

# ARPRA

## Representing Residential Land Lease Communities

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### **REPRESENTATION CHECKLIST.**

Individual Affiliates of Branches can determine for themselves how much assistance each resident is provided by that Affiliate in preparing the case. However, it is not the responsibility of the Advocacy Service to gather evidence on behalf of its clients. The Advocacy service will prepare a case based on the amount and quality of the evidence provided to it.

Representation will not be provided in every case. There will be cases in which the issue is largely ethical rather than legal – for a matter to be successfully pursued at Tribunal, it must have legal grounds, such as a breach of the Agreement, or an excessive rent increase. The Advocacy service will determine which matters will be provided with representation by the service. If a case lacks merit, then the Advocacy service will not provide tribunal representation. It may decide however, to offer intervention or mediation directly with the park operator in order to resolve a matter that would not be resolved successfully at a hearing.

### **EXCESSIVE RENT INCREASES.**

Currently, all matters for which the Tribunal can have regard in determining an excessive rent increase application are listed in Section 74 of the *Residential (Land Lease) Communities Act 2013*. Should a resident believe the rent increase they've been served is invalid in some way, such as incorrect method of service, or less than 60 days' notice, please call the Advocacy service on the 1300 number listed above, and we can advise you on this matter.

Should a resident believe that the valid rent increase is excessive, please go through the points on the checklist below prior to contacting the service. This checklist will give you an idea of how to prepare your documents for hearing and exchange, and if prepared correctly, will allow us to provide you with accurate advice.

### **Section states –**

The Tribunal may have regard to any or all of the following factors when deciding whether to make an order under section 73:

- (a) the frequency and amount of past increases in site fees for the community,
- (b) any actual or projected increase in the outgoings and operating expenses for the community as provided by the operator since the previous increase (if any) in site fees for the community,
- (c) any repairs or improvements to the community:
  - (i) carried out by the operator since the previous increase (if any), or
  - (ii) planned by the operator for the period covered by the increase being reviewed,
- (d) the general condition of the community including its common areas,
- (e) the range and average level of site fees within the community,
- (f) the value of the land comprising the community, as determined by the Valuer-General,
- (g) the value of any improvements to the community (including common areas) paid for or carried out by home owners,
- (h) any explanation for the increase provided by the operator by notice in writing to the affected home owners,
- (i) variations in the Consumer Price Index (All Groups Index) for Sydney,
- (j) whether the increase is fair and equitable in the operation of the community,
- (k) any other matters prescribed by the regulations.

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### CHECKLIST.

- Copy of your Site Fee Increase Notice.
- Copy of your Residential Site Agreement.
- An ARPRA NSW Signed Authority to Act on your behalf.
- The range and average level of site fees within the community.
- List of any improvements homeowners have made to communal facilities.
- Evidence showing whether or not the increase is fair and equitable.
- Evidence of the frequency and amounts of site fee increases throughout your Agreement.
- Evidence of the increase in CPI since the rent was last set.
- Information about any services provided to you under your agreement – for example, does the operator arrange for your lawn to be mowed? Is the community hall maintained by community staff rather than the residents?
- Evidence of the general level of maintenance and repair of the common areas of the community, for example, the roads – do they need work?
- Photographic evidence of maintenance and repair levels, eg, trees, roads, etc.
- Correspondence between homeowner and community operator regarding any relevant matter.
- Any other document or evidence you believe may be of benefit.