

Queensland Retirement Village and Park Advice Service

Dispute Resolution

GET ADVICE

The information contained in this factsheet is for general information only and should not be relied upon as advice. It is important to get legal advice that is specific to your circumstances, particularly before you commence any kind of legal action.

The Queensland Retirement Village and Park Advice Service (QRVPAS) at Caxton Legal Centre provides free information, advice and assistance to home owners and home owners committees about the law relating to manufactured homes. Call (07) 3214 6333 to request an appointment with this service.

DISPUTE RESOLUTION

As a manufactured home owner living in a manufactured home park, your rights and obligations are governed by the terms of your

site agreement (including the park rules) in conjunction with the Manufactured Homes (Residential Parks) Act 2003 (Qld) (Act).

At some stage you may have a dispute with the park owner about your rights under the site agreement and the Act. Often, home owners will have queries about their site rent, utility charges, maintenance issues, common areas and facilities, site boundaries and the termination/sale process. These can generally be resolved through informal discussions with the park owner or management. It is also a good idea to speak to the home owners committee, if there is one, if you have a concern about the way the park is being operated.

If you are not able to resolve a dispute through informal discussions, there is a step-by-step dispute resolution process that you must follow to raise a manufactured home park dispute under the Act.

INFORMAL DISPUTE RESOLUTION STEP BY STEP

<p>Step 1</p>		<p>Write to the park owner. Try informal negotiation.</p>
<p>Optional Step</p>		<p>Contact the park owner through the home owners committee</p>
<p>Optional Step</p>		<p>Consider mediation through the Dispute Resolution Centre.</p>
<p>Step 2</p>		<p>Consider a written agreement with the park owner.</p>

Informal dispute resolution processes are methods for resolving disputes that do not require going to court.

Informal Negotiation

At first instance, you should inform the park owner of the issue by writing them a letter that sets out the issues in dispute, and asks for the outcome that you are seeking. It is important to ensure that you keep copies of this correspondence in case you need it as evidence in future legal proceedings.

Included in this factsheet is a [sample letter to the park owner](#). The letter is based on a fictional scenario where the home owner is concerned about an increase in site rent. You may wish to use this letter as a guide to write to the park owner about your dispute.

A park owner is required to provide you with a complete written response to the issues raised in your letter within 21 days (unless they have already dealt with those issues in previous correspondence).

Sometimes a simple letter will be enough to resolve a dispute and no other action is required.

If you do not receive a response from the park owner, or the response that you receive is not satisfactory, you should consider your options for escalating the dispute.

Home Owners Committee

If you do not feel comfortable raising an issue with the park owner directly, you may wish to talk to the home owners committee at your park (if there is one).

Under the Act, home owners can form a committee to deal with the park owner about the day-to-day running of the park and any complaints or proposals they may have. The benefit of raising issues via the home owners committee (rather than individually) is that they may have more leverage when it comes to negotiating with the park owner.

There may be individuals on the home owners committee who have more experience dealing with the park owner and/or are familiar with the Act, which may place them in a better position to negotiate on your behalf.

The park owner must respond in writing within 21 days to any notice of a complaint or proposal raised by the home owners.

Free Mediation

If you are unable to resolve your complaint through informal negotiations, you may like to consider arranging an independent person to mediate the dispute. The Department of Justice and Attorney-General provides a free mediation service through its [Dispute Resolution Branch](#).

This is not part of the [Queensland Civil and Administrative Tribunal](#) (QCAT) process and is completely voluntary (i.e. both parties would need to be willing to attend). You should also keep in mind that if you apply to QCAT you will need to undertake a further mediation process before you can have a hearing.

Written Agreement

If you reach an agreement with the park owner, either informally or through mediation, you should consider putting it in writing. The written agreement should be dated and signed by you and the park owner, and any relevant parties.

If you are asked to sign an agreement that has been drafted by a lawyer, or contains clauses that you do not understand, you should get legal advice.

If you have attempted to resolve the dispute informally

FORMAL DISPUTE RESOLUTION UNDER THE ACT STEP BY STEP

Step 1		Preliminary negotiation between you and the park owner
Step 2		Mediation in QCAT
Step 3		Hearing in QCAT

and have not had any success, you will need to follow each step of the formal dispute resolution process under the Act.

You can use formal dispute resolution for a range of complaints including changes to park rules, assignment of site agreement to a buyer and site rent increases. If you are unsure if you can commence formal dispute resolution about your complaint you should seek legal advice.

The Act requires you and the park owner to resolve a dispute through negotiation and mediation before you can apply to the QCAT for a hearing to decide the issue.

QCAT will require you to follow the dispute resolution processes under the Act correctly before it will consider your dispute.

Dispute Negotiation Notice

The first step under the Act involves preliminary negotiation, where you are required to issue a 'dispute negotiation notice' to the park in the correct form. That notice must set out the issues in dispute, and suggest a date/time/place to meet to attempt to negotiate a resolution (this must be at least 14 days but no more than 28 days after the notice is given).

You should use the Manufactured Homes [Form 11 Dispute Negotiation Notice](#) that is available on the Department of Housing and Public Works' website. A sample notice is included at the end this factsheet.

Once you have provided the park owner with that notice, the park owner is required to respond, within seven days of receipt, either accepting your suggested date/time/place for the meeting, or suggesting another date/time/place to meet (within seven days of the date that you initially suggested).

Once the meeting has been organised, the parties must meet and attempt to negotiate a resolution to the dispute.

Mediation

If you follow the dispute negotiation notice process and the matter remains unresolved, you can then consider the next stage of dispute resolution under the Act. This involves making an application to QCAT specifically asking for the QCAT Registrar to refer the dispute to mediation.

QCAT does not presently have a specific form for requesting a manufactured home park dispute to be referred to mediation.

Where there is no QCAT form, [s 10 of the Queensland Civil and Administrative Tribunal Rules 2009 \(Qld\)](#) says that you can make the application in writing to the QCAT Registry.

Your written application to QCAT will need to state:

- your name and contact details
- the park owners name and contact details
- that you are bringing a manufactured home park dispute under the relevant sections of the Act
- the reasons that support your application
- that you are requesting the QCAT Registrar refer the matter for mediation pursuant to [s 108 of the Act](#)

Attached to this factsheet is a [sample application letter to QCAT](#) based on the fictional scenario about rent increase that is also the basis of the sample letter to the park owner. You may like to use this as a guide when completing your application.

If you are unsure what sections of the Act you can refer to in your QCAT application, you should get legal advice.

You will need to file your application in the QCAT Registry. You should take the original written application and three copies. You can lodge your application in person at the QCAT Brisbane Registry, your nearest Magistrates Court or by mail. See [Contacts](#) for address and contact details.

You should note that there is an application fee of \$352.00 to file the application with the QCAT Registry. You may be able to obtain a waiver of the filing fee if you are in a situation of financial hardship (e.g. if you are a pensioner). To apply for a fee waiver you will need to complete the [Manufactured Homes Form 49 Application for Waiver of Fees by Reason of Financial Hardship](#) and attach supporting documents. (Note: if you are attaching a copy of your pensioner/concession card, make sure you copy both sides).

Once your application has been filed and accepted, QCAT will give you at least seven days notice of the time, date and place for the mediation conference. You will then need to attend the mediation conference and attempt to resolve the dispute. The mediation is private and no record is kept, unless an agreement is reached.

QCAT Hearing

The Act provides that, if you are still unable to resolve this issue via mediation, then you may make a further application to QCAT for a tribunal hearing. At a tribunal hearing there will be a member of QCAT who will consider each party's legal arguments and evidence, before making orders about how the matter should be resolved.

QCAT have not yet published a specific form to apply for a tribunal hearing. Accordingly, you will need to apply to QCAT in writing stating:

- your name and contact details
- if applicable the name of your representative (e.g. where a group of home owners wishes to nominate one home owner as the contact)
- the park owner's name and contact details
- details of the manufactured home park
- that you are bringing a manufactured home park dispute under the relevant sections of the Act
- the reasons that support your application, including that the matter has already been referred to mediation by the QCAT Registrar and the mediation did not resolve the dispute
- that you are requesting the QCAT Registrar refer the matter for hearing pursuant to [s 115 of the Act](#).

You should also attach to your application a document setting out the details of what you are seeking from QCAT. This should cover:

- the orders you want QCAT to make
- the reasons you consider the orders should be made
- supporting evidence to be provided during the QCAT matter.

You can find a template cover letter and attachment on the QRVPAS website. This template is based on a site rent review application. If you would like this checked by a lawyer before you file in QCAT, you can contact QRVPAS on (07) 3214 6333 for an appointment.

You can use the sample application letter to QCAT for mediation attached to this factsheet to guide you when completing your application. You should ensure that you clearly state you are now asking for a QCAT hearing.

There is a further fee of \$352.00 to submit this application with the QCAT Registry, and you may follow the process set out above if you wish to apply for another fee waiver.

You will need to apply to QCAT for permission if you want to be represented by a lawyer or another advocate, otherwise, you will need to represent yourself.

COMPLAINTS

In some circumstances, a park owner may be fined for breaching certain sections of the Act.

[Regulatory Services within the Department of Housing and Public Works](#) is a government body that is responsible for investigating and prosecuting breaches of the Act.

After investigating a complaint, they can commence a prosecution or make the park owner enter into an agreement to rectify the issue.

If you are concerned that the park owner is breaching their obligations, you can make a complaint directly to Regulatory Services. Regulatory Services prefer to receive complaints in writing, and at a minimum your complaint should include:

- your name and contact details
- the name and address of the park you are complaining about
- all key facts (times/dates/places/incidents/who was involved)
- copies of relevant documents or evidence to support your complaint (e.g. your site agreement, photographs, letters)
- any action that you have taken so far to try and resolve the matter.

QRVPAS can provide advice about whether the park owner's conduct relating to a manufactured home is in breach of a penalty section of the Act, and whether your concerns would be better dealt with through the dispute resolution processes or by making a complaint to Regulatory Services.

See our [Making a Complaint to Regulatory Services](#) factsheet for further information.

DISPUTE WITH ANOTHER HOME OWNER

If you have a dispute with another home owner or resident at your manufactured home park, you should attempt to resolve it with them informally. Talk to the other person or, if this does not work, write them a

letter. If you need assistance to resolve your dispute, the Dispute Resolution Centre may be able to help you by providing free mediation. For more information visit their website or contact the centre on (07) 3239 6007.

See our [Neighbourhood Disputes factsheet](#) for more information about the steps you can take to resolve the dispute.

Note ...

QRVPAS cannot advise on or assist with disputes between neighbours in manufactured home parks. If you require legal advice or assistance, another community legal centre or a private solicitor may be able to assist. We maintain a [private solicitor list](#) for the greater Brisbane area, available on our Caxton Legal Centre website. Contact details for other private solicitors can be obtained from the Queensland Law Society via phone (1300 367 757) or their [‘Find a Solicitor’ webpage](#).

FURTHER READING

The [Queensland Government website](#) provides further information about the steps to resolve a dispute in a manufactured home park. The Tenants’ Union Queensland factsheet [QCAT Preparation](#) may also be of assistance when completing your application.

CONTACTS

QUEENSLAND RETIREMENT VILLAGE AND PARK ADVICE SERVICE

This service is located within Caxton Legal Centre and provides free legal advice and information to current and prospective manufactured home owners and home owners committees. We also offer community legal education presentations for home owners or community groups.

Caxton Legal Centre
1 Manning St
South Brisbane Qld 4101

Tel.: (07) 3214 6333

www.caxton.org.au

ASSOCIATED RESIDENTIAL PARKS QUEENSLAND

This association provides advice and information to members about dispute resolution.

PO Box 1124

Park Ridge Qld 4125

Tel.: (07) 3040 2344

email: membership@arpq.org.au

www.arpq.org.au

COMMUNITY LEGAL CENTRES QUEENSLAND

This service maintains a list of community legal centres in Queensland.

PO Box 12102

George Street

Brisbane Qld 4003

Tel.: (07) 3392 0092

email: admin@communitylegalqld.org.au

www.communitylegalqld.org.au

DISPUTE RESOLUTION CENTRES

Dispute resolution centres provide a free mediation service to help settle disputes without having to go to court.

Tel.: (07) 3239 6269 or 1800 017 288 (toll free outside Brisbane)

www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/settling-disputes-out-of-court/dispute-resolution-centres

MANUFACTURED HOME OWNERS ASSOCIATION INC.

This association provides advocacy services for current and prospective manufactured home owners in Queensland.

Tel.: 0492 588 149

www.mhoa.com.au

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

The tribunal can make orders about disputes relating to manufactured home parks including about rent, special terms, maintenance of the park, changing park rules and terminating site agreements.

Tel.: 1300 753 228

If you live in Brisbane you can file your QCAT application in person at the Brisbane Registry.

Level 9
259 Queen Street
Brisbane Qld 4000

If you wish to file your QCAT application by mail to the Brisbane QCAT Registry you will need to send it to:

Queensland Civil and Administrative Tribunal
GPO Box 1639
Brisbane Qld 4001

If you are outside Brisbane you can file your application at any Magistrates Court. You can find a [full list of Queensland Magistrates Courts](#) on the Queensland Courts website.

Application forms and the form that you need to complete if you want to apply for legal representation are available on the QCAT website.

Tel.: 1300 753 228

www.qcat.qld.gov.au

QUEENSLAND LAW SOCIETY

The law society can provide referrals to a lawyer who has experience advising and assisting people who are thinking of moving into a manufactured home park.

Tel.: 1300 367 757 or the seniors enquiry line on (07) 3842 5842

www.qls.com.au/For_the_community/Find_a_solicitor

REGULATORY SERVICES

This unit within the Department of Housing and Public Works is the government authority responsible for investigating complaints and prosecuting breaches of the Act.

Tel.: (07) 3008 3450

email: regulatoryservices@hpw.qld.gov.au

Caxton Legal Centre Inc.

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1 Manning Street
South Brisbane Qld 4101

Telephone: (07) 3214 6333

Facsimile: (07) 3846 7483

Internet: www.caxton.org.au

Know Your Rights! www.queenslandlawhandbook.org.au

This information is current at February 2021.

Disclaimer

This information is intended only as a guide. It is not a substitute for legal advice.

No responsibility is accepted for any loss, damage or injury, financial or otherwise, suffered by any person acting or relying on information contained in or omitted from this publication.

SAMPLE LETTER TO THE PARK OWNER TO NEGOTIATE THE DISPUTE

2 November 2020

Mr Peter Smith
Owner
Brisbane Mobile Village
17 Dandelion Street
Brisbane Qld 4001

Dear Mr Smith,

Change in site rent

As you know, I own the mobile home located at site 17 in the Brisbane Mobile Village.

On 31 October 2020, I received a notice that stated that my site rent would be increased from \$135 per week to \$150 per week, and that the increase would be effective 28 days after I received the notice.

I consider the increase to be excessive for the following reasons:

1. I have contacted Spring Hill Mobile Village and the West End Mobile Village and been informed that rent for a site that is comparable to mine is currently \$130 and \$132.50 respectively.
2. The rent was increased from \$130 per week to \$135 per week only nine months ago. I understand that the *Manufactured Homes (Residential Parks) Act 2003* (Qld) (Act) only allows site rents to be increased once per year.
3. There has been no increase in operating costs.

Resolution of this matter

In order to resolve this matter, I would like you to issue a new notice that retracts the rent increase and confirms that the rent will continue to be \$135 per week.

Alternatively, if you do not agree to retract the rent increase, please confirm that you will attend mediation with me. I will then make arrangements so that this can occur.

Your response

Please provide me with a complete written response to this letter within 21 days as is required under s 104(2)(f) of the Act. If I do not receive a response, I will consider commencing formal dispute resolution under the Act.

Yours sincerely

Frank Banks

Tel: 0456 876 234

This heading describes what the dispute is about—other examples could be changes to the site agreement, termination of site agreement, utility charges, maintenance of common areas or changes to site rules.

In this paragraph briefly outline the background to/reasons for the dispute including referring to any documentation or notice that you may have received.

In this paragraph, you should outline the basis for the dispute. It is a good idea to get legal advice to make sure that your concerns are properly set out and to find out what QCAT would deem relevant in order to consider your dispute. In the case of rent increase, the relevant considerations are set out in [s 70\(5\) of the Act](#).

In this paragraph, briefly state how you would like the dispute to be resolved.

It is a good idea to consider mediation and an informal dispute resolution option to resolve the issue. The Department of Justice and Attorney-General provides free mediation services through its Dispute Resolution branch. You can contact them on 1800 017 288.

The park owner is generally required to provide you with a complete written response to the issues raised in your letter within 21 days.

Dispute negotiation notice

Manufactured Homes (Residential Parks) Act 2003

This form is effective from 31 October 2018

ABN: 86 504 771 740

Important

If you have concerns or do not understand this form, you should seek independent professional advice from an experienced lawyer or community legal service.

This notice may be used by a park owner or a home owner in a residential park to initiate the dispute negotiation process with another party in a residential park. Dispute negotiation is the first step in the dispute resolution procedures in the *Manufactured Homes (Residential Parks) Act 2003* (the Act).

Part 17, Division 1 of the Act contains dispute resolution procedures which home owners and park owners are required to follow when attempting to resolve a dispute in a residential park. Generally, parties must attempt dispute resolution before making an application to the Queensland Civil and Administrative Tribunal (QCAT), unless the application to QCAT is authorised under an exempt provision of the Act. Further information on exempt provisions can be found in section 116(5) of the Act.

Parties who are subject to dispute negotiation have an obligation to attempt to meet and resolve the dispute by negotiation at the time nominated in this form, or another time agreed by the parties that is within 7 days after the nominated day and time. The other party (receiving this notice) must respond in writing within 7 days.

Where the facts or circumstances of the dispute are the same for multiple home owners, they may act jointly in initiating a dispute. Where the dispute involves multiple homeowners, they should be listed in part 4 of this notice.

For matters which cannot be resolved during the dispute negotiation, parties may apply to the QCAT registrar to have the dispute referred to mediation. If the matter is unable to be resolved during mediation, parties may then apply to QCAT on 1300 753 228 or at www.qcat.qld.gov.au.

Part 1—Parties to the dispute

1.1 Details of party initiating the dispute

I am a Home owner Park owner/manager

Title Mr Mrs Ms Miss Other (specify)

Last name

First name

Business name (if applicable)

.....

.....

Address

Suburb State Postcode

Phone Fax

Email

I am sending this notice jointly on the behalf of multiple people
(complete part 4)

Signature Frank Banks Date
DD / MM / YYYY

Sign here ➔

1.2 Details of other party
(receiving the dispute)

I wish to initiate a dispute against a Home owner Park owner/manager

Title Mr Mrs Ms Miss Other (specify)

Last name

First name

Site number (if applicable)

Business name (if applicable)

.....

.....

SAMPLE LETTER TO QCAT TO REFER THE DISPUTE TO MEDIATION

1 December 2020

QCAT Registry
GPO Box 1639
Brisbane Qld 4001

If you do not live in Brisbane, you should file your QCAT application at your closest Magistrates Court.

Dear QCAT Registry,

Application to QCAT—Manufactured Home Park Dispute

I own a mobile home in a manufactured home park, the Brisbane Mobile Village. My contact details are:

Frank Banks
Brisbane Mobile Village
17 Dandelion Street
Brisbane Qld 4001
Tel: 0456 876 234

You must give QCAT your residential address and other contact details, including email if you use it.

The owner of the park is Peter Smith, and his contact details are:

Peter Smith
Owner
Brisbane Mobile Village
17 Dandelion Street
Brisbane Qld 4001
Tel: 0423 123 123

You should also give contact details for the park owner. You can check your site agreement for the details of the owner of the park.

I am writing to apply for a site rent increase dispute to be referred to mediation pursuant to ss 70, 108 and 116 of the *Manufactured Homes (Residential Parks) Act 2003* (Qld) (Act).

In this paragraph you need to tell QCAT the section/s of the Act under which your application is made.

I understand there is currently no specific QCAT application form for a manufactured home park disputes. Accordingly, I am making this application in writing in accordance with s 10 of the *Queensland Civil and Administrative Tribunal Rules 2009* (Qld). Would you please advise me if this is incorrect, and provide me with a copy of an application form if one has now been published.

If you are bringing a general residential dispute, rather than a site rent dispute, you should refer to s 115 of the Act.

The reasons for my application are:

1. On 31 October 2020, I received a notice that stated that my site rent would be increased from \$135 per week to \$150 per week, and that the increase would be effective 28 days after I received the notice (attached is the notice that I received on 31 October 2020).

In this paragraph, you need to tell QCAT your reasons or grounds for bringing the QCAT application. You should show that you have followed the dispute resolution process under the Act by providing the Dispute Negotiation Notice and attempting to resolve the dispute through negotiation.

2. On 2 November 2020, I wrote to Peter Smith, the owner of Brisbane Mobile Village, and informed him that I did not agree to the increase in rent (attached to this notice is the letter that I wrote to Mr Peter Smith dated 2 November 2020).

3. On 8 November 2020, Peter Smith telephoned me and said that he would not agree to retract the notice increasing the rent.
4. On 9 November 2020, I provided Peter Smith with a Dispute Negotiation Notice.
5. On 26 November 2020, Peter Smith attended the dispute negotiation. We were not able to reach an agreement at the dispute negotiation.

Rent increase

6. I believe that the rent increase is excessive because:
 - a. I have contacted Spring Hill Mobile Village and West End Mobile Village and been informed that rent for a site that is comparable to mine is currently \$130 and \$132.50 respectively (attached are the quotes that I obtained from Spring Hill Mobile Village and West End Mobile Village that outline the site rent for a site comparable to mine)
 - b. the rent was increased from \$130 per week to \$135 per week nine months ago (attached is the notice dated 20 January 2018 that increased the rent from \$130 to \$135 per week). I believe that the Act prohibits a manufactured home park from increasing site rents more than once per year.
 - c. there has been no increase in operating costs.

I ask that the QCAT Registrar refer this matter for mediation pursuant to s 108 of the Act.

→ You must first request that QCAT refer your matter to mediation.

Please contact me if you require any further information to process this application.

Yours sincerely

Frank Banks

Tel: 0456 876 234