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Estimates or Guesstimates

*By Michelle Burke, Partner,
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The effects of the “economic downturn” have been and continue to be in the news and are affecting many businesses. Retirement villages are not immune and as the residential housing market has slowed, so have sales of units in villages.

A consequence of this is that, as is well known, as housing prices drop there is often an adjustment required in the pricing of retirement village

units. There are pitfalls for operators and residents in the sales process which can be avoided if careful processes are put in place and followed.

When residents are thinking of leaving a village, they often request an estimate of the amount they might receive on termination. Operators should be careful to ensure that they give an explanation with the estimate that clearly sets out the factors affecting the return to the exiting resident.

Naturally, when there is an amount that is amortising or reducing, this is effected by timing. Where there is capital gain sharing, then any estimated increase should be conservative. The factors affecting the amounts to be received in both these cases should be clearly and simply spelt out.

See page 2 for more...

Our New Settlements Officer

Selina qualified as a Legal Executive in 1997. She has worked for more than 10 years in small New Zealand law firms, starting from search clerk and becoming a Legal Secretary/Legal Executive in the ensuing years. Selina also spent 5 years working with a sole practitioner in Samoa as a Legal Executive.

Selina joined Settlement Services in March 2009 and is new to retirement village work.

She is looking forward to the challenges of the retirement village industry environment and to gaining further experience and skills to add to her achievements to date.



Conference

We will be attending the RVA conference in Auckland with a trade stand. If you have any questions regarding the settlements process or VillageInfoNet please visit. There are still clients who I have yet to meet and really welcome the opportunity to meet you and hear about your villages.

Estimates or Guesstimates continued

Refurbishment costs that are to be met by a resident are another area where care should be taken to ensure that the estimate is accurate and a clear explanation of what might be involved and the process for determining what refurbishment is to be carried out and how the pricing is decided is most important.

Operators should not forget that the contracts for many residents require the exiting resident to bear any reduction in price. In this present market, residents should not be led to the assumption that they will necessary receive back in full the fixed component of the payment for the unit.

Particular care should be taken with estimates if a resident is purchasing an alternative property. The last thing anyone would want is for an existing resident to enter into a contract to purchase another dwelling on the basis of an estimate of the sale proceeds of the unit to be paid to them and then

receive less money than they expected from the sale of the unit.

Operators, managers or sales managers should strongly advise residents who wish to purchase elsewhere to make sure that their contracts for purchase are conditional on their receiving sufficient money from the sale of the unit to enable them to complete their purchase.

In addition to the predicament that existing residents may find themselves in, an operator will wish to avoid the stress associated dealing with disgruntled former residents or the families of deceased residents when their expectations as to the amount they will receive on the sale of the unit are not met.

An estimate of an amount to be received by a resident is not, generally speaking, a binding agreement. However, if there is an incorrect estimate or statement given, then there may be remedies open to residents where there has been negligence on the

part of the person making the statement and the resident has relied on the statement and suffered financial loss. The circumstances where such a claim would succeed are extremely rare, but even such a remote risk underlines the need to take care when providing estimates.

A resident may well be able to take a complaint to the Disputes Panel if they dispute the amount they are to receive or have received on settlement of the disposal of their unit. The Disputes Panel must consider the legal basis of such a claim and it may well not succeed. An operator will wish to avoid the management time involved and uncertainty of outcome of such a claim.

It is clear that there can be no substitute for careful processes that include appropriate cross-checks during the sales process.

The information in this article is necessarily general. Please contact your legal advisers if you have specific questions.

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VillageInfoNet Survey

Thank you to everyone who took the time to complete and return our recent survey on VillageInfoNet. Suzanne Recchia at Radius was the winner of the Pol Roger Champagne and very kindly presented it to her PA. Feedback is essential and enables us to continue to provide you with exceptional products and services that work for you.



VillageInfoNet: A Valuable Management Tool

Management Information at Your Fingertips

Recognising an opportunity to increase the value of its service to clients, Settlement Services developed VillageInfoNet—an internet-based Management Reporting Tool providing personalised, up-to-date and secure information, within an easy-to-navigate framework.

The information available through VillageInfoNet largely comprises the data collected throughout the settlements process which is analysed,

reorganised and presented in a way that provides village owners and operators with valuable insights to their business.

VillageInfoNet reduces unnecessary time and cost spent on administrative tasks such as filing and locating documents, photocopying, as well as reducing the amount of space required to maintain files and documents. Audit, valuation and accounting processes can be simplified by enabling external parties to access records and information online.

VillageInfoNet provides easy access to important information—occupation licence, disclosure statement, deed of supervision, residents rights, financial statements and the code of practice once it is in force, ensuring only the latest compliance documentation is issued to intending residents.



An Update on VillageInfoNet Reports

Current reports available from VillageInfoNet:

Individual dwelling history

This report provides a sales history for the selected dwelling by listing all residents that have occupied the dwelling including the current resident. Information includes entry payments, village contribution amounts, capital gains eligibility. Information is limited to transactions completed by Settlement Services or for which information has been

provided to Settlement Services to record.

Capital increase

This report lists current residents who are entitled to share in capital gains upon the termination of their occupation right agreement.

Occupation right agreements

This report lists all residents who hold a current occupation right agreement as at the selected date (listed by dwelling number).

Resident details

Details relating to a specific resident's occupation agreement. Information displayed includes resident name, dwelling ID, solicitor details, documents, dates and financial details. Includes current status of an intending resident's agreement as it is processed by Settlement Services.

Settlement history

This report lists all transactions at the village with a settlement or commencement date within the selected date range. Details include dwelling ID, resident names and entry payment. Information is limited to transactions completed by Settlement Services or for which information has been provided to Settlement Services to record.

Termination details

Displays information relating to the termination of an occupation agreement for the selected resident. Information is limited to transactions completed by Settlement Services or for which information has been provided to Settlement Services to record.

Termination history

This report lists terminated occupation agreements with repayment by and large completed within the selected date range. Details include dwelling ID, resident names, entry payment, and exit payment, reason for departure and date vacant possession. Information is limited to transactions completed by Settlement Services or for which information has been provided to Settlement Services to record.

Resident transfers

This report lists residents who have transferred between dwellings at the village. The report identifies the old and new dwellings. Information is limited to transactions

completed by Settlement Services or for which information has been provided to Settlement Services to record.

All dwellings

This report displays a sales history of every dwelling in the village, by listing for each dwelling all residents that have occupied it including the current resident. Information includes entry payments, exit payments, dates. Information is limited to transactions completed by Settlement Services or for which information has been provided to Settlement Services to record.

Average length of stay

A report by calendar year, of those residents who have exited a dwelling whose commencement and exit dates are known to Settlement Services. The report shows the average length of occupation in different types of dwellings in the Village.

Reasons for departure

A report that identifies those residents who exited the village within the selected date range, whose exit dates and reason(s) for departure are known to Settlement Services.

Current residents' average ages

A two-part report listing all current residents and showing the age of residents whose birthdates are known as at the report date. From the known ages, a summary is given of the number of males and females occupying each

dwelling type and the average age of residents in the dwelling type.

Residents' average entry age

A report of the average age of residents on entering the village in each calendar year, where commencement dates and resident's birthdates are known. In addition, the report calculates average ages grouped by dwelling type and resident gender.

Residents' average exit age

A report of the average age of residents on exiting the village in each calendar year, where the exit dates and resident's birthdates are known. In addition, the report calculates average ages grouped by dwelling type and resident gender.

We want to make VillageInfoNet as useful and relevant as possible to you, our client. If there are other reports you would like to see available on VillageInfoNet, please let us know.

Not on VillageInfoNet? Please contact Jo Robertson or visit us at our trade stand at the RVA Conference to see how this online service can benefit the administration of your retirement village.

Standard Documents on VillageInfoNet

Standard documents for your retirement village can be made available on VillageInfoNet, for you to view or print off at any time. For example:

- Code of Resident Rights,
- Deed of Supervision,
- Disclosure Statement,
- Financial Statements,
- Occupation Right Agreement.

If you have documents you would like uploaded to VillageInfoNet, please phone Jo Robertson and we will upload them for you.

Email Notifications Service

Settlement Services provides, as a standard service to all clients, email notifications on the status of resident settlements with resident and dwelling details. These notifications include:

- **Conditional applications**
Includes all conditional applications, with or without a fixed settlement date.
- **Unconditional applications**
(Upcoming settlements) Includes only unconditional applications with

a settlement date. Therefore, please provide us with all known settlement dates to ensure accurate figures in this report.

- **Start of cooling off period**
- **Expiration of cooling off period**
- **Completed settlements**

If you are not receiving these reports, please email Jo Robertson at jrobertson@settlements.co.nz



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