

Aveo Class Action

In September 2017, Levitt Robinson filed a Class Action in the Federal Court of Australia against the retirement village operator, Aveo Group Limited.

The action relates to the management contracts (also known as “*service agreements*” or “*residence contracts*”) being given to residents, and has been brought on behalf of current and former residents of Aveo-run villages who purchased their units before the “*Aveo Way*” was introduced (including people who have sold their units, or if they have died, their executors).

Levitt Robinson’s Senior Partner, Stewart Levitt, was interviewed about the Aveo problem by Fairfax journalist, Adele Ferguson on the ABC Four Corners program on 26 June 2017 and for the “Retirement Racket” series of articles in the Fairfax newspapers, which were published in the lead-up to the Four Corners episode. Levitt Robinson introduced the journalists to the plight of residents.

Levitt Robinson believes that many Aveo residents may have been “*sold a lemon*” and we are now trying to do something about it. As Mr Levitt told Ms Ferguson on the ABC:

“Let’s face it, historically, exploitation has always reigned until there was concerted reaction against it”.

While it is possible to participate in the Class Action without signing a Funding Agreement, such “*free-loading*” would threaten the economic rationale for the Funder to continue to fund the action. Further, the Court can still make a Funding Equalisation Order, requiring you to contribute proportionately to the costs of the proceedings, even if you do not sign a Funding Agreement.

What is the Class Action about?

In late 2014 or early 2015, Aveo launched its new “*Aveo Way*” contract and began rolling it out across all of its retirement villages in Australia. The *Aveo Way* was formally launched only in May 2015.

The *Aveo Way Contract* contains terms which significantly depart from many but not all previous management contracts in Aveo retirement villages. The key Aveo Way terms include:

- Under some Aveo Way contracts, there is an accelerated DMF and a recurrent membership fee payable;
- Aveo keeps all of the capital gain realised on the resale of the unit;
- If the Aveo Way tenant sells for less than the resale value, he or she is liable for the difference between the sale price and the resale value.

In the Class Action, we allege that these changes in the management agreements offered by

Aveo depress the resale value of the units in Aveo retirement villages. Levitt Robinson is seeking compensation for everyone (or their executors) who has sold a unit in an Aveo retirement village since the introduction of the *Aveo Way* contract, representing the difference in value between the amount they received on resale and the amount that they should have received.

Additionally, the Class Action also seeks the return of sales commission that Aveo has been charging residents for the sale of their units in Aveo retirement villages, when the purchaser was the manager of the village.

For existing residents, the Class Action also seeks a declaration that the *Aveo Way Scheme* is unlawful and an injunction restraining Aveo from selling units in Aveo retirement villages in accordance with the scheme unless it makes full disclosure of the impact that this would have. If granted, owners will achieve a real and measurable financial benefit.

Do I qualify to participate in the Class Action?

You are a group member in the Class Action if:

- you are a current resident in an Aveo retirement village into which the *Aveo Way* contract has been introduced; or
- you are a former resident in an Aveo retirement village, or an executor of a former resident's deceased estate, and you sold your unit in that village in accordance with the "*Aveo Way*" contract.

The Class Action now covers people who have or who have had freehold title in their units and resident owners with pre-Aveo way "99 -year" leases.

How can I register for the Class Action?

For more information, please:

- fill out the below registration form;
- email: aveo@levittrobinson.com, or
- call 02 9286 3133 and say that you are calling about the Aveo Class Action.

If you are interested in joining the Class Action, please send a copy of your management contract, residence contract, or service agreement to:

- aveo@levittrobinson.com; or
- Levitt Robinson Aveo Class Action, PO Box 850 Darlinghurst NSW 1300.

Registration form for Aveo Class Members

Today's date:	
Name:	
Name of Executor or Attorney (if applicable):	
Aveo Village:	
Unit Number:	
Address (if not with Aveo):	
Your phone number:	
Your email:	

1. When did you first purchase your Aveo unit?

2. What price did you pay for your Aveo unit?

3. Did you own your Aveo unit as a freehold, or did you have a 99-year lease, or a licence to occupy?

Freehold: 99-year
lease: Licence:

4. What is/was the name of the Operator or Village Manager?

5. Do you still live in the Aveo unit?

Yes: No:

6. If you do NOT still live in the Aveo unit:

a. Have you sold the unit or are you trying to sell the unit?

Sold: Trying to sell:

b. If you have sold the unit, what was the sale price, and how much of that was paid to you?

c. Were any refurbishment or reinstatement works carried out on the unit?

Yes: No:

d. If yes, what types of works were carried out and how much was charged?

7. Please provide us with any of the following that you have not already provided:

- a. any signed documents you have with Aveo, including any Correspondence with Aveo, Management/Service Agreement, Lease, Contract of Sale, Settlement Statement, Preliminary Assessment, and anything else that you think may assist us; and
- b. If filled out on behalf of an Aveo resident, any documents supporting your capacity as an Executor or Power of Attorney i.e. Probate or Registered Enduring Power of Attorney etc.

Print Name:

Signature:

Date:

After you have completed this questionnaire to the best of your ability, please print your name and sign where indicated above, and insert the date and your address, and send your answers back to us together with any relevant documents at:

- **aveo@levittrobinson.com**

- **Aveo Class Action
C/- Levitt Robinson Solicitors
PO Box 850
Darlinghurst NSW 1300**