

APPLICATION FOR APPROVAL TO TERMINATE CONTRACT ON HEALTH AND SAFETY GROUNDS

Retirement Villages Act 1986

Form 3

Section 16I - Regulation 18

WHAT VCAT CAN DO

The Victorian Civil and Administrative Tribunal (VCAT) may approve a proposal to terminate a retirement village residence contract on health and safety grounds.

Under the Retirement Villages Act 1986 (the Act), a residence contract can be terminated if:

- The resident has care needs which cannot be met in the village by any one of the village operator, an aged care home care provider, or an NDIS provider; and
- The resident would pose a substantial risk to the health and safety of any person (including the resident) if the resident were to remain in the retirement village; and
- Terminating the contract is reasonable and proportionate in the circumstances.

A retirement village proprietor or operator must not terminate a residence contract on health and safety grounds unless VCAT has given approval to do so.

Use this form if you want VCAT to approve the termination of a residence contract that you have entered into with a resident of your retirement village on health and safety grounds.

TERMS USED IN THIS FORM

The **operator** is the person who is responsible for the daily operation of the retirement village, whether or not that person is also the proprietor of the village.

The **proprietor** is the person who is the owner of the land in the retirement village, other than land that is owned by a resident or part of an owners corporation.

The **resident** is the person who occupies a premises in a retirement village subject to the residence contract that they have entered into with the retirement village operator or proprietor. It does not include an owner resident within the meaning of the Act.

The **retirement village laws** comprise the Act and any regulations made under the Act.

PART 1: APPLICANT DETAILS

1. Applicant details

Given names

Surname

Organisation name
(if you are a business)

ABN

Company name
(if you are a company)

ACN

Applicant role

☐ Operator ☐ Proprietor ☐ Both

2. Applicant's representative (if applicable)

Given names

Surname

Position

3. Applicant's contact details

Email

Phone number

Street address

Suburb

Postcode

State

PART 2: APPLICANT 2 DETAILS

Is there another applicant making this application with you? If no, continue to Part 3.

☐ Yes, fill in details below ☐ No, continue to Part 3

4. Applicant 2 details

Given names

Surname

Organisation name
(if you are a business)

ABN

Company name
(if you are a company)

ACN

Applicant role

☐ Operator ☐ Proprietor ☐ Both

5. Applicant 2 representative (if applicable)

Given names

Surname

Position

6. Applicant 2 contact details

Email

Phone number

Street address

Suburb

Postcode

State

PART 3: RESIDENT DETAILS

7. Respondent details

Given names

Surname

8. Respondent's representative (if applicable)

Given names

Surname

Position

9. Respondent's contact details

Email

Phone number

Street address

Suburb

Postcode

State

PART 4: RETIREMENT VILLAGE

10. Provide details of the retirement village

Address

Suburb

Postcode

State

PART 5: CLAIM DETAILS

11. I want an order approving the termination of the residence contract on health and safety grounds. I have made this application because:

- The resident has care needs which cannot be met in the village;
- The resident would pose a substantial risk to the health and safety if the resident were to remain in the retirement village; and
- Termination the contract is reasonable and proportionate in the circumstances.

12. Provide complete claim details so that the resident and VCAT can understand why you have made this application.

You should provide sufficient information to establish your claim. This may include:

- details of the health and safety risks;
- any medical opinions you have sought about that risk;
- any assessments made or care available to the resident under an aged care or NDIS package;
- any other attempts to reduce the level of risk to the resident or other people in the village.

If you don't provide enough information, your case may be dismissed or adjourned.

If you need more space, print clearly on a separate page and attach to this application.

PART 6: REASONABLE AND PROPORTIONATE

For the purposes of determining whether it is reasonable and proportionate to approve the termination of the residence contract on health and safety grounds, VCAT must have regard to the following:

- (a) the retirement village principles;
- (b) the effect the notice will have on the health, safety or wellbeing of the resident;
- (c) whether any other course of action is reasonable available;
- (d) the financial effects for the resident as a result of the notice, including with reference to the amount of entry payment paid by the resident and their liability to pay a deferred management fee upon exit from the village;
- (e) the effect that the notice will have on any other residents in the retirement village;
- (f) the resident's ability to advocate for themselves, including via a legal personal representative;
- (g) whether or not the contracting party has taken, or is capable of taking, reasonable steps to mitigate the effects of the breach;
- (h) any other matter the Tribunal considers relevant.

PART 7: OTHER VCAT CASES

13. Is there, or has there been, a related case at VCAT involving the same applicant/s and resident?

☐ Yes, provide VCAT proceeding number/s: ☐ No

PART 8: HEARING ARRANGEMENTS

We offer a range of support services for people with disability, those who need an interpreter and to help with accessibility

14. Do you or anyone mentioned in this application need special assistance at the hearing?

☐ Help with accessing the venue (e.g. wheelchair access)

☐ Interpreter required (indicate language)

☐ Assisted communication (e.g. assistive listening device or hearing loop)

☐ Attend the hearing by phone or video link

☐ Other

Provide more details about who needs the forms of assistance you have indicated and why:

PART 9: SERVICE OF APPLICATION

You must send (serve) a copy of this application on the resident/resident's representatives within **10 business days** of submitting it to VCAT. However, if your application is about an urgent matter, you should serve the application immediately.

You must also serve a copy of this application on any of the following persons:

- the emergency contact for the resident;
- the spouse or domestic partner of the resident
- any person who lives with the resident in the village with the permission of the operator
- if you are the proprietor, the operator of the village.

You will need to provide evidence that you have sent the application to the listed persons at the hearing.

PART 9: SERVICE OF APPLICATION (cont.)

15. When will you serve the persons listed above?

Date of service:

16. How will you serve the persons listed above?

You can only send documents to other parties by email if you have already exchanged information with them this way. Otherwise, send documents by post or give them in person.

- ☐ By electronic means (e.g. email)
- ☐ By standard post
- ☐ By registered post
- ☐ By handing the application to the resident personally
- ☐ By leaving the application at the resident's place of residence or business

PART10: ACKNOWLEDGMENT

By completing this application, I understand and acknowledge that:

- ☐ To the best of my knowledge, all information provided in this application is true and correct.
- ☐ It is an offence under section 136 of the Victorian Civil and Administrative Tribunal Act 1998 to knowingly give false or misleading information to VCAT.

Date of acknowledgment:

CONFIDENTIAL DETAILS PAGE

Share the following pages with VCAT only.

Do not share these pages when you send this document to other parties.

VCAT will not share these details with others.

Koori Support Services

Are you Aboriginal or Torres Strait Islander?

☐ Yes ☐ No ☐ Prefer not to say

Do you want VCAT Koori Support to contact you?

☐ Yes ☐ No

Family Violence support services

Do you want family violence support?

☐ Yes ☐ No

How can we safely contact you?

☐ Email ☐ Phone

Please provide us with any instructions, if needed, on when and how it is safe for us to contact you (for example, "call me during 11am and 1pm only"):

AFTER SUBMITTING YOUR APPLICATION

VCAT will send you and all the other parties a Notice of Hearing. The notice will tell you the venue, time and date you must come to the hearing.

Bring to your hearing:

- a copy of your application form and any supporting documents
- proof you gave the other party any relevant documents (such as a breach notice)
- proof you sent the application and any supporting documents to the other party

SUBMITTING THIS APPLICATION

Submit your application either by email, by post or delivering it in person.

By email

Email civil@courts.vic.gov.au

By post

Consumer and Business Disputes
Victorian Civil and Administrative Tribunal
GPO Box 5408 Melbourne VIC 3001

Delivering it in person

You can submit your application in person at one of our venues.
To find your closest venue, visit vcat.vic.gov.au/visit

NEED HELP WITH YOUR APPLICATION?

If you have any questions about completing this form, contact our Customer Service team by email, phone or in person.

By email

Email civil@courts.vic.gov.au

By phone

Call us between 9 am and 4:30 pm Monday to Friday on 1300 01 8228 (1300 01 VCAT)

In person

Our venues are open Monday to Friday. Find your closest venue at vcat.vic.gov.au/visit

PRIVACY STATEMENT

If you wish to know how VCAT may use the information you provide, refer to VCAT's privacy statement on the website (vcat.vic.gov.au/privacy). In most situations, VCAT is not allowed to publicly disclose information about a person apart from publishing decisions, repeating anything said or done at a public VCAT hearing and allowing the public to search the register and files.

ABOUT VCAT FEES

VCAT fees are charged according to 3 levels:

- **Corporate fees** for businesses and companies with a turnover of more than \$300,000 in the previous financial year, corporate entities and government agencies
- **Standard fees** for individuals, not-for-profit organisations, and small businesses and companies with a turnover of less than \$300,000 in the previous financial year. Companies must provide a statutory declaration to support this claim
- **Concession fees** for people who hold an Australian Government Health Care Card, Pensioner Concession Card, or Department of Veterans' Affairs Gold Card. You must provide a copy of your card with your application.

To find out if you need to pay an application fee and how much it costs, go to vcat.vic.gov.au/fees

FEE RELIEF

We can reduce or not charge (waive) a VCAT fee in certain circumstances.

Some people are automatically entitled to a full fee waiver. If you're experiencing financial hardship, you may be eligible for a fee waiver, fee reduction, or to pay later.

For more information about fee relief or to download our fee relief form, go to vcat.vic.gov.au/fees/concessions-fee-relief

Are you applying for fee relief?

- ☐ No, go to **Fee payment** section
- ☐ Yes, complete **Fee relief form** and attach it to this application

FEE PAYMENT

Complete this section unless you are applying for fee relief, no fee is payable or you want to pay using another method. For other payment options, see vcat.vic.gov.au/howtopay

Choose the fee level: ☐ Corporate ☐ Standard ☐ Concession

Fee amount charged \$

Card details

Cards accepted: ☐ VISA ☐ MasterCard

Cardholder name:

Card number:

Card expiry (mm/yy): /

REMOVE THIS PAGE WHEN SENDING A COPY OF THIS APPLICATION TO OTHER PARTIES

Reset form