Submission to Statutory Review of Residential (Land Lease) Communities Act 2013

Submitted by Mrs Ruth Newell, [redacted]

Chapter 1. Objectives of the Act

2. Has the Act been effective in delivering its objects? & 3. Should the objects of the Act be expanded or updated.In my opinion, there are many vague and non-specific items that need more definition, so I believe that yes, the Act should be expanded to include more specific information. I will provide examples when we get to them….

Chapter 2: Marketing & Information Disclosure.

4. Is the ban on inducing a person to enter into an agreement through false, misleading or deceptive statements or promises working effectively? I believe not, as when my husband and I purchased our home in January, 2018, I was told a few things would be happening, ie. The Community would be having a residents' bus on site for the specific use of residents, the bowling green would be re-established, a security gate would be installed as the Community was advertised as a 'secure community', which it is definitely not even to this day, as the fencing around the perimeter is still not secure, neither is a gate going to be installed, so none of these items were actioned, and the Operators are now saying that because we weren't given this information in writing, it is of no consequence, and that these items will not be supplied. There should be more specific guidelines and Operators need to be suitably sanctioned over misleading advertising, irrespective if it be in writing or verbal.

5. Does the disclosure statement provide enough information to a prospective homeowner to allow them to make an informed decision about purchasing into the community? Why/why not? (Section 25 in the Act) Our disclosure Statement made a few false statements, eg. That the development of the Community was '**fully completed'**, but even now, we still have many sections which are still under construction, and apparently another 40 or so houses are to be constructed over the next few years. We have had several on-going periods of construction, causing associated issues with rubbish piles, dirt blown into homes from stockpiles in the construction zones, broken water mains and trucks and tradesmen regularly accessing the community and causing disruption to our lives. We did not know that this would be happening, as we trusted the information we were given in our Disclosure Statement, and not having any prior experience in this sort of Community living situation, we were not able to question these sorts of things. Also, the Operator stated that the Community was not on flood prone land, as far as they were aware, but we have since found out that a few houses had to be moved from the south-western section of the community as they were at times flooded out, and since I have been here, there have been 2 episodes of flooding, one where residents were closed in by water and not able to exit the community. Also, there have been only one attempt at an emergency evacuation procedure, only last year, but there seems to be nothing in place for this permanently, even though it was stated in the Disclosure Statement, that procedures were in place. Our Disclosure Statement also stated that there were no ongoing cases before mediation, which was also false. The Operators need to be held more accountable for false statements in these Disclosure documents, and we were also told in the accompanying letter to this Disclosure Statement, that the Statement is not binding on the Operator or the purchaser. What is the point of handing it out then, if they can make false statements and not be reprimanded for this?

8. Does the Disclosure Statement form need to be improved and if so how would you improve it?Perhaps it should be stated on the form that it is binding, and any false statements made in it will be subject to reprimand.

Site Agreements

The standard form of Site Agreement is sufficient, but the Operators need to comply with what they have stated in these agreements. One particular term which is contained in the Additional Terms is the formula for calculating Site Fee increases, which is never adhered to by our Operator.

Also, we believe that it would be fair and equitable that Site Agreements should be able to be continued on after the sale of a property, as this unfortunately is causing many problems with Operators choosing to increase the Site Fees with every new owner buying into the community, which is what is happening here and in other Communities in the state. New residents coming into the community should only be charged the same site fee as the outgoing resident, as in Part 10, Sales of Homes, Division 2, Sect. 109, (5) & (6) which states that incoming residents should only be charged the same as the outgoing homeowner. This section (109) should specify that as the Site Agreement is ongoing, and only ceases on termination according to the Act, which does not specify on the sale of the home, then the Site Agreement should continue on with the new owner of the home, so that conditions that have been set down in this initial Site Agreement may continue on. Section 109 states: "(1) This section applies if a purchaser or prospective home owner under a contract, or proposed contract, for the sale of the home (the ***sale contract***) **requests** the operator of the community to enter into a new site agreement (the ***new site agreement***) for the residential site with the purchaser or prospective home owner." This does not then stipulate that every sale of a home requires a new Site Agreement, which is unfortunately what is happening right now, as our Operator is changing the site fees for new purchasers once the home is sold. At the moment, they are signing new purchasers up for an increased rent and a Fixed Site Fee increase at 4%, per year for at least 3 years, which is contrary to the actual Site Agreement covering the property, which is by Notice, and which is not under any fixed term, therefore should be transferrable to a new owner.

So, I would suggest that perhaps the Act should specifically state that if a Site Agreement entered into for the purchase of an existing home does not state any fixed term period of occupancy, that this Agreement should remain applicable to the new purchaser, and there would be no 'New' Agreement entered into which allows an Operator to claim higher site fees, even though the Act specifically states that Site fees should be the same as the outgoing owner's site fees.. The terms of our Site Agreement are that we continue to occupy the site until this agreement is terminated in accordance with the Act and no fixed term is specified, therefore should be continued on to a new owner as I feel that the particular reason for termination of a Site Agreement in Part 11, Division 1, Section 117 (f) which states: " if the occupation of the home is given over to another person following the completion of the sale of the home to the operator or another person" should be omitted, in my opinion, and replaced with the statement that Site Agreements should continue on from one owner to the next, barring any other of the terms of termination as set out in Part 11, Division 1, Sect 117. This would then not give Operators the right to change site fees with each new incoming resident, which they are doing now.

Community Registration and the Public Register

The Public Register listing through the Department of Fair Trading only lists the contact details of the Community and the operator but does not contain any details of enforcement action or disciplinary action taken in regards to any community. How is this information accessible?

Chapter 3: Site Fees:

Payment of Site Fees:

This states that the Act provides that all owners details should be included on their receipt, but our Operator does not include both names on this receipt, only the name of the husband, in the case of a couple. This should be adhered to, as when it comes to applying for Rent Assistance through Centrelink, a receipt for rent should be in each name, as both are the owners of the home. Unfortunately, our Operator is working with a system that was created in America, and they say that they cannot change this. How can we ensure that this is adhered to, and how is the

10 penalty units applied? Is this really a sufficient deterrent – I think not, as our Operator is declining to change this.

Site Fee Increases:

16. Should the Act continue to allow for both the fixed method and the notice method of site fee increases? Why or why not? If not, what method should be allowed?

Some Site Agreements here in our community state that with a Fixed Site Fee Increase method, this is *negotiable*, but when new residents have asked to negotiate the actual Site fee increase stated in the Agreement, which in most cases was a 4% fixed increase over 3 or 5 years, they were told that there was no negotiation available, and either take it or leave it, and as the residents definitely wanted to live here, they had to just accept it. This should be monitored and if the Site Agreement states that negotiation can be entered into, then the Operator should be encouraged to comply. The Act has no provision for negotiating any Fixed Site Fee increases, which makes it very difficult for residents when the Operator refuses to negotiate, when the Agreement states this is possible. Perhaps the Act should include an avenue for these Fixed Site Fee increases stated in Site Agreements to be able to be negotiated on. As it stands at the moment, the only recourse available is to take this to the Australian Consumer Law under an unfair contract, but as it is only an Agreement, and not stated as a Contract, this would probably be a futile exercise. It would be fairer to residents to be able to negotiate a Fixed Site Fee increase through the Act, as this would then hold Operators accountable for their unfair and unequitable site fee increases imposed through this method. Therefore, I feel that the Act should discontinue the Fixed Method, as this is being exploited by Operators, and the Act does not give homeowners any right to challenge an unfair Fixed Site Fee increase, therefore it should not be included unless there is recourse available through the Act for unfair increases. Increase by Notice should be continued as the only method of applying an increase, as this can be challenged if not fair and equitable, through the Act.

Also Site Agreements which state that we are on a 'By Notice' Method of site fee increases, which is what our's does, is now under threat as the Operator, [redacted] is proposing a 7% site fee increase this year for those on Notice, saying this is what is needed to keep the Community viably operated, and yet then offering to sign us up for 3.5% increase each year for a 3 year period, or 3.25% increase each year for 5 years, which are both Fixed Site fee increases, and in breach of our Site Agreements. We are being coerced into signing Fixed Site Fee increase notices, when we are on a 'By Notice' method, as on the surface, it seems a better deal, and they are also saying that they ***believe*** the Tribunal would be satisfied that a 7% increase was appropriate, which to many residents seems to be saying that there is no point in arguing against this with the Operator.

Our Site Agreement provides a formula for calculating site fee increases, which takes into account the CPI increase (*which this year has been exceedingly minimal due to COVID-19, only 0.9% over the December, 20 qtr*), and Pension increases (*which there have not been any in the last few years*) and increase in operating costs, divided by the number of houses. The increase of 7% operating costs and expenditure our operators are claiming, is for the past 2 years (*when there was no increase in site fees due to the Operator being negligent in fulfilling their obligations included in an Agreement which was signed by the Operator for 3 years since 2018. The first year they met their obligations, albeit a little later, so an increase was set in October 2018, but during 2019, the stipulations were not addressed, likewise in 2020, but they imposed an increase in 2020, which was later deemed invalid by the Tribunal, after several residents objected, and they had to refund any increase in site fees which were paid*) as there has been no increase for that period, but only due to their negligence, as well as their projected expenses for future works. Capital works are not relevant to fee increases, yet Operators are citing them as excuse for an increase. There should be something in the ACT which protects homeowners against this sort of thing, as I know from recent Media releases, [redacted] are doing this in other communities in NSW as well, and have recently done so in Queensland, I believe. The Act should somehow stipulate exactly how site fees can be increased, and Operators should not be able to claim expenses which are of a capital improvement nature, as a reason for the site fee increases, which is happening now.

Sorry for so much information, it is probably inappropriate here, but I am just trying to outline what the situation is for us homeowners here, and that we truly need to have some sort of articulate protection set out int the Act. No doubt, we will be going to the Tribunal again to object about this latest site fee increase.

17. *Should there be any restrictions on the method that can be used for fixed method fee increases, or is the existing flexibility working well and/or necessary for operators?*
As I mentioned above, I feel that this method should be eliminated altogether, as it is being exploited by Operators already, and is disadvantageous towards homeowners who have almost no rights to challenge a Fixed Site Fee Increase. Perhaps, if it is continued, some formula should be applied as to how the increase is worked out, as in our Site Agreements, it states that only one option can be selected, and the choice is between;

- In proportion to variations in the CPI (*which is never chosen)*
- By a dollar amount
- By a percentage amount
- By a percentage of the increase to the couple age pension, when it increases, or
- Other.

The "Other" method is always chosen as to how the increase is applied, which leaves the homeowner no recourse to challenge, even though it also states that the methods listed are negotiable, which is never available. This is unconscionable and totally exploits the rights of homeowners. The Act should also make this method, if it is continued, only for a 12 month period and give the proper 60 days' notice as well, which would mean that it should be replaced altogether really, with the By Notice method, which allows homeowners a fairer and more equitable method of addressing this increase.

18. Should there be a requirement that site fees can only be increased once per year, whatever method is used? Why or why not?
Yes, for the reasons mentioned above.

19. Should there be any grounds on which a site fee increase that is based on a fixed method is able to be challenged in the Tribunal?
If this method is to be continued, the way it is utilised definitely needs to be improved upon. Having it able to be challenged through the Act and in the Tribunal would definitely be advantageous to homeowners who are disadvantaged because of this method being unfairly imposed, and unable to be challenged easily.

Challenging site fee increases by notice

20. Is the process for resolving disputes over site fee increases by notice working effectively? &

21. Should there be changes to the grounds for challenging site fee increases by notice?

This process in the Act states that a site fee objection can be challenged, and mediation applied for, when at least 25% of the residents affected sign up to object. This could be difficult to achieve in our situation, as there are a few residents who are being encouraged by Management to convince all residents to accept the Fixed Site Fee increase, as spoken about above, and these residents are door knocking to get residents to agree to these Fixed terms, and it seems that Management will succeed with these practises so that the residents who do choose to challenge this proposal will be in the minority, and we may not be able to take this to mediation under these circumstances, according to Part 6, Division 4. But, as I understand it, the Act stipulates in Part 12, Division 2, Section 145 & 146, that a homeowner, or group of homeowners, can apply for mediation, so this option is still available to a few residents, as opposed to at least 25% of them. I believe that the process for resolving disputes over site fee increases is working effectively, as I have actually been successful in proceeding to the Tribunal regarding this previously, although it was very difficult doing it by phone consultation. The only change that could perhaps be made is by stating in Part 6, Division 4, that one homeowner, or a group of homeowners, can challenge site fee increases, so that we don't have to go to other parts of the Act to achieve our rights. But

having said that, knowing the whole Act is obviously beneficial to being able to seek recompense when needed.

22. Should the factors the Tribunal may have regard to when determining site fee disputes be expanded or changed? What changes would you suggest?

With regards to this factor, listed in

"Part 6, Section 73

(4) The Tribunal cannot make an order that would result in an increase lower than that needed to cover any actual or projected increase (established to the satisfaction of the Tribunal) in the outgoings and operating expenses for the community since the previous increase (if any) in site fees for the community."

perhaps this statement should be clarified and be more specific as to what are '*actual or projected increase in the outgoings and operating expenses*' claimed by Operators. This is a quite general and unspecific statement which leaves the door open for Operators to fudge future proposed costs which may not necessarily be associated to residents' needs. Also, with reference to these being '*since the previous increase'* there needs to be clarification as to when the last increase was and what terms of increase may have forfeited by Operators not fulfilling their obligations to previous agreements, as in our case. As mentioned previously, we have not had a site fee increase since late 2018 due to the Operators being negligent in fulfilling a standing agreement. Now, they have chosen to try to catch up on the increase that would have been available to them had they not neglected the stipulations of the said signed agreement. What remained for them to do over the last 2 years of the agreement was to 'instal security fencing to the perimeter of the community land, apart from the entrance. It would have been sufficient for them to organise the appropriate repairs to secure the existing fence, but this was not done, therefore they, in our opinion, forfeited their right to the increase for those two years, and they should not be able to claim increased expenses and operating costs for these two years and for the next projected year. Perhaps this statement should read:
"The Tribunal cannot make an order that would result in an increase not sufficient to cover the properly substantiated operating cost increases which are validated by actual working figures of profit & loss reports produced by certified professional accountants, and any subsequent, substantiated, projected costs necessary for the viable future operation of the Community as a whole, not including any Capital Works, since the last site fee increase that was not the subject of a previously unfulfilled Agreement." Sounds a bit long winded, but something along those lines would, I think, be more appropriate. Sorry….. trying to cover all aspects all at once. My point is that as it stands at the moment, there is opportunity for exploitation by Operators to randomly pluck figures out of the air to justify some costs that may not even be related to the operation of the community, like aesthetic touches to an office building to pretty it up, when the community is not even utilizing it as it is closed most of the time, or a stone wall that is supposed to improve our entrance, when what we would appreciate is our perimeter fence to be finished, and perhaps a security gate installed, and the construction sites still prevalent to be tidied up. I realise that we cannot dictate how our Operator spends their money, but it would be nice to be able to not be slugged with a substantial fee increase just because they feel they want the entrance or the office to look a bit nicer, when this is not improving our standard of living at all.

Site Fees under New Agreements:

23. Are the provisions governing site fees for new agreements fair and effective?

This provisions under Section 109 (5) are fair, but are not effective and are being totally ignored, at lease by our Operator, [redacted] as all new Site Agreements for new homes, have increased site fees compared to existing homes, and all are signed up for Fixed Methods, as they are trying to cease the 'By Notice' method. Also, when pre-existing homes are being sold, they are applying the same Fixed Method of 4% increase over 5 years and at an increased cost to what the existing home owner is paying. They are going from $158.70 or $163.59 per week to $174.20 per week to bring them up to the new homes site fees. It is a concerted push by our Operator to have everyone on higher site fees eventually, and this is not in line with the provision that the Act is stating. So, I would have to say that these provisions governing site fees for new agreements are being totally ignored by Operators, and not effective at all.

Voluntary Sharing Agreements
I have no knowledge of these and have never had any experience with them, so can't really comment.

Chapter 4- Living in a Land Lease Community

Rights & Obligations of home owners & operators
Section 36 - 38 – Homeowners Responsibilities, Operators' Responsibilities & the Right to Quiet Enjoyment

36 (c) regarding homes to not be used for illegal activites. Management here is aware that at least one home owner within our Community is making his own alcoholic drinks and supplying these to others, but nothing is done about this.

(d) regarding not interfering with other residents' reasonable peace, comfort and privacy of other residents. Management here has been made aware of the belligerent nature of our neighbours, and still nothing is done about it. I am subjected to being yelled at, when walking my dog at night, by some of the residents who attend the 'Happy Hour every Friday night in the Community Hall, and by 9.30 at night, they are usually all drunk and disorderly.This has also happened at other times, mainly when my neighbours have been drinking. Also, after every event, the alcohol is continued to be consumed and one resident nearly drowned after going for a swim in the pool next to the Community Hall after the Melbourne Cup event held there that afternoon, as she had become too intoxicated to get herself out of the pool and a passer-by had to help to pull her out. This only happens with a certain group of residents who attend these functions and take over, to the detriment of all other residents. But this does interfere with all other residents' quiet enjoyment of the Community facilities, but nothing is done by our Operators to discourage this. I don't know how else this can be policed, except when these sorts of things are brought before mediation or the Tribunal, as there are so many areas of the Act that are not being adhered to by residents and by Operators, that the Tribunal would be continually swamped with all these sorts of seemingly petty incidences.

27. Should there be neighbour to neighbour obligations that are able to be enforced by other home owners? Why or why not?
This would not work in our Community, as there is a certain group who feel that they are in charge and do as they please, and anyone who challenges them are targeted, harassed, ostracized, and generally blacklisted to all other residents. In other, relatively friendly Communities, this would probably be a good idea, as most people our age, you would think, would be open to be informed when they are not behaving properly, and it would alleviate the Operators from always trying to keep the peace. But as it stands at the moment, this sort of obligation between neighbours would be absolutely unable to be enforced here.

32. Are the rules of conduct adequate and are they having the intended effect of ensuring appropriate conduct by operators?
I feel that the rules of conduct are adequate, but are not having the intended effect, as per the above comments. I don' know how these can be enforced better to ensure the appropriate action by both Operators and residents alike.

Community rules

It seems that residents and Operators do not take much notice of the Community Rules, even though everyone has a copy of them.

38. Does your community have community rules? YES

39. Does your community have a community rule regarding age restrictions? If so, does this impact your community? YES. It is not being adhered to, as some residents have their grown-up children or grandchildren, ranging in age from between 20 and 40, living with them on a permanent basis, and it seems that this rule of having to be over 50 is not being enforced.

40. Where residents' committees are in place, should they be involved in the development of community rules? Why or why not? As Residents' Committees are not decision-making bodies, they can be involved in discussion about the development of the community rules, but ultimately the residents are the ones who decide on community rules.

41. If there is no residents committee in place, how could residents contribute to the development of community rules? It seems that the Operator would have to instigate initial discussion amongst residents as to how their community rules would be formed, unless residents were happy to form a group to talk about this, as opposed to having a committee.

42. Is the system of enforcement of community rules appropriate? No, not in my experience. It seems the rules are broken all the time in our community, and no-one does anything about it, as if someone complains, they are seen to be petty and discriminatory, and even though they may do so anonymously, someone always finds out who does the complaining, and our Management team does not keep these things in confidence, as they should. It seems our Management breaches confidentiality when it comes to certain residents but upholds it when dealing with those residents whom they favour. There is no fair and equitable dealings by Management with all residents in this Community.

43. Are community rules being used to improve life in residential communities? I believe not, although they are there for the benefit of all residents. Management decides who can breach the rules and who cannot. One example of this is that just recently, one of our residents put up their clothes line on the end of their house in full view of the road and passing traffic and other residents, and have also just added a timber constructed external room right on the curb side. When other residents asked if they could move their clothes line to a different position, they were told no, as it was then in full view of the road and passing traffic. One rule for some, and another rule for others. This is not fair treatment of all residents by our management.

Residents' Committees:

44. Should residents committees also be required to take part in mandatory education? If yes, what topics should be covered? YES. Knowledge of the RLLC Act and other applicable governing bodies' guidelines should be mandatory. Residents' Committees should only be there for representing the residents' best interests, but unfortunately, some people who get elected to a committee seem to think they are in charge, as this has been the case in our Community. Education might have helped, but probably not, when I think of the people concerned, as they are a law unto themselves.

45. If your community has a residents committee, is it working effectively? We do have a Residents' Committee, which is always under attack from the previous committee members who were on the committee 3 years ago and feel that until they are back on the committee again, they will not stop the harassment. Unfortunately, these are the same people who are causing all the havoc within the community, and simply because they did not agree with being deposed from the committee. The reason residents have replaced them, was that they would not represent the residents fairly and refused residents' request for things like written copies of Minutes of Meetings, etc., and proper Treasurer reports. When they were finally not elected again, they have continued their harassment of the new committee members, some of which have resigned, and some of whom have actually left the community because of the toxicity of these people. We took a vote last year, and the majority of residents registered that they did not want a committee ever again, but when there was a period at the end of last year when there was no sitting committee, Management became involved and encouraged the previous committee members to hold another election for committee members, and actually became involved in the handing out of votes and collection of absentee votes, etc. This is something Management should not do, but because they decided that they wanted a committee, then they helped to organise one. The people they chose to support in this event did not get elected and are still harassing the present committee now. This will never end, and has caused so much angst within the community, that many people are selling up and leaving, including myself and my husband, as this is not a pleasant place to live. Sorry, probably too much information, again.

46. Do you have any suggestions for changes to the way residents committees are established or run? The rules are quite simple. But Committees need to adhere to them. If this cannot happen, then

they should recognise that no committee is the best option. The rules regarding Committee establishment and running are rather open to interpretation, and need to be overhauled, and more specific, and I believe that there should be consequences for those who do not want to obey these rules, as in, they can no longer be able to sit on another committee ever again.

CHAPTER 5 – UTILITIES

47. What are your overall views on utilities charging provisions under the Act, other than electricity charging in embedded networks, which is discussed below?

In our Community, we are constantly arguing with Management over our water bills, which are all metered, but as the whole facility receives the water from the water provider, then Management reads our meters and charges us for the amount of water used. But they do not adhere to the Act which states (as is also stated in our Site Agreements) that they agree not to charge us more than the amount charged for the water used at each site, by the provider of the water. Our council water rates state specifically that for amounts of water used at each site which is under 50 kltres per quarter, which is usually everyone, then the charge should be $3.60 per Kltre, and when this usage goes over 50 klrs per quarter, then the charge is $4.20/ kltre. We are being charged differing rate amounts, from $3.89 to over $4.00 per Kltre, depending on the overall usage of the whole community, which, in our situation, is 60% permanent residents, and 40% holiday rentals. So, after a holiday period, our water rates per kltre are increased. We are objecting to this, and this is an ongoing matter, as what Management should be doing is charging us the $3.60 for up to 50 kltrs/qtr, then when it goes over 800 kltrs/qtr overall, the amount we are charged is averaged out. But they should only be averaging it out on the residential consumption, not the holiday rental consumption as well. This will shortly be a matter before the Tribunal. Big problems in Little China…… It seems everything to do with Residential Land Lease living is not travelling well, and we have to argue with Management about every little thing. This is not a pleasant living environment, as many of us will agree.

48. How well do the current provisions relating to accounts, access to bills and other documents work? We have been able to access accounts and documents, finally, but we are still trying to obtain information from our Management team with regards to a few calculations.

We are all now under private electricity suppliers who bill us direct, so we do not have any problems with embedded electricity charges in this community, so I cannot comment on this. Many homes have their own private solar panels provided by private companies direct to homeowners, so this is not an issue here.

CHAPTER 6 – THE END OF THE AGREEMENT

61. Are the Act's provisions about the sale of a home and interference with a sale working well in practice?

The problem we are facing with selling our homes is that Management is now imposing unfair site fees to new owners, even though this is regulated through the Act and needs to be 'fair market value' which is usually tied to the actual fees that the outgoing owner is paying. What is happening here is that when an owner who is paying, for the sake of convenience, my site fee of $163.59 per week, sells the house to a new purchaser and their new Site Agreement states that their fees are going to be $174.20 per week on a Fixed Site Fee increase method of 5 years at 4% increase each year, which begins on 9th May this year, so this is being increased twice in one year, in breach of the Act stipulations. This has been confirmed today by the Real Estate Agent who is selling my house, and has just spoken to the Operator about this, and that is what he has been told. Many sales are seemingly being lost due to this unfair site fee situation. Operators should be adhering to the Act and not increasing site fees to suit their own financial agendas. So technically, this becomes interference in the sale of a home, and should not be happening. I believe that each existing home should be able to pass on their Site Agreement and site fee stipulations instead of allowing the Operator to issue new ones for each sale. This is what is covered in Section 45, below, so we all should be able to do this and Management should not be able to unreasonably refuse to consent to this, although at the moment the Act states that this will only happen with written consent for the Operator, and also at the moment, they are not obliged to do this. This needs to be changed, I believe.

Assignment (transfer) of site agreements and tenancy agreements

The Act actually states that:

"45 Sub-letting residential site or assignment of site agreement

(1) A home owner may, with the written consent of the operator of the community:

(a) enter into a tenancy agreement for, or otherwise sub-let, the residential site or the home located on it, or

(b) assign the site agreement."

So in answer to your question:

65. Should the Act be amended to also prevent an operator unreasonably refusing consent to assignment of a site agreement? Why or why not? My answer is definitely **yes**, the Act should be amended as such. I wholeheartedly agree that an operator should not be able to unreasonably refuse the assignment of a site agreement, as this would alleviate the situation we have at the moment of them charging higher site fees for new site agreements on sales of homes. I understand that this is in breach of the Act as well, in Part10, Division 2, 109, (5) & (6).

Terminating a site agreement

68. Are the grounds on which operators can terminate a site agreement appropriate? Should any other grounds be added?

Part 11 Termination of site agreements

Division 1 Termination generally

116 Termination of site agreements

(f) if the occupation of the home is given over to another person following the completion of the sale of the home to the operator or another person

I feel that the sale of a home ***should not*** be included as a Termination of Site Agreement contingency, to bring it in line with the argument above.. I strongly feel that this should be changed and homeowners should have the right to transfer their site agreement to the incoming purchaser, especially as the issuing of new Site Agreements is not being conducted as per the Act recommendations, ie. Higher site fees and different site fee increase terms are being imposed on incoming buyers.

Chapter 7–Resolving disputes

71. Are there other ways that residents and operators can resolve disputes?

72. Are there barriers to accessing mediation provided by Fair Trading? Should mediation continue to be provided by digital means after social distancing measures end?

There is seldom any other way of resolving disputes, as in my experience, the operators will not negotiate, even when there is written instruction to do so.

Accessing mediation provided by Fair Trading is working well, but very difficult when it is conducted by digital means, and after social distancing measures end, it would be preferable to all concerned to have face to face mediation again. Phone conversations are extremely limiting.

Please excuse the hurried presentation of this submission, and the probably not appropriate comments throughout.

There are so many aspects of the RLLC Act which we are finding that our Operator is not abiding by, and it seems that we will have to take a very long-winded complaint to Department of Fair Trading soon, as most residents are extremely frustrated with the way this Community is poorly managed.

Thank you for the opportunity of being able to contribute something to the valuable process of conducting this review.

Kind regards,

Ruth Newell (Mrs)