

## Termination for closure or change of use



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 termination by the operator for closure or change of use.

### Termination notice

An operator can give you a termination notice if the community is going to close and be used for another purpose. If the other purpose requires development consent under the *Environmental Planning and Assessment Act 1979*, the termination notice cannot be given until development consent has been obtained.

An operator can also give you a termination notice on the grounds that there is to be a change of use of your site, but only if the NSW Civil and Administrative Tribunal (NCAT) has authorised the notice and, if development consent is required, it has been obtained.

In both these circumstances the termination notice must give you 12 months to vacate the site, or require vacation the day after the fixed term ends if that is longer than 12 months.

You can apply to NCAT for an order postponing the vacate date within 90 days of receiving a termination notice.

When an operator issues a termination notice for closure or change of use, the operator must try to find alternate accommodation for you unless you advise the operator in writing that their assistance is not required.

If providing assistance the operator must try to obtain, or make available to you, a home of

approximately the same standard and requiring no greater financial outlay as your current home. The home offered by the operator, must be acceptable to someone in your situation.

### Compensation

If you receive a termination notice for closure or change of use and you relocate to another community operated by a different operator, the current operator must cover the costs of your relocation. The operator must pay in advance the likely reasonable costs of the following:

- removing your home from the current site and disconnecting any services
- transporting your home and your possessions to the new site
- installing your home on the new site and connecting services
- repairing any damage caused by the move
- landscaping the new site to the same standard as the old site.

The operator must also pay any reasonable additional costs in relation to the above once the relocation is complete. The payment must be made to the home owner who received the termination notice, or someone else as directed by the home owner.

Disputes about compensation can be determined by NCAT. The application must be made within 12 months of the home being installed on the new site.

If you receive a termination notice and you cannot, or do not want to relocate, the operator must pay you compensation. The amount of compensation payable may not equate to the value of your home on site.

The amount payable, or method of calculation may be set out in your site agreement. If the site agreement does not include compensation terms the operator must pay:

- compensation for loss of residency
- compensation for relocation.

The *Residential (Land Lease) Communities Act 2013* sets out factors that are relevant considerations in each of the above to determine the amount of compensation that must be paid.

If you intend keeping the home any amount you may be able to recoup by selling it is deducted from the compensation payable for loss of residency. The cost of moving the home elsewhere is also taken into account.

If you decide not to keep the home, in return for compensation you must transfer ownership of it to the operator.

NCAT is able to resolve disputes about compensation. The application must be made within 90 days of the dispute.

## FURTHER HELP:

### Tenants Advice and Advocacy Services

#### Sydney

South	9787 4679
South West	4628 1678
West	8833 0933
Northern	8198 8650

#### 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
North NSW	1800 248 913
South NSW	1800 672 185
West NSW	6884 0969

<b>Website</b>	<a href="http://thenoticeboard.org.au">thenoticeboard.org.au</a>
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<b>Law Access</b>	1300 888 529
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<b>Fair Trading</b>	13 32 20
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<b>Find Legal Answers</b>	<a href="http://www.legalanswers.sl.nsw.gov.au">www.legalanswers.sl.nsw.gov.au</a>
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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. It applies to people who live in, or are affected by the law as it applies in New South Wales, Australia.

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