



21 August 2017

**The right of a home owner to sell a home:**

**Section 43 of the Act**

- (1) *A park owner under the agreement must not hinder the proposed assignment of the seller's interest.*
- (2) *The park owner does not contravene subsection (1) if, under this part, the park owner reasonably refuses to consent to a proposed assignment of the sellers interest.*

The first question that comes to mind is who actually owns the home and secondly, what is reasonable?

The very impertinence of the above is surely a breach of legal ownership rights. A park operator owns only the land assuming the land is not mortgaged to a financial institution. True ownership of property is free of all encumbrances.

The Act speaks of home owners only, thus confirming ownership of the homes on leased sites. To then reward another party with the right of veto the sale of another's property is surely illegal. The site or lease agreement is not an issue. The Act allows for the termination of a lease at any time by any signatory of the lease.

The right to own property and dispose of same legally is a given right and no one can deny an owner that right. There is this misguided view that living in a residential park is a privilege for seniors/pensioners when the reverse is true. All privilege is gifted to park operators via the legislation.

Even a person or persons living in a home in suburbia with a thirty year mortgage over the home and land is free to sell their interest in the property without the mortgagor exercising a whim of stopping the sale.

It has been proven many times that the main reason a park operator will interfere with the sale of a home is spite and or dislike for the home owner seller. This section of the Act now under discussion. Allows for the home owner to make application to QCAT when a park operator denies a home owner the legal right to dispose of their property. This process can takes weeks or months and thus losing the sale and can be repeated adinfinitum. What park operator or legislator would accept such conditions foisted upon themselves?

Also, what is reasonable as per the Act? The word reasonable carries many connotations and many court cases have been held over its interpretation. As an adjective or adverb – in law can mean just, rational, appropriate, ordinary, or in the circumstances. It may refer to care, cause, compensation and even doubt, and yet this legislation treats the word with contempt. The obvious reason one could arrive at in this section of the Act is purely to confuse those the Act applies too, mainly the elderly. Its use is a downright deprivation of liberty to dispose of a person's right to sell their own property and at the very minimum, just to confuse and dominate.

A comparison under this Act is section (27) **Successor in title of park owner.**

This section applies when a park operator sells its interest in a residential park to another party or so called park owner. The term ownership is possessive and in the circumstances unreliable because the homes are the property of the park residents. However, in due process home owners are sold off like cattle with no say and the new park operator/land owner never has to sign the site agreements. How reasonable is that?

ARPQ Committee