



**National Council of  
Women of New Zealand**

Te Kaunihera  
Wahine O Aotearoa

National Office  
Level 4 Central House  
26 Brandon Street  
PO Box 25-498  
Wellington 6146  
(04) 473 7623  
[www.ncwnz.org.nz](http://www.ncwnz.org.nz)

10 July 2000

S00.31

**Submission to the Securities Commission on the  
Discussion Paper – Retirement Villages**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 46 nationally organised societies. It has 35 branches spread throughout the country to which women from some 150 societies are affiliated.

NCWNZ has maintained a close interest in Retirement Villages and in 1989 undertook a comprehensive study and report into the industry. Since that date we have made submissions to the Securities Commission Taskforce, proposals for Reform of the Law for Resident Funded Retirement Villages 1994 and the Law Commission preliminary Paper 34 in 1999. Preparation for the above included wide consultation through the NCWNZ Circular over 1700 copies of which are sent to representatives of all member societies each month. Response to this Discussion Paper by the Social Issues Standing Committee has been drawn from policy established from that consultation.

The evidence collected by NCWNZ membership showed that residents were inadequately protected against risk. As security of tenure was a major concern for NCWNZ we supported the concept of dedicated legislation promoted by the Law Commission Preliminary Paper 34, which sought to provide more effective protection for vulnerable elderly people desiring to take up residence in retirement villages.

It is unfortunate that no review of the law has been forthcoming thus far, and we agree with your contention that 'it is timely for the Government to consider these recommendations and to decide whether steps need to be taken to enact uniform rules of law about the offer to the public of interests in retirement village schemes.' We also agree that further expensive litigation is not justified given the exhaustive steps already undertaken.

The points in contention in this Document as we understand it seem to focus on the dynamics of different village schemes. The majority, evidently operate under a contractual licensing scheme with residents purchasing rights to occupy, whereas others rely on title-based schemes. In general both schemes are subject to securities law, but there is some doubt in law as to whether the latter scheme is subject to the core compliance provisions of Part II of the Securities Act 1978. Further, a consequence of this uncertainty allows some village operators to avoid the requirement for a prospectus, investment statement and trustee/supervisor.

We find this situation unacceptable. First and foremost all retirement villages should be governed by the same set of rules. Secondly the above scenario not only poses an unwarranted financial risk for residents but also leaves them dependent on the goodwill of village operators for any level of supervisory care and protection.





In the absence of the likelihood of an early review of the law governing retirement villages we support your interim proposal to remedy this anomaly in law so that securities contracts presently exempted from compliance may be made subject to Part II by regulation. We trust this interim measure will go some way to providing more adequate protection to village residents.

In closing may we thank you for the opportunity to comment on this aspect of retirement village law, we look forward to taking part in any proposed public consultation to discuss action on this particular issue and to review the present methodology surrounding disclosure.

Barbara Glenie  
**National President**

Patricia Woodley  
**Convener, Social Issues Standing Committee**