Residential Aged Care Agreements

Date : February 28, 2023

Residential Aged Care Agreements?

A residential aged care agreement is a legal agreement between a resident and the residential aged care provider. It sets out the care and services you will provide to a resident, and how much it will cost them.

The agreement needs to have the resident's details, the provider's details, the start date of services provided, the level of care and types of services provided. The provider must also include copies of the policies and practices used to set fees, which fees are payable by the resident and what would occur if fees remained unpaid or paid late, and the interest on such late payments.

Other details that are included in the agreement are reasons which the provider may ask the resident to leave, how the provider will help find alternative accommodation if asked to leave, the resident's rights and responsibilities, the provider's rights and responsibilities, how complaints are dealt with and any other matter that is agreed upon within the requirements of the Aged Care Act 1997.

Residential aged care agreements contain mandatory provisions to the requirements of relevant legislation including Retirement Village legislation. Most agreements do not however give "ownership rights" as one has with a house purchase.

There are also necessarily provisions dealing with issues that could arise if there are future health issues making it unsustainable for a person to remain in a particular type of accommodation.

In the case of Regis Aged Care Pty Ltd v Secretary, Department of Health [2018], Regis, a Retirement Village residence agreement included a charge for "asset replacement" to fund maintenance, reinstatement and building of infrastructure in the retirement village.

The Department of Health contended this was not lawful under the Aged Care Act. Regis sought a declaration from the Court to overcome any uncertainty. The Court held that the

charge was not lawful as it did not specifically relate to the cost of providing accommodationto the residents in question.

However, the Court also held that an aged care provider could charge additional fees provided they were in fact for the accommodation or care of the residents.

More Information

If you wish to obtain further information, advice or assistance in updating your Will, please contact one of our Will Lawyers in our Estate Planning team at Matthews Folbigg on 9635 7966, email us at estates@matthewsfolbigg.com.au or through the website www.matthewsfolbigg.com.au

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