

Residential communities

Residential park laws have been replaced with new residential communities legislation from 1 November 2015. The new laws also introduce major changes to the type and nature of applications to NCAT's Consumer and Commercial Division.

Residential community terms

The *Residential (Land Lease) Communities Act 2013* introduces a range of terms for residential communities.

Residential community replaces the former term 'residential park' and refers to the area of land that includes all the residential sites and common areas.

Home means any caravan, other van or portable device (other than a tent) and manufactured homes.

Home owner is a person who owns a home on a residential site in the residential community.

Tenant is a person who rents the residential site under a residential tenancy agreement.

Resident means either a home owner or a tenant.

Site fees refers to money regularly paid by a home owner to the operator to occupy the residential site.

Operator is the person who manages, controls and operates the residential community.

Owner is the person who owns the land on which the residential community is located.

Residents Committee is a group of residents elected to represent the interests of the residents and to consult with the operator.

Community rules are the written rules for the use, enjoyment and management of the community.

Making an application

NCAT can hear and determine a wide range of residential community disputes under the *Residential (Land Lease) Communities Act 2013*. These include:

- Entering into a site agreement and provision of disclosure statement
- Maintenance of common areas

- Dilapidated site or home
- Access to community or residential site
- Alterations and additions
- Additional occupants and sub-letting
- Mail facilities and tree maintenance
- Retaliatory conduct
- Payment of utility and other charges
- Compliance with community rules
- Termination and possession
- Abandoned site and goods.

To make an application to NCAT, complete the 'Residential communities application' form and lodge with the relevant fee.

Residential community applications can also be lodged online on the NCAT website www.ncat.nsw.gov.au.

Collective applications about site fee increases

Under the *Residential (Land Lease) Communities Act 2013*, home owners can make a collective application to NCAT about an increase in site fees by notice.

A collective application can only be made if at least 25% of the affected home owners who received the notice participated in compulsory mediation.

Compulsory mediation

Home owners objecting to a site fee increase by notice must first participate in compulsory mediation run by NSW Fair Trading. Should the compulsory mediation fail, a collective application can be made to NCAT.

Contact NSW Fair Trading on 13 32 20 or visit www.fairtrading.nsw.gov.au for information about the compulsory mediation process.



Making a collective application

NCAT has developed a separate application form for residential communities collective applications about site fee increases.

A nominated representative should complete this form on behalf of the participating home owners. The notice of failed compulsory mediation issued by NSW Fair Trading must be attached to the application.

Dispute resolution at NCAT

NCAT resolves disputes in a quick, inexpensive and relatively informal way. Applications about residential communities are generally listed for 'conciliation and hearing'.

Conciliation

Before NCAT will hear the matter, parties are encouraged to resolve their dispute in conciliation.

Conciliation is a confidential alternative dispute resolution process which brings the parties together to talk about their dispute and reach an agreement. If conciliation not be successful, the matter will proceed to a hearing.

Tribunal Hearing

The person who hears your case is called a Tribunal Member. During the hearing both parties will take turns to tell their side of the story and present any supporting evidence. The Tribunal Member may ask questions of the parties.

When will I know the outcome?

After the hearing is completed, the Tribunal Member will, in most cases, give you an oral decision with reasons. Written orders are also issued and given to you at the end of the hearing or sent to you by email or post. In some hearings, the Tribunal Member may not make a decision on the day. The orders and reasons for the decision will be sent to you at a later date. This is known as a 'reserved decision'.

For more information

NSW Fair Trading

Phone: 13 32 20

Website: www.fairtrading.nsw.gov.au

For information about compulsory mediation **before** lodging the application to NCAT.

NCAT Consumer and Commercial Division

Phone: 1300 006 228 (select option 1)

Website: www.ncat.nsw.gov.au

For information and assistance about Tribunal processes or procedures **after** lodging the application.

Contact NCAT

1300 006 228 | www.ncat.nsw.gov.au

For more information and assistance visit the NCAT website www.ncat.nsw.gov.au or contact NCAT on **1300 006 228**