



## Retirement Villages – a lifestyle choice not an investment

**For some people there comes a time when the responsibility of caring for the family home is no longer desirable or practicable. Sometimes this decision is forced by health issues or the desire to live in a more supportive environment. Whatever the reason, it is important that your choice is well considered, as buying into a retirement village is very different from a traditional property purchase.**

### **What is a retirement village?**

A retirement village is a residential complex where people aged over 55 live in a community, sharing common facilities and amenities. The housing offered varies between independent living units to accommodation where some services are provided to residents.

### **How do retirement villages differ from other property purchases?**

The first thing to understand is that purchasing into a retirement village is a lifestyle choice and not a property investment.

This type of purchase is substantially different from owning or renting a property. Generally, purchasers do not “own” their unit - but acquire the right to live in the property and utilise the services and amenities provided.

It is important to understand that retirement villages are usually commercially-run operations. Sometimes they are owned and managed by churches, charities and not-for-profit organisations.

### **What are the costs?**

It is imperative that you understand the detail of the costs associated with purchasing into a retirement village. There is a broad range of fees and charges associated with entering, living in and exiting retirement villages. These costs can be quite substantial.

In addition to your initial outlay, you will also have to pay ongoing fees to assist with the expenses associated with the running and maintenance of the village. These costs usually increase over time.

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As your circumstances change, you may also need to sell and move into another facility with higher levels of care. Generally, there are exit fees involved when selling your unit.

It is important that you understand the financial impact of these fees from the outset so that, if required, you will be able to afford increased levels of care in the future.

### Other considerations

Before you move do your homework. Determine whether you will be happy in the retirement village you choose by talking to people currently living in the units.

Ensure that the services and amenities are of a high quality and are what you will need and would like to use.

It is also important that you understand the rules of the village. For example, are you able to take your pet with you into the complex or can you have guests stay overnight in your unit?

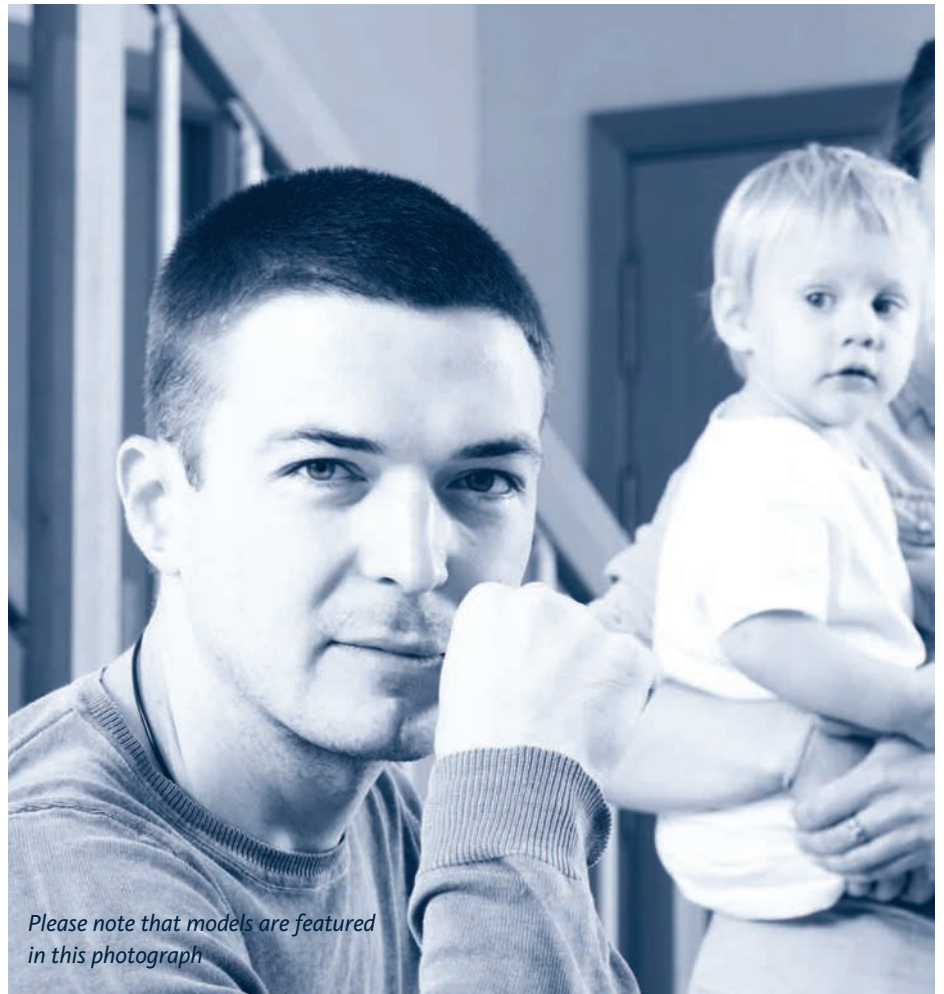
### How can TDE help?

Prior to signing any form of documentation, it is crucial that you seek our advice.

Contracts for retirement villages vary markedly and require professional review before signing.

Once we have reviewed your proposed contract we can then advise of the detail, and if required, negotiate with the retirement village on any contractual amendments.

*For further information on this topic, please contact Paul Webster on PWebster@tde.com.au*



*Please note that models are featured in this photograph*

## Family violence and the law

**Family violence, commonly called domestic violence, is often a silent crime. However, family violence statistics speak loudly. In 2013 alone, there were 44 family violence related deaths in Victoria. In 2013-14, the number of family incidents reported to the Victoria Police exceeded 65,000.**

### What is family violence?

In legal terms family violence has been difficult to define. However, in broad terms, it is an act of violence perpetrated by one intimate partner against another

within a domestic setting. Family violence can be physical, sexual, emotional, financial or psychological in nature. These acts can be conducted within married, de facto, heterosexual or same sex relationships. On most occasions family violence crimes are committed by men against women and often children. However, men can also be victims. Family violence does not discriminate. People from all ethnicities and socio-economic levels are victims of one of the most insidious crimes within our society.

### Royal Commission into Family Violence

The issue of family violence has recently come to the forefront of public, police and government interest. This has culminated in a Royal Commission into Family Violence now being held in Victoria. Announced late last year, the Victorian state government has allocated \$40 million to the work of the commission.



## Family violence – what to do

**If you are experiencing family violence, it is important to take the following steps.**

- Talk to someone. Tell your doctor, lawyer, friend or family about what is going on.
- If you are in any way concerned for the safety of yourself or your children, apply for an Intervention Order from the Magistrates' Court.
- If an incident of physical abuse or damage to property occurs, call the Police immediately. They will arrange for a Personal Safety Order, (PSO) to be taken out on your behalf.
- Contact TDE to ensure that your legal position is protected.

Chaired by Justice Marcia Neave AO, the terms of reference of the commission are focussed on policy improvements. In broad terms, the Royal Commission has been asked to find mechanisms to prevent family violence, identify ways to improve early intervention, protect people who find themselves at risk and assist victims. Importantly, the Commission will also report on how to make those responsible more answerable for their crimes. Commencing early in 2015, the work of the commission is expected to take around 12 months.

### Have your say

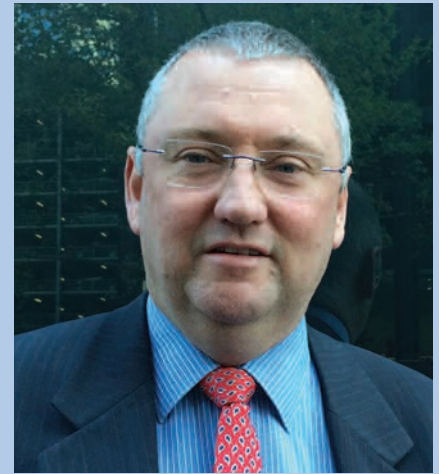
The Royal Commission is interested to hear about the experiences of family violence victims within all facets of the system. This includes government departments, police, courts and community organisations. They would like to know what has or has not worked, and if possible, any solutions

or suggestions for improvement. We think that this is an important part of the process and encourage anyone with this experience to document it in writing. Details on the submission process are available via the Royal Commission website at [www.rcfv.com.au](http://www.rcfv.com.au). Written submissions will be accepted until Friday May 29, 2015.

### Conclusion

The causes of family violence are complex but the impacts are far-reaching, often affecting families for generations. We encourage anyone who is experiencing family violence, or knows anyone who is being affected, to seek immediate professional support.

*For further information on this topic, please contact Eilish Cooke on [ECooke@tde.com.au](mailto:ECooke@tde.com.au)*



## Peter Weymouth Accountant

Late last year TDE welcomed Peter Weymouth to the practice. In his role as Accountant Peter looks after the financial operation, overseeing financial reporting, analysis and strategy. Peter manages the accounts payable and receivable functions and administers the trust accounts for the partnership.

As a Chartered Accountant, Peter is well qualified for his role. When this is combined with his 20 years in the legal industry, including roles with some of Melbourne's largest law firms, his experience speaks for itself. We warmly welcome Peter to the firm.

### *What do you enjoy about your role?*

I enjoy practice management and assisting legal firms to run smoothly. I also enjoy the responsibility and the challenges that this creates on a day to day basis. I like the autonomy of my role, as well as working with the TDE team. In particular, I like working with the partners as a trusted advisor to their business.

### *What do you enjoy doing outside of work?*

On weekends I enjoy playing cricket for the Old Carey Cricket Club. When not trying to improve my batting average, I can be found at the park walking my dogs.

## Have you conducted a business health check recently?

Running your own business is demanding. When you are busy, it is easy to overlook some of the more basic business fundamentals.

To help you, we have prepared the following legal business health check.



### 1 Check your lease

If you are a lessee, it is important to be aware of how long your lease has to run.

If you intend to move at the end of your lease, ensure you plan ahead. Finding a new property is a time-consuming exercise. If you want to stay in your current premises, it is important that you exercise your option for a further term in writing and prior to the specified deadline. If you are entering into a new lease agreement, seek our advice prior to signing. We will ensure that the contracts are in order, safeguarding your business interests into the future.

If you are a landlord, are you aware how long your lease has left to run? There are also other issues to consider. Do you know if your tenants are up to date with their lease payments – or have they consistently defaulted? Have your tenants furnished you with adequate security and proof of their current insurance policies? Check your premises on a regular basis. Are you happy with the property condition?

If your answer to any of these questions is unsatisfactory, it is time to make some hard decisions.

### 2 Review your business registrations

Regularly review your business registrations. Time and again we see clients who have inadvertently allowed their registrations to lapse. This can cause unnecessary and expensive legal complications. Check that your business name or liquor licence is current and not requiring renewal.

### 3 ASIC issues

Know when your ASIC returns are due. Have any Directors retired, been appointed or changed their address in recent times? If so, you will need to update these details. ASIC has strict requirements and timeframes for the notification of these events, with penalties in place for non-observance.

### 4 Check your insurance

When are your insurances due for renewal? Are they adequate and appropriate? Consider “key-man”, asset, public liability and professional indemnity insurance. Review and revise these policies regularly - or when circumstances change.

### 5 Review your business structure

Review your overall business structure. Is it still optimal? We often suggest that our clients consider incorporating their company, establish a trust or set up a self managed superannuation fund.

### 6 Succession planning

Are you thinking of selling your business? Would you like to retire or reduce your business commitment? Do you have a family business with a new generation waiting in the wings? Personal circumstances can change without warning, so always have a succession plan in place.

This simple 6 point checklist is a good way to start thinking about your legal business needs. Should you require advice relating to these or any other business and commercial law issues – we are only a phone call away.

For further information on this topic, please contact Paul Webster on [PWebster@tde.com.au](mailto:PWebster@tde.com.au)



## The mediation process – what to expect

### What is mediation?

In simple terms, mediation is a structured negotiation between parties in dispute. An independent mediator assists parties to assess options and, if possible, negotiate a mutually satisfactory resolution. Many people do not understand what happens during mediation – in this article we will explain the process to you.

### Why is mediation used?

In recent years mediation has been used to reduce the number of issues being brought to our courts or to pre-empt litigation. Mediation can be elected by the disputing parties to try and negotiate an outcome, or it may be directed by the Court or Tribunal before commencement of a court proceeding.

### How is mediation established?

Once mediation is either agreed upon or ordered by the court, a suitably qualified mediator must be appointed. The lawyers will then liaise to provide information such as court documents, relevant correspondence and valuations. Sometimes an initial meeting called a Preliminary Conference is arranged to sort out housekeeping matters. A time and date is then set at a neutral venue for the mediation meeting.

### What happens at a mediation meeting?

Mediation is usually commenced with a general session at which the parties are welcomed. The mediator sets out the ground rules and explains the process. The main features are:

- The mediation process is confidential
- The mediator's role is to manage the communications, not to act as a judge or impose decisions
- If required, the mediator may talk with each party privately and confidentially. This is unique to the legal system.
- Each side, or their lawyer, states their position. Some opportunity is given for questions.
- The mediator clarifies concerns and translates them into issues for discussion.
- The mediator defines areas of agreement and disagreement between the parties.
- The mediator assists the parties to explore options for resolving the issue.
- If an agreement is reached, either the mediator or the lawyers will document the outcome. This may be a formal or informal document, depending on the complexity of the matter. It is preferable that this is signed by both parties at the meeting.

- If the matter is not resolved the parties are free to take or continue their Court proceeding. Any offers made at mediation cannot be disclosed to a Court or Tribunal in the proceeding.
- Even if a dispute is not settled, mediation may reduce the issues in contention.

### What is the role of my lawyer?

- Your lawyer is there to advise, support and represent you.
- Your lawyer will protect you from attempts by the other party to obtain too much information.
- Your lawyer will assist you to weigh your options, i.e. "What is likely to happen if I do not settle? What are the best and worst outcomes of a trial?"
- At the end of the day, the decision of whether or not to settle is yours.

Our lawyers are experienced in the mediation process. We can also ably represent you if your dispute goes to court. We invite you to contact us to discuss any aspect of the mediation process.

*For further information on this topic, please contact Peter Weller on [PWeller@tde.com.au](mailto:PWeller@tde.com.au)*



The office is manned by John Henry every Tuesday from 9am -5.30pm and on weekends by appointment.

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Riddells Creek. Vic. 3431.

## Riddells Creek office

TDE operates a branch office at Riddells Creek. Located 50 kms north west of Melbourne, Riddells Creek sits at the foothills of the Macedon Ranges. Close to Sunbury and Gisborne, it allows us to service the growing north western corridor.

## Online payment facility available

The TDE website now features a secure online payment facility. This is a quick and convenient way to settle your account with a secure credit card payment. To access this service please visit our website on:

[www.tde.com.au](http://www.tde.com.au)



## Louise Tolson returns to TDE

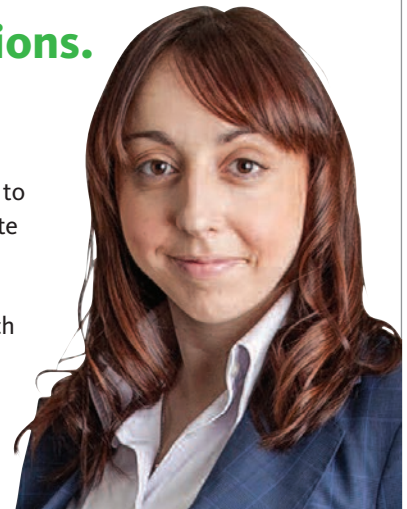
We are delighted to inform our clients of the return of Louise Tolson from maternity leave. Louise rejoined the Litigation and Dispute Resolution department in February and will be available to assist clients from Monday – Thursday each week.

## Wills, Probate, Estates & Trusts

### Annette Esposito answers your legal questions.

**Q** Is it important that I have a Will?

**A** Everyone over 18 should have a Will. A Will allows you to determine what happens to your affairs when you die. If you die without a Will, you die intestate and your estate is distributed in accordance with the State's intestacy rules. Even if you don't have any assets, you may be entitled to a superannuation death benefit which may flow into your estate. Wills should be updated regularly - or upon certain life stages; such as marriage, co-habitation or divorce, having a baby, a change in financial status or owning a business.



**Tolhurst Druce & Emmerson** Working with individuals, families & business.

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Tolhurst Druce & Emmerson incorporates the firms of Gavan Duffy & King, Doyle & Kerr, Puglisi, Heffey & Pavlidi, Louis S Lazarus, and D Condon & Co. If you wish to change your contact details or no longer wish to receive this publication, please contact our office on (03) 9670 0700.

The information in this newsletter is not intended to be a complete statement of the law relating to the issues raised. Accordingly, no person should rely on this information without obtaining specific advice from lawyers.

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