

Application for 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, sitefee 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.

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.

Return completed form to:

Mediation Services, NSW Fair Trading
PO Box 972
PARRAMATTA NSW 2124

Or email completed form directly to: stratamediation@customerservice.nsw.gov.au

Application for compulsory mediation

under the *Residential (Land Lease) Communities Act 2013*

Please print within the boxes in CAPITAL LETTERS

Name of Community:

Address of Community:

Suburb/Town:

Postcode:

Your details

Full name: Mr/Mrs/Ms/Miss

Address: Site number:

Address (if not a resident of the community)

Suburb/Town:

State:

Postcode:

Contact: Daytime number:

Mobile:

Email:

Are you also the home owners' representative?: (**Note:** if there is more than one representative, please complete further details on page 5)

Yes

No

Operator's details

Name of Operator: (individual or corporation) as shown on the site agreement

Name of contact person if corporation: Mr/Mrs/Ms/Miss

Address:

Suburb/Town:

State:

Postcode:

Contact: Daytime number:

Mobile:

Email:

Mediation details

What are the home owners' reasons for objecting to the proposed increase in the site fees?

What outcome are you hoping to achieve from mediation?

Attachments

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

All information, including personal information collected by NSW Fair Trading, is treated as confidential under the *Residential (Land Lease) Communities Act 2013* and is protected by the *Privacy and Personal Information Protection Act 1998*. We collect and use personal information given by you only for the purpose of properly conducting mediations. This information is securely stored and is only disclosed to authorised third parties where necessary for the purposes of properly administering these Acts or when required by law.

A copy of this page will be given to the others taking part in the mediation. A copy of the front page of this application will not be disclosed.

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:

If there is more than one representative, please complete further details on page 5.

Note:

- 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 page 5.

Additional home owners' representative details – Number 2

Full name: Mr/Mrs/Ms/Miss

Address: *Site number:*

Address (if not a resident of the community)

Suburb/Town:

State:

Postcode:

Contact: *Daytime number:*

Mobile:

Email:

Additional home owners' representative details – Number 3

Full name: Mr/Mrs/Ms/Miss

Address: *Site number:*

Address (if not a resident of the community)

Suburb/Town:

State:

Postcode:

Contact: *Daytime number:*

Mobile:

Email:

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.

Person 1 Name (please print):

Signature:

Date:

Person 2 Name (please print):

Signature:

Date: