

# NSW Civil and Administrative Tribunal

## *Residential (Land Lease) Communities Act 2013*

As a home owner in a residential land lease community you have rights under the *Residential (Land Lease) Communities Act 2013* and *Residential (Land Lease) Communities Regulation 2015*. This factsheet explains the law in NSW regarding the NSW Civil and Administrative Tribunal.

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### About the Tribunal

The NSW Civil and Administrative Tribunal (NCAT) is an independent body that can deal with certain disputes between operators and residents of land lease communities. Orders made by NCAT are legally binding.

### Applying for a hearing

An application to NCAT can be made online or by using a paper application form. Forms are available from:

- Tribunal registries (phone 1300 006 228)
- Service NSW centres
- the NCAT website ([www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au))

The form includes information about what you can ask for and the time limits in which applications must be made. If the time limit is not stated on the form a default time limit of 28 days applies. If the time limit has passed, you need to ask for an extension of time in your application.

Applications can be lodged at NCAT registries or Service NSW centres.

You must pay an application fee at the time you submit your application. This fee increases each year so check the fee with NCAT before you apply. If you are on a government pension or benefit you pay 25% of the full fee. NCAT will not process your application unless you have paid the application fee.

Fees can be waived in certain circumstances.

### Hearing date

When you have submitted your application you will be provided with a hearing date and time.

You must attend because NCAT will dismiss your application if you are not there. If there is a good reason why you cannot go, for example you will be in hospital, you can ask NCAT to adjourn (postpone) the hearing to another date.

### Representation

People usually represent themselves at NCAT but you can ask for another person (such as a Tenant Advocate or someone from a residents group) to speak for you. Solicitors can only represent people in special circumstances.

You can take someone with you for support.

### The first hearing

At the first hearing, the Tribunal Member will ask you and the operator to try to resolve your dispute through conciliation. Sometimes a conciliator will help you, but often it will be just you, the operator and your representatives. Do not agree to something you think is unfair.

If you come to an agreement, the Tribunal Member will make orders based on the agreement as long as the agreement does not conflict with the Act. You and the operator will receive written copies of the orders.

If you and the operator cannot come to an agreement you have the right to have your case heard by a Tribunal Member. NCAT may hear your matter on the same day or set it down to be heard on another day.

### What to take

Even though your case may not be heard the first time you go to NCAT you should be fully

prepared. You need evidence that supports your case. Take three copies of your documents – one each for you, the operator and the Tribunal Member. They might include:

- your site agreement
- a brief written statement of your case
- statutory declarations from people who can support your case (signed by a Justice of the Peace or a solicitor)
- receipts or quotes
- copies of relevant communications between you and the operator
- photographs that illustrate the issue.

## During a hearing

In an 'informal' hearing, the Tribunal Member will listen to you and the operator (or your representatives). They will look at the evidence and ask questions. They will then make a decision about the case.

If the case is complex, or either side wants to bring witnesses, a 'formal' hearing may be held. The case will be run more like a court, with evidence usually given on oath or affirmation.

## Notice of orders and reasons

At the end of the hearing NCAT will make a decision about the case based on the evidence and arguments that have been put. If a decision is made straight away you will be given a notice of orders. You can ask for written reasons for the decision either at the end of the hearing or by writing to the Registrar within 28 days of getting the notice of orders.

In more complex matters NCAT may reserve the decision. In that case you will receive a written decision and orders at a later date.

## FURTHER HELP

### Tenants Advice and Advocacy Services

#### Sydney

South	9787 4679
South West	4628 1678
Inner West	9559 2899
North	9559 2899

#### Regional

Blue Mountains	4704 0201
Central Coast	4353 5515
Hunter	4969 7666
Illawarra & South Coast	4274 3475
Mid Coast	6583 9866
Northern Rivers	6621 1022
North West NSW	1800 836 268
South West NSW	1300 483 786

#### Aboriginal

Sydney	9833 3314
Northern NSW	1800 248 913
Southern NSW	1800 672 185
Western NSW	1800 810 233

<b>Website</b>	<a href="http://thenoticeboard.org.au">thenoticeboard.org.au</a>
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<b>NSW Fair Trading</b>	13 32 20
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This factsheet is intended as a guide to the law and should not be used as a substitute for legal advice. The information applies to people who live in, or are affected by the law as it applies in New South Wales, Australia.

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