



THE MARKET REVIEW

Under the Manufactured Homes (Residential Parks) Act 2003, there are three methods of increasing site rent.

The first method is as stated in your site agreement – the Act states that the basis for calculating the annual site rent increase must be clearly stated – this might be a percentage, CPI, or a combination of both. However, only one method may be used. The site agreement must also state a “general increase day.

The second method is under Section 71 where the Park Owner proposes to increase the site rent to cover special costs. However, under this clause, the homeowners in the residential park must be consulted and a majority agree to the increase. To date, to AMHO’s knowledge, this method has not been used.

The third method is a Market Review – the basis of site rent increases in the site agreement may state that every third or fourth year the Park Owner will have the option to not use the stated basis, but may opt to have a registered valuer review the site rent fee – this means the valuer compares one park with other similar parks (and the rents paid) and makes a recommendation on what the site rent fee should be. The Park Owner may opt to use this fee or revert to the basis stated in the site agreement. The Market Review can be contested if it is thought to be unfair or excessive.

The process for challenging the site rent increase under the Market Review is as follows and homeowners have 28 days from the date of receiving the Rent Increase to begin the Form 11 process which has 3 steps.

Step one is Negotiation at a meeting with the Park Owners and the residents or resident participating in the dispute. Many residents have found it difficult to engage the Park Owners at this early stage. If no progress is made, you progress to Step Two.

Step two is Mediation which does not mean that the Mediator will listen to both sides and decide who is right, their task is to just get both parties talking and agree. If no progress you progress to Step Three.

Step three QCAT You will apply for a QCAT date and eventually go before a Tribunal Member who will make a decision, which you may have to wait for.

What you need to know -

A Home Owners’ Committee or HOC as they are usually called cannot lodge a Form 11 **on behalf** of all the village residents, the names of all parties must be included on the form. If your name is not on the Form 11 the park owners do not have to give you any reduction of rent that may be assigned by any QCAT decision.

You will continue to pay the rent rise until you get a QCAT decision – and this may take many years. Unfortunately, this means that there is no incentive for Park Owners to expedite the process.

You also need to know the QCAT Tribunal Member making the decision will be guided by the “Expert Witness” who is the Valuer employed by the Park Owner. His opinion will take precedent over most of what you as a resident may say. However, if you engage your own valuer and lawyer, you will probably find the Park Owner is happy to negotiate at Step One as they no longer have the advantage of having the only Expert Witness in the room at the final QCAT stage. Engaging your own valuer and lawyer is expensive, conservatively costing about \$5,000.