

Fact Sheet

The *Manufactured Homes (Residential Parks) Act 2003* (the Act) is the law that covers residents, owners and park managers in Queensland.

What is QCAT?

The state government established the Queensland Civil and Administrative Tribunal (**QCAT**) to provide a jurisdiction to resolve disputes.

The QCAT process is mandated in the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) (**the QCAT ACT**).

People who make an application asking to QCAT to order something in respect of another person are known as 'applicants'. The other person is known as the 'respondent'.

Who represents me at the hearing?

The general rule regarding representation at QCAT is that parties represent themselves unless it would be contrary to the interests of justice (s 43(1) QCAT Act).

The rationale for this rule is to avoid unnecessary costs to parties and a legalist approach to proceedings, while ensuring representation is allowed where the interests of justice or natural justice require it.

Why does the tribunal conduct hearings concerning the *Manufactured Homes Act*?

The *Manufactured Homes (Residential Parks) Act 2003* (**the MHRP Act**) sets out matters which can be heard by QCAT. The MHRP Act provides the opportunity for manufactured home owners to apply to QCAT.

What outcomes can QCAT provide for me?

QCAT can make orders to settle disputes. These orders are binding and enforceable.

What do I need to know?

Given that QCAT derives its authority from both the QCAT Act and the MRHP Act, you as an

applicant should read and obtain a copy of the relevant sections of both Acts. The Acts can be found at:

www.legislation.qld.gov.au/

It will help if you have knowledge of the QCAT Act to understand the procedures and process that applies to QCAT.

As the MHRP Act provides the mechanisms to resolve the dispute the applicant requires knowledge of the relevant sections of that Act in order to achieve successful outcomes. Our other fact sheets may assist you.

How to be successful with your application?

Preparation is the key to success in QCAT. As a general rule of thumb before applying to QCAT determine the what, why, how, and when of your case.

What orders do you seek?

Commence at the end result and work backwards. What do you wish to achieve. Write down what you would like QCAT to order.. This draft order should be very clear and specific.

For example:

*"The respondent, Joe Blow Pty Ltd, ensure trees in the common areas are maintained in accordance with its responsibilities pursuant to the site agreements and section 90 of the *Manufactured Homes (Residential Parks) Act 2003* (the Act)."*

An order can contain multiple outcomes.

Why should the tribunal make the orders you seek?

State the nature of the dispute and the circumstances of the case. Further you must guide the tribunal to the appropriate sections of the law.

That is explain why the law should be applied to your circumstances.

For example:

“Section 2 of the site agreements provides for the basic responsibilities of home owners and park owners. During the course of the operation of these agreements, there has been a systematic downgrade in the level of services and quality of facilities available to residents”

How can QCAT interpret and apply the law to make the orders you seek?

You need to state which sections of the MHRP Act are relevant and applicable in your case. It is important that you demonstrate to the tribunal how it can rely on the MHRP Act to make the orders you seek.

Refer to the relevant sections of the Acts and any previous decisions made by QCAT or a Court to assist you to justify your claims.

For example:

Part 14, Division of the Act, sets out a number of requirements for park operators, in addition to those in section 17. These include:

Section 90 Maintenance of trees, particularly subsection (1) ‘The park owner for a residential park for which site agreements are in force must ensure trees in the common areas are maintained so as not to pose a danger to any person or property.’

When do you seek outcomes to be applied?

Always request a timeline for the implementation of the order

Which steps lead to success?

- ❖ Clarify the problem with the park owner. It may be resolved at this point easily.
- ❖ Speak to other home owners who may be experiencing a similar problem
- ❖ Attempt to negotiate a more acceptable outcome.

- ❖ Research the facts of the situation
- ❖ Refer to the Acts for your rights and responsibilities
- ❖ Seek conciliation by a third party
- ❖ Prepare an application to QCAT that adequately explains what, why, how and when.
- ❖ File the application within statutory time lines
- ❖ Compile a list of evidence including relevant documents, correspondence, affidavits, witness statements, photographs and any other useful supporting material
- ❖ Sort evidence to compliment submissions regarding what, why, how and when
- ❖ Prepare your submissions in an orderly manner to facilitate ease of presentation at the hearing
- ❖ Anticipate the position likely to be adopted by the respondent
- ❖ Prepare counter arguments to that anticipated position

How should I conduct myself in QCAT?

QCAT is informal. The rules that apply to courts of law are not rigidly applied in QCAT. Respect and normal courtesies do apply. State your case in a clear manner. You make seek leave to question the respondent. Remember the adjudicator has the authority in the proceedings. If in doubt seek clarification from the adjudicator.

For free advice on Caravan & Manufactured Homes call:

**Tenants’ Union of Queensland (TUQ)
07 3852 2064 – Tues & Wed**

For free tenancy advice call:

1300 744 263 – Statewide advice line

9am – 12.30pm Mon Wed Thurs &

3.30pm – 7pm Tues Wed www.tuq.org.au