

COMPULSORY MEDIATION

under the Residential (Land Lease) Communities Act 2013

COMPULSORY MEDIATION - OBJECTIONS TO INCREASES IN SITE FEES BY NOTICE (Information for parties)

This form is only for use in applications for **compulsory** mediation objecting to increases in site fees by notice.

What is mediation?

Mediation is a structured negotiation process in which a neutral and independent mediator assists parties in dispute to achieve their own resolution. Mediation is a quick, inexpensive and informal way of resolving disputes. It gives all parties the opportunity to explain their situation and all parties are encouraged to actively participate.

Mediator's role

The mediator's main role is to assist the parties:

- to raise and consider options and strategies by which the issues may be addressed; and
- to discuss the issues with a view to negotiating a settlement they can all live with.

The procedure for mediation is at the discretion of the mediator. Legal representation at mediation is not permitted.

The mediator does not judge who is right or tell the parties what to do.

Preparation

To prepare for mediation each party should:

- □ make written notes setting out their case for use at the mediation;
- □ gather copies of all documents which may be relevant to the mediation agreements, site fee records, receipts, letters, notices and accounts.

Costs of mediation

No fee is payable for mediation. Each party bears their own costs incurred, such as travel expenses or any loss of work or time on the day.

Timeframe

Mediation will usually be scheduled within four weeks.

What happens if parties reach an agreement at mediation?

Any agreement reach at mediation is binding on all parties, provided that it is not inconsistent with the *Residential (Land Lease) Communities Act 2013*. The settlement must be put in writing and signed by the parties. If necessary, the NSW Civil and Administrative Tribunal (NCAT) may on application by any party to the mediation, make orders to give effect to any agreement or arrangement arising out of mediation. A fee is payable to NCAT.

What happens if parties cannot reach an agreement at mediation?

If mediation is unsuccessful because it appears to the mediator that it is unlikely that an agreed settlement can be reached within a reasonable time or for any other reason, one or more of the affected home owners may apply to NCAT for an order within 14 days after the date on which the mediation failed.

APPLICATION FOR



COMPULSORY MEDIATION

under the Residential (Land Lease) Communities Act 2013

IMPORTANT INFORMATION

Please read this information before completing a compulsory mediation application form.

- Home owners who receive notice of a proposed increase in site fees (other than by fixed method) may object to the increase on the ground that they collectively believe it is excessive. In these cases, mediation must first be attempted and is a compulsory step.
- For a compulsory mediation application to be made, at least 25% of the home owners who have been given notice of the increase must object to the increase.
- Home owners may nominate a representative or representatives for the purposes of the mediation, as long as this person is not an Australian legal practitioner.
- An application for compulsory mediation *must* be lodged within the first 30 days of receiving the notice of proposed increase.
- All parties to the mediation must use reasonable endeavours to participate in and finalise mediation before the day the increase is proposed to take effect.
- The outcome of mediation (if any) will apply to all home owners in the community affected by the notice not just those who objected to the increase or who participated in the mediation.
- Evidence of anything said or done in the course of mediation is inadmissible in proceedings before any court or body (including the Tribunal) except by consent of all parties to the proceedings.
- Compulsory mediation is not required where an individual home owner believes their particular increase is substantially excessive when compared with increases for similar residential sites in the community. In such circumstances, the home owner can apply directly to the Tribunal for an order.

FURTHER INFORMATION

For general information, or assistance with completing this form, please contact:

NSW Fair Trading Phone: 13 32 20

www.fairtrading.nsw.gov.au



COMPULSORY MEDIATION

under the Residential (Land Lease) Communities Act 2013

	P	Please print within the	boxes in CAPITAL L	ETTERS
Name of				
Community				
Address of				
Address of Community				
-	Suburb/Town			 Postcode
	Suburby Town			rosicode
		YOUR I	DETAILS	
Full Name	Mr/Mrs/Ms			
	111/1113/113			
Address				
	Site number Addi	ress (if not a resident of	the community)	_
	Suburb/Town		State	Postcode
Contact				
	Daytime number	Mobile		_
Email				
Are you also the home owners'		Note: if there	is more than one ren	resentative, please complete further
representative?	☐ Yes ☐	No details on pag	e 5.	cocinative, prease complete rarener
		ODEDATO	R'S DETAILS	
		OPERATO	R 5 DETAILS	
Name of Operator				
Name of Operator	(individual or corporation) a	as shown on the site agr	reement	
Name of contact				
person if	Mr/Mrs/Ms			
corporation				
Postal Address				
	Suburb/Town		State	Postcode
Contact				
	Daytime number	Mobile		
Email				
OFFICE USE ONLY				
Date of Recei	nt M	ediator Allocated		
/	/	Caiator Anocateu		
1	<u>'</u>			

MEDIATION DETAILS				
What are the				
home owners' reasons for				
objecting to the				
proposed increase				
in the site fees?				
M/1-1				
What outcome are you hoping to				
achieve from				
mediation?				
	ATTACHMENTS			
	$\ \square$ One example of the notice of increase received by the home owners			
	(Please do not attach anything else to this application form)			
	DISCLOSURE OF INFORMATION			
	cluding personal information collected by NSW Fair Trading, is treated as confidential under			
	and Lease) Communities Act 2013 and is protected by the Privacy and Personal Information OB. We collect and use personal information given by you only for the purpose of properly			
	ions. This information is securely stored and is only disclosed to authorised third parties where			
necessary for the p	purposes of properly administering these Acts or when required by law.			
A copy of this page will not be disclosed	will be given to the others taking part in the mediation. A copy of the front page of this application d.			
	DECLARATION			
I certify	that: 1) the information on this form is to the best of my knowledge, true and correct; and			
rectify	2) at least 25% of home owners are objecting to the site fee increase.			
Name (n	lease print):			
Signature: *Date:/				
	(If there is more than one representative, please complete further details on page 5)			

Return completed form to: **Market Relations**

NSW Fair Trading PO Box 4004

PENRITH PLAZA NSW 2750 sc@finance.nsw.gov.au

Or email completed form directly to:

NOTES

- Only complete this page if there is to be more than 1 home owner representative for the mediation
- If there are more than 3 representatives copy and complete additional copies of this page

	ADDITIONAL HOME OWNERS' REPRESENTATIVE No.2 DETAILS			
Home owners'				
representative	Mr/Mrs/Ms			
	Name			
Address				
	Site number Address (if not a resident of the community)			
	Suburb/Town State Postcode			
Contact				
	Daytime number Mobile			
Email				
	DECLARATION			
I certify t	that: 1) the information on this form is to the best of my knowledge, true and correct; and 2) at least 25% of home owners are objecting to the site fee increase.			
Name (pl	lease print):			
Signature	e: Date:/			
	ADDITIONAL HOME OWNERS' REPRESENTATIVE No.3 DETAILS			
	ADDITIONAL HOME OWNERS REPRESENTATIVE NO.3 DETAILS			
Home owners'	Mr/Mrs/Ms			
representative	Name			
Adduses				
Address	Site number Address (if not a resident of the community)			
	Address (if not a resident of the estimating)			
	Suburb/Town State Postcode			
Contact				
Contact	Daytime number Mobile			
Email	Daytime number Proble			
Liliali				
DECLARATION				
I certify that: 1) the information on this form is to the best of my knowledge, true and correct; and				
	2) at least 25% of home owners are objecting to the site fee increase.			
Name (please print):				
Signature: Date:/				
Signature: Date:/				