

Another example: [Ingenia Lifestyle Communities](#) makes an average of \$88,000 on a \$275,000 average sale price **or 33%**.

From Villages.com.au 2016-10-19

## Quoting Dr Tim Kyng of Macquarie U presentation.

Page 2 Inadequate disclosure for consumers to make proper and well-informed comparisons and decisions.

Page 8 Compares equivalent monthly DMF rental for a \$1,000,000 retirement village unit at **\$1860 a week** with a normal residential tenancy contract for a similar value rental unit at **\$800 a week**.  
In my opinion he was very, very conservative.

# Much needed are

- A specialist retiree ombudsman.
- 120 hours independent training for every village manager, before appointment.
- An *arbitrary* 20% concession on Municipal rates for retirement village unit lessees only
- Classification of all group housing with more than 10 permanent retirees under an **amended** RV Act definition.

To eliminate most of the issues amend the retirement village Act **definition** to **mandate** all future leases as secure tenure residential tenancy, and including service, maintenance, sinking fund in the daily or monthly rental.

The **option** of a loan lease contract with management fee, **may** be offered.

# 13 year search for fair contracts.

- CAV
- CAV Minister
- RRVV
- Ombudsman
- Justice Connect
- CALC
- COTA
- Local MP
- 4 +1 Solicitors
- HAAG
- WWW
- ACA Choice
- ACCC
- RVA now PCA
- VCAT
- Commissioner for Senior Victorians
- Visits to villages Interstate, NZ, and 6 in USA
- Vic Law Reform Comm
- Now LSIC.....

