

**Review of the
*Manufactured Homes
(Residential Parks) Act 2003***

**Outcome report
May 2008**

*A report from the Attorney-General, Minister for Justice
and Minister Assisting the Premier in Western Queensland
to Parliament pursuant to section 145 of the Act.*



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1 Introduction

The Office of Fair Trading is responsible for administering the *Manufactured Homes (Residential Parks) Act 2003* (the Act), which replaced the *Mobile Homes Act 1989*. The Act provides consumer protection for people who own their manufactured home but rent the site where the home is situated in a residential park. The Act does not cover people who live in caravans or who rent their manufactured home.

The distinguishing feature of this type of accommodation is that the home owner rents the land on which their manufactured home is permanently or securely sited and the costs involved in relocating may be quite substantial. For this reason, the home owner can sometimes have little bargaining power when negotiating issues such as increases in site rent with the park owner. The majority of home owners are also retired and on a fixed income. The combination of these individual attributes and circumstances make this consumer group particularly vulnerable.

Prior to the *Mobile Homes Act 1989*, manufactured home owners had no security of tenure. Lack of tenure was a significant issue and was one of the main reasons why manufactured home living was not popular. The *Mobile Homes Act 1989* was intended to provide security of the right to reside to home owners and benefit the industry by increasing the attraction of mobile home living.

In February 2000, an extensive review was undertaken of the *Mobile Homes Act 1989*. Considerable community engagement occurred to ensure the interests of both home owners and park owners were fully canvassed and considered. This resulted in the *Manufactured Homes (Residential Parks) Act 2003* (the Act) commencing in March 2004 and replacing the *Mobile Homes Act 1989*.

The key provisions of the Act retained existing consumer protections, clarified existing definitions and introduced standard contract requirements, disclosure requirements and improved dispute resolution processes.

One of the objects of the new Act was to encourage the continued growth and viability of the residential park industry by providing a clear regulatory framework. It has been evident that since 2003 the industry has evolved with a marked increase in the development of residential parks. Current estimates indicate that approximately 15,000 Queenslanders are now living in 190 residential parks across the state.

When the new Act was introduced, the government included a legislative commitment to commence a review within three years. The purpose of the review was to ensure the Act is adequately meeting community expectations and that its provisions remain appropriate. This commitment included the requirement to table the outcomes of the review process in Parliament.

The review of the Act, as required under the Act, is now complete. This report documents the outcomes of the review and identifies those areas of the Act where further refinements may be necessary.

The review process considered submissions from home owners, park owners and representative groups. The review process also took into account 670 responses to a survey. An assessment was also made of complaints received by the Office of Fair

Trading and decisions of the Commercial and Consumer Tribunal (the Tribunal) and Queensland courts.

Although the review identified some concerns about the Act from respondents, overall there was satisfaction with the operation of the Act. Analysis of the submissions identified the key issues for stakeholders as: the definition of a manufactured home; special terms of site agreements; the automatic termination of site agreements; site rent; commissions charged by park operators; and dispute resolution services.

The review recommends the following legislative amendments:

- (a) refining the definition of a “manufactured home” to ensure that caravans, including caravans with annexes or other modifications, are not included;
- (b) introducing a mechanism to deal with unfair terms in special terms of site agreements;
- (c) refining the mutual termination clause to prevent its use to form fixed term site agreements; and
- (d) including a number of minor and technical amendments.

The review also recommends that a targeted compliance campaign be undertaken on the use of special terms to ensure that park owners are not attempting to contract out of the Act.

These amendments aim to promote fair trading practices in the operation of residential parks and create more certainty regarding the application of the Act.

I have prepared this report in accordance with Section 145 of the *Manufactured Homes (Residential Parks) Act 2003*.

Hon Kerry Shine MP
**Attorney-General and Minister for Justice
and Minister Assisting the Premier in Western Queensland**

2 Background

Manufactured homes are privately owned self-contained structures that are securely affixed to land which is rented in a caravan park or purpose built manufactured home park. These structures are distinct from caravans in that whilst they are theoretically relocatable, they are securely attached to the land on which they are situated and, unlike caravans, cannot simply be attached to a vehicle and towed away.

These structures were referred to as ‘mobile homes’ in the previous Act, the *Mobile Homes Act 1989*. This Act was introduced in 1989 in response to the difficulties encountered by mobile home owners when the agreements home owners had made with the former owner of a residential park were not honoured by the new owner. In the absence of a permanent right to reside, home owners faced the prospect of either relocating or selling their homes at considerable financial loss.

The *Mobile Homes Act 1989* introduced protections for those people who lived permanently in mobile homes in residential parks. Principally, the Act provided for security of a right to reside, the assignment of existing agreements to purchasers and the determination of disputes by the Small Claims Tribunal.

In March 2000, an extensive review of the *Mobile Homes Act 1989* commenced with the public release of a Discussion Paper and the formation of a Working Party. The Working Party comprised a broad cross section of stakeholders and made a series of recommendations to the former Minister for Fair Trading to reform the Act, including the development of new legislation.

Following these recommendations, the *Manufactured Homes (Residential Parks) Act 2003* (the Act) commenced in March 2004 and replaced the *Mobile Homes Act 1989*. The Act retained the rights enjoyed by home owners under the previous Act, clarified existing definitions and introduced standard contract requirements, disclosure requirements and improved dispute resolution processes. Significantly, ‘manufactured home’ replaced ‘mobile home’. This change in terminology was necessary to include a more substantial structure within the orbit of the Act and better reflect the nature of this particular style of accommodation.

Importantly, the object of the Act is to regulate and promote fair trading practices in the operation of residential parks by:

- declaring particular rights and obligations of the park owner and home owner;
- facilitating the disclosure of information about a residential park, and the Act, to a prospective home owner;
- regulating:
 - the making, content, assignment and ending of site agreements;
 - the sale of an abandoned manufactured home positioned on a site in a residential park;
 - the variation of site rent;
- facilitating participation by home owners in the affairs of the park; and
- providing avenues for resolving site agreement disputes.

Another important object is to encourage the continued growth and viability of the manufactured home park industry by providing a clear regulatory framework to ensure certainty for the industry in planning for future expansion.

3 Review of the Act

3.1 Requirement for review

Section 145 of the Act requires the Minister to start a review of the Act within three years of commencement. The purpose of the review is to ensure the Act is adequately meeting community expectations and that its provisions remain appropriate. As soon as practicable after the review is finished, a report of the outcome of the review must be tabled in the Legislative Assembly.

3.2 The policy objective

The policy objective of the review was to identify provisions of the Act which may not be working as intended because they are:

- not adequately meeting community expectations; and/or
- no longer appropriate.

The review was also intended to provide a measure for identifying what changes are required to address these concerns.

3.3 The review process

The consultation phase of the review commenced on 11 May 2007 and closed on 22 June 2007. A survey was released to test whether the Act is adequately meeting community expectations (see Attachment B). The survey was designed to assess satisfaction with the Act in a broad sense, as well as satisfaction with key elements of the definition of a “manufactured home”, site agreement provisions, consumer protection provided by the Act, growth in the industry and dispute resolution issues. Demographic information was also sought to gain a better understanding of those who live in and operate parks. In response to the release of the survey, approximately 670 submissions and responses to the survey were received.

Complaint data, completed investigation reports, judicial decisions, Tribunal determinations and correspondence from home owners, park owners, representative groups and other stakeholders were also considered during the review to gauge if the Act is operating appropriately and to canvas further issues for analysis. Roundtable discussions were held with industry stakeholders and consumer advocate groups such as Legal Aid Queensland, the Manufactured Home Owners Association Inc., the Australian Pensioners and Superannuants League and the Caravan and Manufactured Home Residents Association of Queensland Inc.

4 Consultation findings

Consultation revealed a number of key findings. This section provides an overview of the consultation findings regarding demographics and the level of community satisfaction with the Act.

4.1 Key demographics

A key finding is that the majority of residential home owners are elderly. Of those respondents who identified themselves as being manufactured home owners, 80 per cent were over 65 years of age and a further 33 per cent of that 80 per cent were over 75 years of age. Because so many people of this age are on fixed incomes this demographic constitutes some of the most vulnerable members of the community.

The purchase prices for manufactured homes vary substantially with year of purchase. The purchase prices provided by respondents show a sizable increase from 2001 to 2007, even with CPI adjustment to convert historical prices to today's dollars. Respondents to the survey, who had purchased prior to 2002, indicated that they had paid approximately \$30,000 to \$110,000.¹ However, between 2002 and the end of 2006, the purchase price of manufactured homes increased to between \$150,000 and \$250,000. There is no evidence to suggest this trend is slowing with developers of purpose built manufactured home parks marketing new manufactured homes from \$295,000 to \$480,000.

By comparison, the median purchase price of a detached residential dwelling across urban Australia in 2007 is \$363,000. Prices for real property have risen by 194 per cent since 2001. The largest increases in the median purchase price for detached residential dwellings occurred in Western Australia (up 258 per cent) and Queensland (up 211 per cent).²

The ageing population, increases in property values and decreases in housing affordability have contributed to the strong growth in the manufactured home park industry. The review identified that a large number of new purpose built manufactured home developments are being planned across Queensland. For instance, 12 residential parks are being expanded and seven new residential parks are being planned for Brisbane, the Gold Coast, Hervey Bay, Bribie Island and Rockhampton. Plans for some of these parks provide for more than 300 manufactured homes.

Many existing residential parks are also expanding. It is estimated that approximately 40 parks have been built or expanded since 2005. The Office of Fair Trading has identified that more than 1500 new manufactured homes are planned to be built in 2008.

While purpose-built manufactured home parks are increasing, evidence provided by the Department of Housing indicates caravan parks are closing at an increasing rate. Current figures indicate that seventeen caravan parks have closed since 2004.

¹ These values are not in 2007 dollar values.

² Urban Development Institute of Australia, *An Industry report into affordable home ownership in Australia*

The review identified a clear delineation of manufactured homes into two groups, “traditional” mobile homes and modern manufactured homes. Feedback indicates that traditional mobile homes were either built onsite in such a way as to enable them to be moved at a later date by trailer or truck, or alternatively, built offsite at a manufacturing plant and then moved into the park.

Traditional mobile homes are relatively easy to move and are usually situated in “mixed use” parks. Such parks may have mobile homes, caravans, holiday cabins and tent sites catering to a broad cross section of the community. Some traditional mobile home owners live in mobile homes out of financial necessity. These inexpensive, movable manufactured homes were mostly built in the 1980s and 1990s. Traditional mobile homes fit easily within the definition of manufactured homes under the Act.

In contrast, modern manufactured homes are often made of brick and cement, are tiled, plastered, plumbed into the land and constructed onsite. Unlike traditional mobile homes, modern manufactured homes are much like a conventional modern home and are not easily moved. Modern manufactured home parks more closely resemble townhouse developments or retirement villages and are marketed to over 50s self-funded retirees.

Modern manufactured homes are often sited in parks which do not allow traditional mobile homes to take up residence. Modern manufactured homes are unlikely to be sold and removed as the cost of dismantling and rebuilding the home is prohibitive. Modern manufactured homes appear to be permanently attached to land and, as such, do not easily fit within the definition of a manufactured home under the Act.

Although similar to conventional homes, consultation has confirmed contemporary manufactured homes are architecturally designed to be disengaged from the slab on which they are built and moved. Many contemporary manufactured homes are certified by the manufacturer to verify their ability to be moved.

A manufactured home may be built off-site and may not be permanently fixed to the ground, it is nevertheless building work under the *Integrated Planning Act 1997* and the *Building Act 1975* and needs development approval before the structure is placed on the site.

Conclusion

In light of industry developments regarding the closure of traditional caravan parks, recent trends in the construction of modern manufactured homes, issues relating to housing affordability and the ageing population, the review recommends further examination of the residential park industry including, in particular, factors driving caravan park closures and the development of modern manufactured home parks.

Recommendation 4.1

The *Manufactured Homes (Residential Parks) Regulation 2003* is due to expire on 1 September 2013 pursuant to section 54 of the *Statutory Instruments Act 1992*. It is recommended that consideration be given at that time to conducting a full review of the Act and the Regulation, taking into account developments in the industry.

4.2 Community satisfaction

Community satisfaction with the Act was measured through the survey conducted during the consultation phase of the review. While different perspectives of respondent groups were highlighted in the responses received to the survey, results indicated overall satisfaction with the operation of the Act.

Key responses to the survey can be briefly summarised as follows:

- 57 per cent of home owner respondents and 44 per cent of park owner respondents indicated that the Act was meeting their expectations;
- 52 per cent of home owner respondents and 92 per cent of park owner respondents indicated that the Act offers adequate consumer protection; and
- 79 per cent of home owner respondents and 34 per cent of park owner respondents believe that the Act does encourage growth in the industry.

Based on the issues canvassed by the survey, park owner dissatisfaction with the Act is related to issues around the definition of a “manufactured home” and a general perception that the Act does not promote growth. The survey also indicated that home owner dissatisfaction is related to special terms, rental increase determinations and a general perception that the Act does not provide adequate consumer protection.

On the basis of the survey results and the review of submissions, stakeholder discussions and complaint data held by the Office of Fair Trading, the review process revealed the following key issues as potential areas requiring further analysis:

- the definition of a “manufactured home” (discussed at 5.1);
- special terms of the site agreement (discussed at 5.2);
- fixed term site agreements (discussed at 5.3);
- site rent increases (discussed at 5.4);
- commissions for selling manufactured homes (discussed at 5.5); and
- dispute resolution processes (discussed at 5.6).

The review process also revealed the need for further analysis of the potential areas where minor and technical amendments might be necessary (discussed at 5.7).

5 Key issues

The review identified a number of key issues. This section provides an overview of each key issue and identifies the preferred approach to managing these issues.

5.1 Definition of manufactured home

Section 10 of the Act provides that a manufactured home is a structure, other than a caravan or tent, which has the character of a dwelling house, is designed to be moved from one position to another and is not permanently attached to land.

Written responses highlighted the different perspectives and concerns held by home owners and park owners on the adequacy of the definition of manufactured homes. 58 per cent of home owners who responded to the survey believe the definition of manufactured home is adequate, while only 41 per cent of park owners do. The principle concern for home owners is that manufactured homes are not in fact moveable due to the construction techniques that are used or the improvements made. In contrast, the most frequent response of dissatisfaction from park owners was that caravans with extensions, annexes and other modifications should not be classed as manufactured homes.

5.1.1 Permanency of manufactured homes

During the second reading speech for the *Manufactured Homes (Residential Parks) Bill 2003*, the former Minister for Fair Trading stated:

“Manufactured homes are in essence permanent structures no easier or cheaper to relocate than ordinary site-built homes”.

“Under the current legislation, the use of the term ‘mobile home’ gives an impression of a structure that is of relatively light construction and is easy to move from one place to another. While this may have been appropriate at one time, these homes are now more substantial and sophisticated. These homes are usually permanently or securely fixed to the ground and the costs involved in moving may be quite significant. In keeping with the changing trends in the industry, and to better reflect the more substantial nature of these types of homes, the Bill introduces the term “manufactured home”.”

The trend in the broader marketplace and the general preference by consumers for manufactured homes to be more substantial and sophisticated, is in line with the significant increase in the number of manufactured home park developments in the past three years.

Contemporary manufactured homes are usually securely fixed to a slab and are fully plumbed. Many are located in parks which are marketed as “lifestyle resorts” with common facilities such as indoor heated swimming pools, gymnasiums, bowling greens, movie theatres, workshops, libraries and recreational halls. Other typical features include controlled access main gates, sealed roads, walking paths, lakes, established gardens and landscaped common areas.

A strict interpretation of the definition of a “manufactured home” may exclude these contemporary manufactured homes as they are not designed to be moved and are permanently fixed to land. The marketing from some parks makes it clear that the homes being built are not to be moved, but form part of a master plan where external facades, landscaping and streetscape create a total ambience. However, submissions by some park owners have stated that any structure is ultimately able to be moved from one position to another. Some of the contemporary manufactured homes have a false floor and are constructed on a detachable steel frame which means that they are ‘designed’ to be moved if required. Owners of contemporary manufactured home parks claim to be covered by the Act and the review process identified that they market their parks as manufactured home parks.

It is not clear from the feedback received during consultation whether there is an underlying problem with capturing these contemporary homes within the definition of a “manufactured home”. The submissions focussed on the fact that the definition does not accurately reflect that these homes cannot be easily moved. However, a review of complaints to the Office of Fair Trading does not identify a problem with capturing these contemporary homes within the Act.

Conclusion

The Working Party recommended to the former Minister for Fair Trading in December 2000 that the definition should include a reference to a “manufactured home” which would include both homes built in factories and on-site. The second reading speech also indicates that the Act is intended to capture manufactured homes which are “in essence permanent structures no easier or cheaper to relocate than ordinary site-built homes”.

The recommendations propose no change to the definition of a “manufactured home” in relation to contemporary manufactured homes. Retaining the status quo will encourage the continued growth of the residential park industry at a time when housing affordability, population growth and an aging population are significant issues for Government. This recommendation provides consistency for the industry and the maintenance of consumer protection for residents.

Recommendation 5.1.1

It is recommended that no amendment be made to the definition of a “manufactured home” on this issue. Contemporary manufactured homes should continue to be captured by the Act.

5.1.2 Caravans with modifications

In the case of *Monte Carlo Caravan Park P/L v Curyer & Curyer*³, the Court of Appeal upheld a Commercial and Consumer Tribunal (the Tribunal) determination that a modified caravan could no longer be considered a caravan as defined in the *Residential Tenancies Act 1994* and is now a manufactured home under the Act.

³ *Monte Carlo Caravan Park P/L v Curyer & Curyer* [2006] QCA 363

In this particular case, the premises comprised a section which was originally a caravan and other sections which included an annexe and a deck. The annexe was attached to the side of the caravan and was about the same floor area as the caravan. The evidence before the Tribunal was to the effect that large structural openings had been made in the north wall of the caravan and when the annexe was removed, it was no longer possible to tow the caravan. The Tribunal held that although the relevant structure was originally a caravan, it could no longer be considered a caravan because of the structural changes made to it.

Many park owners raised concerns regarding this court decision and the uncertainty in relation to the regulation of caravans with annexes or other modifications. Some have now refused to accommodate any form of permanent accommodation except tourist vans in their parks. One particular park owner stated that his park has the potential to accommodate another 100 non-permanent caravan sites, but given the permanent right to reside provided in the Act, the park owner will not develop the additional caravan sites for owner occupation. Another park owner stated that he will no longer accept any caravan which is not registrable for use on the road or allow hard annexes to be built onto existing vans.

This situation appears to be hindering growth at a time when the availability of affordable housing options are critical. The Working Party recommended to the Minister for Fair Trading in December 2000 that caravans with annexes should not be included in the definition in a new Act. The former Minister for Fair Trading, Judy Spence, made the point in her second reading speech that:

“it is important to distinguish clearly manufactured home owners from caravan owners and renters. Manufactured homes are in essence permanent structures no easier or cheaper to relocate than ordinary site-built homes. These homes involve investments of up to \$100,000, and so it is appropriate that owners have security of tenure greater than provided for caravan owners through the Residential Tenancies Act 1994”

Conclusion

The recommendation proposes that further refinement of the definition of a “manufactured home” on this issue is necessary. A strong case appears to exist for ensuring that caravans with annexes or other modifications are not captured. However, issues raised during the review warrant further consideration. Resolving this issue will create more certainty and is likely to result in the growth of sites for permanent caravan owners. These advances would benefit those people seeking affordable housing options. Some caravan owners would also benefit if park owners lifted restrictions on building hard annexes or other modifications to caravans.

It is likely that some caravan owners will view this as a disadvantage if they seek the protection provided under the *Manufactured Homes (Residential Parks) Act 2003*. This view may be justified on the basis that an owner of a manufactured home has more protection under the Act than an owner of a caravan residing permanently in a residential park regulated by the *Residential Tenancies Act 1994*. However, further consultation during the drafting of the legislation would appear to be worthwhile.

Recommendation 5.1.2

It is recommended that the definition of a “manufactured home” be refined on this issue. Further targeted consultation should be undertaken during the development of the legislative amendments with consumer advocate groups, the peak industry body, Caravanning Queensland, the CCT and other agencies.

5.1.3 Squareline caravans

Some submissions received during the consultation phase of the review argued that “squareline” caravans have been classified incorrectly as manufactured homes. A squareline is a structure fitted with wheels with a draw bar that can be attached to a vehicle to allow it to be moved. There has been ongoing debate about whether a squareline is a caravan or a manufactured home. If a squareline is classified as a caravan, the *Residential Tenancies Act 1994* (the RTA) applies. However, if a squareline is classified as a manufactured home, the Act would apply.

Some park owners assert that it was never the intention of the Act to cover “squarelines”. In contrast, squareline owners submit that their homes should be covered by the Act. The Act currently provides that residents and park owners can agree whether a site agreement should be entered under the Act, and if such agreement cannot be reached, the Tribunal can make a ruling on the matter. In several recent determinations, the Tribunal found that a “squareline” fell within the definition of a “manufactured home”. As a consequence the reluctant park owners had to provide the owners of the “squarelines” with manufactured home site agreements. An appeal to the District Court has since upheld the Tribunal’s decision. An important part of the judge’s reasoning was that “squarelines” did not come within the definition of “caravan” under the RTA.

This decision demonstrates that a resident has more rights if they have a site agreement in place under the Act, as opposed to a tenancy agreement under the RTA. This is because it is more difficult for a park owner to terminate a compliant resident’s site agreement and the park owner may have to compensate the home owner the costs of relocation. Of course, such compensation would take into account the greater ease of moving a squareline than a more substantial structure. Nonetheless, the decision represents a major shift in the respective rights and obligations of park and home owners.

Conclusion

The decisions of the Tribunal and District Court are also consistent with the Act’s objective of promoting the protection and security of Queensland consumers by providing security of tenure to those tenants who comply with all the obligations in the Act. Therefore no change to legislation is considered necessary.

Recommendation 5.1.3

It is recommended that no amendment be made to the definition of a “manufactured home” to affect squareline caravans.

5.2 Special terms of the site agreement

Section 21 of the Act allows special terms which are negotiated between the parties to be included in the site agreement. Special terms are not prescribed by the Act and are negotiated between parties to the site agreement. Special terms can include a range of issues such as who is responsible for maintenance of the site land, fencing, security or pets.

Survey responses indicated that special terms of site agreements are a major concern for some home owners. Fifty-one per cent of home owner respondents expressed satisfaction with the way the site agreement allows for special terms. In contrast, 94 per cent of park owner respondents expressed satisfaction with special terms.

In its submission to the review, the Manufactured Home Owners Association Inc. stated that special terms featured in a large number of complaints over the past few years regarding special terms. A number of submissions included suggestions for improving the regulation of special terms including mirroring the *Residential Parks Act 1998* (NSW), which prohibits certain types of special terms.

Survey responses highlighted that home owner respondents were most concerned about special terms:

- that do not conform with the Act;
- require the home owner to provide the park owner with a power of attorney regarding sale of the manufactured home;
- allow costs to be sought from the resident by the park owner including, in particular: the park owner’s solicitors costs; costs in considering and supervising any work undertaken by the home owner on their manufactured home; utilities charges; public liability insurance; and all insurance for the communal buildings and facilities for the park;
- that provide release, indemnity and waiver clauses absolving the park owner from all legal liability except for negligence;
- that provide that the application of any present or future statute that attempts to alter the terms of the site agreement is excluded or negated;
- provide a 10 year tenure to the resident;
- grant the park owner a 30 day exclusive right to first and last refusal to buy a resident’s manufactured home;
- allow exit fees; and
- hinder assignment, by stating the home owner is legally liable for the performance of the assignee and each successive assignee.

Broadly speaking, the issues raised in the responses fall under two broad categories:

- special terms that may be inconsistent with the policy underpinning the Act; and
- unfair special terms.

These are considered in more detail below.

5.2.1 Special terms that may be inconsistent with the policy underpinning the Act

The Tribunal recently considered two special terms in the case of *Cramp v Haraba Pty Ltd as Trustees t/a Gateway Village Resort*⁴. In this case, the first special term related to the sale of a manufactured home and provided that:

If the home owner wishes to sell the manufactured home during the currency of the site agreement, the home owner grants to the park owner an irrevocable right of first refusal to purchase the manufactured home from the home owner. The home owner shall advise the park owner of the price sought by the home owner together with details of how the home owner has determined such figures. If the park owner wishes to exercise its right of first refusal the park owner shall within 14 days of receipt of the notice from the home owner advise the home owner whether or not it wishes to accept the offer. If the park owner accepts the home owner's offer the parties shall proceed to enter into an agreement for the purchase and sale of the home on terms and conditions acceptable to both parties.

The Tribunal found that the term constituted a fetter on the home owner's right to sell. As such, the term was inconsistent with the home owner's right to sell and the prohibition against interference with such a sale pursuant to sections 56 and 58 respectively. As a result, the Tribunal determined that the term was void and of no effect under section 24 of the Act. Section 24 provides that if a provision of the Act is inconsistent with a special term of a site agreement, the provision in the Act prevails and the term is void to the extent of the inconsistency.

The Tribunal also considered the following special term in regard to assignment of site agreements:

This site agreement may only be assigned by a home owner in its entirety without alteration. Any assignment of this agreement to another home owner party does not release the original or previous home owner party to this agreement from their obligations under this agreement upon any default by an assignee. Each home owner party will remain jointly and severally liable for any default in relation to the agreement until such time as the agreement is duly terminated.

⁴ *Cramp v Haraba Pty Ltd as Trustee t/a Gateway Village Resort [2007] CCT MH010-06*

The Tribunal found that the term was void on the basis that it was inconsistent with the provisions of the Act. The Tribunal ordered that the site agreement be varied by deletion of the second and third sentences so that it read “This site agreement may only be assigned by a home owner in its entirety without alteration.”

Although this determination was made in 2006, it is unclear whether park owners have taken any subsequent action to discontinue the use of similar terms or deleting relevant sentences from new and existing site agreements. Submissions from home owners received in 2007 referred to these particular special terms or similar terms. Other submissions to the review indicated that other special terms are positively being used which are inconsistent with the policy intent of the Act.

Conclusion

In light of these uncertainties, the recommendations propose that the Office of Fair Trading conduct targeted compliance checks on the use of special terms. If these checks confirm that park owners are attempting to contract out of the Act, the Office of Fair Trading will need to determine whether action should be pursued under section 23 of the Act. Section 23 establishes an offence if a person enters into an agreement with the intention, directly or indirectly, of defeating the operation of this Act, with a maximum penalty of 200 penalty units (\$15,000).

Recommendation 5.2.1

It is recommended that the Office of Fair Trading conduct targeted compliance checks on the use of special terms in site agreements and take appropriate action where evidence establishes that the terms attempt to defeat the purpose of the Act.

5.2.2 Unfair special terms

The Act introduced the requirement for a written site agreement to provide information about the Act, and the park and its services. This requirement was intended to clarify the terms of the agreement. Prior to this requirement, home owners were often at a severe disadvantage compared with park owners. Home owners were often unaware of their rights and obligations prior to entering into the agreement.

Responses to the survey indicated that despite the introduction of site agreements, a new problem has since emerged. Some contracts have become overly complex, containing terms that do not appear reasonably necessary for the protection of the legitimate business interests of the park owner. Some contracts are also drafted in a legalistic way which is difficult for residents to understand. Examples of the challenges faced by home owners in understanding special terms include:

- the use of a font size or typeface that is difficult to read;
- excessively long sentences, clauses or paragraphs;
- important terms being ‘buried’ in schedules;
- use of technical terms, jargon, legal or other forms of language other than plain English;
- extensive cross-referencing;

- splitting the agreement into separate documents; and
- a failure to define important terms and the use of technical definitions of commonly used words.

Under the Act, the Tribunal has the power to vary special terms. The recommendations propose that the power be extended to allow the Tribunal to determine whether a special term is in plain language. If it is determined that a term is not in plain language, the Tribunal may order that the park owner be prohibited from using the provision in the site agreement, including those site agreements belonging to several joined applicants presented to the Tribunal.

It is also proposed that a clause be included in the Act which is modelled on section 10 of the *Residential Parks Act 1998 (NSW)* (the RPA). Section 10 provides that the regulations may regulate or prohibit the insertion of special terms with respect to such matters as may be prescribed.

Examples of typical unfair special terms that might be prohibited could include terms which:

- exclude or hinder the home owner's right to take legal action or exercise any other legal remedy;
- appoint the park owner with a power of attorney for the home owner;
- impose unspecified future costs and charges on home owners;
- make the home owner liable for the park owner's legal costs;
- require a home owner who fails to pay site rent or other charges payable under the site agreement to pay a rate of interest in excess of the reasonable costs incurred by the park owner;
- attempt to release the park owner from all legal liability in respect of an injury or death or resulting from an act or omission of the park owner;
- transfers inappropriate risks, costs and/or charges to the home owner, where the risk, costs and/or charges more appropriately lies with the park owner - for example the park owner should not make the home owner the park owner's insurer for the residential park; and
- attempt to limit the security of tenure in the right to reside of the home owner.

Further, it is proposed that park owners should not have to redraft existing site agreements. Rather, the Act could be amended to include a provision prohibiting park owners from attempting to enforce any existing prohibited special term.

Conclusion

The objective of the review was to determine if the key provisions of the Act are working, and if not, to refine their operation. The need for written agreements was a key feature of the new Act. However, recent survey results indicate it is now necessary to place some parameters on the inclusion of special terms and the way the special terms are drafted. It is proposed that a plain language requirement should be included in the Act for special terms.

This legislative reform would restore the balance by requiring a park owner to not take advantage of the weaker bargaining position, or lack of experience, of home owners. Agreements should be drawn up in a way that protects commercial needs, but better balances these needs with the interests and rights of consumers. This can be achieved if agreements go no further than is necessary to protect those legitimate commercial interests.

Recommendation 5.2.2

It is recommended that the Act and Regulation be amended to:

- provide a plain language requirement for special terms.
- allow the Tribunal to determine whether a special term is in plain language. If it is determined that it is not in plain language, the Tribunal may order that the park owner be prohibited from using the provision in the site agreement and in any future site agreement. Failure of the park owner to comply with the order would result in a penalty.
- introduce a clause modelled on section 10 of the *Residential Parks Act 1998 NSW* which states that the regulations may regulate or prohibit the insertion of special terms with respect to such matters as may be prescribed.
- introduce a clause prohibiting park owners from attempting to enforce any existing prohibited special term.

5.3 Fixed term site agreements

The Office of Fair Trading has received complaints and submissions to the review which indicate that some park owners are including a fixed termination date in site agreements or asking potential home owners to sign a *Mutual Consent to Terminate* (Form 4) at the same time as the site agreement. Effectively, this means that the site agreement expires at a fixed point, typically in 10 years time.

Providing security of tenure in the right to reside was the foundation of the *Mobile Homes Act 1989*. As the then Minister for Justice and the Attorney General announced during the second reading speech:

“the Mobile Homes Bill will ensure that persons residing in mobile home parks, or parks which have sections set aside for mobile homes, are given indefinite security of tenure.”

“A person who has invested possibly his life savings in the purchase of a mobile home deserves proper security of tenure of the right to reside and this Bill is intended to give mobile home dwellers the protection and security they deserve.”

The *Mobile Homes Act 1989* provided for security of tenure in the right to reside and only allowed termination by the park owner to occur through an order of the Small Claims Tribunal. The *Manufactured Homes (Residential Parks) Act 2003* refined the relevant section on termination to allow more flexibility where parties mutually agree

to terminate. This relieved the parties from having to seek an order from the Tribunal. However, it was not envisaged or intended that the new section should be used at the time of entering the site agreement to effectively create a fixed term agreement.

Conclusion

The recommendations propose that the current practice of fixed term site agreements by some park owners is inconsistent with the objects of the Act. As noted above, the purchase of a manufactured home represent a significant investment and fixed term site agreements place home owners in an extremely vulnerable position at the end of the term of the site agreement. If the park owner is unwilling to renegotiate the site agreement, the home owner will need to remove their home to another park or location without any compensation. Even if a new site agreement could be negotiated, the home owner is in a weak bargaining position.

Recommendation 5.3

It is recommended that fixed term site agreements be prohibited pursuant to the unfair terms recommendation at 5.2. It is recommended that the mutual agreement to terminate clause of the Act be refined to ensure that it is not exercised at the same time as entering the site agreement.

5.4 Site rent increases

On balance, the survey results indicate that the section of the Act which deals with site rent increases is operating as intended. Responses to the survey indicate that 52.3 per cent of home owner respondents and 74.5 per cent of park owner respondents are satisfied with rent increases determined by their site agreement. More than 70 submissions, or 10 per cent of respondents to the survey, made direct comments relating to dissatisfaction with their site rent. The reasons for the dissatisfaction varied from the formula of rent increases, to the perceived inability to decrease site rent due to a special term in a site agreement. Several respondents indicated that the facilities in their park had become run down and/or had not been replaced since they entered the park. As a consequence, the home owners did not believe their current level of rent was justified.

The Act regulates the method of varying site rents. Under section 69 of the Act, a park owner may increase the site rent payable under a site agreement and must state how the amount of the increase is to be calculated. If the home owner considers the increase is excessive, the home owner may apply to the Tribunal within 28 days for an order reducing the amount of, or setting aside, the increase. A home owner may also apply to the Tribunal under section 72 of the Act for an order reducing the site rent that is payable where an amenity or standard of the park has substantially deteriorated or where communal facilities or services have been withdrawn.

Under section 71 of the Act, the park owner may increase the rent outside the provisions of the site agreement. If the home owner believes the increase is excessive, the home owner may apply to the Tribunal to determine whether a site rental increase is appropriate, having regard to competing interests of the operator and residents.

The Office of Fair Trading has received complaints from home owners regarding a District Court decision, *Palmpoint Pty Ltd v the Residents of Bribie Pines Island Village & Ors*⁵ which relates to rent increases under section 71 of the Act. The basis of the complaints was that the home owners believed the park owner did not have justifiable grounds to increase the site rent outside the terms of the site agreement. The District Court annulled the Tribunal's decision, disallowed the rent increases and upheld the site rent increases under section 71 of the Act.

In that case, the District Court confirmed that section 71 provides the mechanism for park owners to increase the site rent outside the terms of the site agreement. The intention of section 71 is to provide park owners a method of keeping site rents in line with unforeseen business costs and park improvements. For example, where a park owner has installed a major facility such as a bowling green or swimming pool or improved existing facilities such as the installation of grey water systems or improved parking facilities.

Conclusion

While it appears that the mechanisms for reviewing and varying site rent are generally working well, some issues were raised in relation to site rent during the review. The Tribunal acts as a safeguard against unreasonable and/or unjust site increases. In coming to this decision, the Tribunal may take into account factors including, but not limited to, comparable rents from other parks, the Consumer Price Index, amenities, utilities and communal facilities. It should also be noted that since the commencement of the Act, 109 determinations have been made by the Tribunal: 38 of those determinations relate to site rent increases. This illustrates the Act provides a forum for home owners and park owners to have their site rent disputes determined. Nonetheless, the issues highlighted during the review warrant further consideration. It is possible there may be some potential for further refinement of the Act to ensure the Act continues to achieve a meaningful balance between the rights and obligations of park owners and home owners on site rent increase.

Recommendation 5.4

While the Act generally appears to be operating as intended, further targeted consultation should be undertaken during the development of the legislative amendments with consumer advocate groups, the peak industry body, Caravanning Queensland, the Tribunal and other agencies to explore the potential for further enhancements, including the incorporation of any legislative amendments, where necessary, to ensure the Act appropriately balances the rights and obligations of park owners and home owners on site rent increases.

⁵ *Palmpoint Pty Ltd v the Residents of Bribie Pines Island Village & Ors* [2007] QDC 130

5.5 Commission for selling a manufactured home

Under the Act, a home owner may sell their home in three ways: they may do so themselves; engage a licensed real estate salesperson; or request the park owner to sell their home on their behalf.

The Act provides that the home owner may, by signed notice in the approved form, appoint the park owner as the home owner's agent to sell the home owner's manufactured home. A park owner under a selling authority must not charge the home owner a fee greater than the prescribed amount. Nor may the park owner charge the home owner an agency fee unless the park owner is the effective cause of the sale. The prescribed amount is contained in the regulation of the Act and is uniform with the maximum commission allowable under the *Property Agents and Motor Dealers Act 2000* (PAMDA)⁶. PAMDA provides an exemption for park owners from the licensing requirements of a real estate agent as otherwise required in PAMDA.

The prescribed fee in the PAMDA Regulation limits the amount a park owner may charge as commission for selling a manufactured home. In this way, the Act replicates the maximum commission allowable for the sale of a manufactured home by a park owner that was contained in the *Mobile Homes Act 1989*.

During the consultation phase of the review, 30 submissions commented on commissions. Some objected to the amounts of commission they have to pay to park owners, while others stated that park owners should undergo some form of training to sell their property. The Real Estate Institute of Queensland submitted that park owners should be licensed to ensure a "level playing field". This could be achieved by subjecting park owners to the same professional costs and requirements as a licensed real estate agent.

Consideration was given to requiring park owners to be licensed prior to the commencement of the Act. The 2003 Public Benefit Test (PBT) Report of the *Manufactured Homes (Residential Parks) Bill 2003* justified not licensing park owners because:

- there would be considerable time and expense, both initially and ongoing, involved in a park owner obtaining a real estate licence;
- park owner's participation in real estate activities is limited;
- few licensed real estate agents listed manufactured homes for sale; and
- subjecting park owners to licensing requirements would be a disincentive to park owners to sell homes and thus leave home owners with fewer options to sell their home.

The PBT Report found that exempting park owners from the licensing requirements of PAMDA confers a benefit to the park owner. However, as park owners have specialist knowledge of the home, residential park and surrounds, potential buyers generally search for a manufactured home through the residential park. Potential home owners may not have easy access to information to assist with the decision to purchase a manufactured home and therefore seek specialist information from a park owner.

⁶ This Act regulates and provides a licensing regime for real estate agents and real estate sales persons.

The lack of licensing requirements provides an incentive to park owners to disseminate information to potential buyers and generate sales. Growth is also encouraged in the industry. The sections in the Act regulating how a park owner may act as the home owner's agent appears to provide sufficient consumer protection.

Conclusion

The recommendations propose that the status quo be retained. The Office of Fair Trading has not recorded any complaints in relation to charging commissions above the prescribed amount or about the misuse of trust funds. As no consumer detriment has been identified during the review, the current system should remain unaltered.

Recommendation 5.5

It is recommended that no change should be made to the provisions regarding commissions. The provisions appear to be operating as intended.

5.6 Dispute resolution

An object of the Act is to provide a means of resolving site agreement disputes between home owners and park owners. The Act provides for the formation of a "homeowners committee" to negotiate the day to day running of the park and for a "park liaison committee" to negotiate on behalf of home owners regarding park rules. Disputes relating to site agreements and the Act are determined in the Tribunal.

The Tribunal is a relatively inexpensive and expeditious forum to have disputes determined. However, submissions indicate the need for other avenues to resolve disputes outside of park committees and prior to an application before the Tribunal.

In their submissions, some home owners have stated that the Tribunal is expensive and confusing. Some home owners require assistance in filing forms and are reluctant to engage legal representation. Many home owners believe disputes could be resolved if some form of mediation service was provided.

Some park owners have complained of frivolous Tribunal proceedings by home owners and have submitted that since the commencement of the Act it has become necessary to spend large amounts on legal fees, making it difficult to operate a viable business. Park owners argue that they may be challenged in the Tribunal several times over the same issue, or an issue they regard as frivolous. An owner of two large residential parks suggested appointment of a neutral adjudicator to enable home owners to interpret the legislation and decide if an application to the Tribunal is necessary to resolve disputes.

Survey results indicate resident disputes mediated through a park liaison committee are more common than those involving the Tribunal. The results suggest residents with access to dispute resolution bodies within their parks are more likely to have positive perceptions of the Act. However, some submissions indicate that some park owners have opposed the formation of a home owners committee and have refused to listen to home owner's concerns.

The review also noted that twenty-six applications under the Act were received by the Tribunal during 2005-06. Of those applications, only one was mediated. Although the Tribunal has mediation services available, manufactured home disputes are rarely referred by the Tribunal to mediation because it is feared the parties will be unable to reach a compromise. The Tribunal has stated that mediation of manufactured home disputes is costly with little positive results. By way of comparison, the Tribunal advised it refers disputes to mediation under the *Retirement Villages Act 1999*. Retirement village residents are a similar demographic to manufactured home owners. In 2005-2006, one fifth of retirement village disputes were effectively resolved through mediation in the Tribunal.

In relation to alternative dispute resolution options, home owners and park owners could use the mediation service offered by the Department of Justice and Attorney-General. Enquiries to the service indicate that it appears to be under-utilised to resolve manufactured home disputes. Another form of negotiation and information service is provided by the Caravan and Manufactured Home Residents Association Inc. (CAMRA). CAMRA has been operating since 1989 and is an information and advocacy service funded by the Department of Housing through the Residential Tenancies Authority by way of an annual grant from the Community Housing Grant scheme.

CAMRA provides a free advocacy and information service to all residential villages in Queensland and assists in the formation of home owner committees. CAMRA has an 1800 number to provide assistance to home owners outside Brisbane. CAMRA also provides information to government departments and interested stakeholders. Since the commencement of the Act, CAMRA has held more than 120 negotiations and currently assists approximately 25 home owners per week.

CAMRA appears to be able to resolve many disputes that the Office of Fair Trading does not have the statutory authority to resolve such as, for example, resident to resident disputes and park closures. Since 2005, CAMRA has reported a sharp increase in workload due to the growth of residential parks in the south east corner of Queensland and, more specifically, increased complaints relating to of the use of special terms in site agreements.

Further services are provided by the Manufactured Home Owners Association Inc. (MHOA) which is a self funded organisation that assists home owners with the formation of home owners committees, consumer advocacy and information. MHOA has strong representation from the Sunshine Coast to Hervey bay and assists home owners during disputes with park owners. MHOA provides its members with a valuable information and consumer protection service.

The Seniors Legal and Support Service, was also established in 2007 on a pilot basis by the Department of Communities to provide free assistance and legal advice to seniors concerned about elder abuse, mistreatment or financial exploitation. This includes unfair practices relating to retirement villages, aged rental accommodation or residential parks.

Examples of assistance include: advice, advocacy and negotiation on behalf of a resident of a retirement village or a residential park regarding unfair contract terms and conditions. The services are staffed by solicitors and social workers and are available in five locations; Brisbane, Cairns, Townsville, Hervey Bay and Toowoomba.

Conclusion

The recommendations propose that there are a number of avenues currently available to home owners and park owners to resolve disputes prior to an application before the Tribunal. It is considered that mandating a mediation process is not warranted.

Recommendation 5.6

It is recommended that no change should be made to the provisions regarding further dispute resolution. Adequate avenues are available to home owners and park owners.

5.7 Miscellaneous amendments

It is recommended the Act would benefit from a number of minor and technical amendments, which are outlined in Annexure D to this report. These minor and technical amendments include a requirement to provide written notice to consent to the assignment of a seller's interest, clarifying the cooling off period and the number of home owner committees for each park.

Conclusion

Public consultation has provided home owners, park owners, industry, government agencies, community organisations and professional bodies the opportunity to contribute to the review of the Act. The release of the survey was widely promoted and resulted in the receipt of over 670 submissions.

The review found differing degrees of satisfaction with the Act. The following refinements and measures are recommended:

- the definition of a “manufactured home” be refined to ensure that caravans with annexes or other modifications are not captured.
- the Office of Fair Trading conduct targeted compliance checks during on the use of special terms in site agreements.
- the Act and Regulation be amended to insert the following provisions:

- (a) a plain language requirement for special terms;
 - (b) a statutory power to allow the Tribunal to determine whether a special term is in plain language. If it is determined that it is not in plain language, the Tribunal may order that the park owner be prohibited from using the provision in any future site agreements. Failure of the park owner to comply with the order would result in a penalty.
 - (c) a clause modelled on section 10 of the *Residential Parks Act NSW 1998* which states that the regulations may regulate or prohibit the insertion of special terms with respect to such matters as may be prescribed.
 - (d) a clause prohibiting park owners from attempting to enforce any existing prohibited special term.
- a prohibition of fixed term site agreements pursuant to the unfair terms recommendation and refinements of the mutual agreement to terminate clause of the Act to ensure that it is not exercised at the same time as entering the site agreement.

The review also recommends a number of minor and technical amendments to the Act.

6 Attachment A - Stakeholder list

Organisation	Address
Halcyon Management Pty Ltd	PO Box 110, Sanctuary Cove Qld 4212
Residential Parks Association Inc.	29 Dunsby Drive Carrara QLD 4211 respark@broad.net.au
Manufactured Home Owners Association Inc. MHOA	PO Box 1673 Hervey Bay QLD 4655 secretary@mhoa.biz
Caravan Parks Association Queensland CPAQ	P.O.Box 5542 Stafford Heights QLD 4053 (07) 3862 1833 admin@caravanqld.com.au
Residential Tenancies Authority	GPO Box 390 Brisbane 4001 http://www.rta.qld.gov.au/about_us_section.cfm
Department of Housing	GPO 690 Brisbane 4001 hpsnet@housing.qld.gov.au
Caravan and Manufactured Home Residents Association of Queensland Inc.	PO Box 833 Wynnum Qld 4178 camratas@bigpond.net.au
Seniors Enquiry Line	PO Box 108 Fortitude Valley 4006 sel@lccq.org.au
Australian Pensioners and Superannuants League	PO Box 5141 West End Qld 4101 apsl@apsl.com.au
Legal Aid Queensland	GPO Box 2449 Brisbane 4001 feedback@legaid.qld.gov.au
Caxton Legal Centre Inc. Seniors Legal and Support Service	28 Heal Street New Farm QLD 4005 caxton@caxton.org.au
Real Estate Institute of Queensland	PO Box 1555 Coorparoo Qld 4151 reiq@reiq.com.au

7 Attachment B - The survey

By completing this survey you will help the Office of Fair Trading ascertain if the *Manufactured Homes (Residential Parks) Act 2003* is meeting community expectations.

The information you provide will remain strictly confidential.

This survey can also be filled in over the internet please go to <http://www.fairtrading.qld.gov.au> or <http://www.getinvolved.qld.gov.au>

Please place a cross or tick in the boxes below to indicate your response.

ABOUT YOU

Knowing a little about you will help us gain a better understanding of the manufactured homes community

1. You are .. male female

2. How old are you?

<input type="checkbox"/> 17 or under	<input type="checkbox"/> 18 to 24
<input type="checkbox"/> 25 to 34	<input type="checkbox"/> 35 to 44
<input type="checkbox"/> 45 to 54	<input type="checkbox"/> 55 to 64
<input type="checkbox"/> 65 to 74	<input type="checkbox"/> 75 or over

3. What is your postcode?

ABOUT YOUR HOME

A **manufactured home** (also commonly known as a mobile home) is a structure, other than a caravan or tent that has the character of a dwelling house, is designed to be able to be moved from one position to another, and is not permanently attached to land.

A **residential park** is an area of land that includes home sites, common areas and facilities for the personal comfort, convenience or enjoyment of persons residing in manufactured homes positioned on sites.

4. Do you own a manufactured home park?
 Yes No

5. Do you manage a manufactured home park on behalf of a park owner?
 Yes No

6. Do you have a friend or relative living in a manufactured home park?
 Yes No

7. Do you live in a manufactured home park?
 Yes No - If no please go to *question 9*

8. How long have you resided in a manufactured home park?

<input type="checkbox"/> Less than 6 months	<input type="checkbox"/> 6 months to less than 12 months
<input type="checkbox"/> 12 months to less than 2 years	<input type="checkbox"/> 2 years to less than 5 years
<input type="checkbox"/> 5 years or more	

9. Did you purchase your manufactured home?

Yes No - *If no please go to question 13*

10. In what year did you purchase your manufactured home?

11. What was the cost of your home?

12. Did the cost of your home include moving costs?

Yes No

13. Have you sold a manufactured home?

Yes No

ABOUT YOUR PARK

14. Approximately how many manufactured homes are there in your park?

Unsure

15. Does your park have permanent accommodation and holiday accommodation?

Yes No Unsure

DISPUTE RESOLUTION

16. Does your park have a home owners committee?

Yes No Unsure

A park liaison committee is generally formed to object to a park owner's proposal; for example changing a park rule.

17. Does your park have a park liaison committee?

Yes No - - *If no please go to question 19*

18. Have you resolved a dispute through the park liaison committee?

Yes No

19. Have you resolved a dispute through the Commercial and Consumer Tribunal?

Yes No

20. Have you had a determination made by the Commercial and Consumer Tribunal?

Yes No

ABOUT THE QUEENSLAND MANUFACTURED HOMES LEGISLATION

This section asks questions about the *Manufactured Homes (Residential Parks) Act 2003*.

The main object of the Act is to regulate and promote fair trading practices in the operation of residential parks by declaring particular rights and obligations of the park owner, and home owners.

The Act can be found at www.legislation.qld.gov.au

21. Is the Act meeting your expectations?

Yes No

22. If not why not?

The definition of a manufactured home in the Act is:

A manufactured home (also commonly known as a mobile home) is a structure, other than a caravan or tent that has the character of a dwelling house, is designed to be able to be moved from one position to another, and is not permanently attached to land.

23 Do you believe the definition of a “Manufactured Home” in the Act is adequate?

Yes No

24. If not why not?

25. Do you have a site agreement?

Yes - written Yes - oral No If no please go to question 33

26. Is it in the Manufactured Homes (Residential Parks) Form 2?

Yes No

27. Are you satisfied with the way your site agreement provides for rental increases?

Yes No

28. Are you satisfied with the way the site agreement allows for special terms of the site agreement?

Yes No

29. Are you satisfied with the process involved in terminating a site agreement?

Yes No

30. Is there adequate provision for the sale of a Manufactured Home?

Yes No

31. If not, why not?

32. Are the park rules contained in your site agreement?

Yes No

33. Are you satisfied with the park rules in your park?

Yes No

34. Do you find the Manufactured Home forms provided by the Office of Fair Trading easy to use?

Yes No

35. If not, why not?

36. Do you believe the Act offers adequate consumer protection for manufactured home owners?

Yes No

37. Do you believe the Act encourages growth in the manufactured park industry?

Yes No

GENERAL COMMENTS

Do you have any other comments regarding the operation of the *Manufactured Homes (Residential parks) Act 2003* you would like to make for our consideration.

8 Attachment C - Complaints

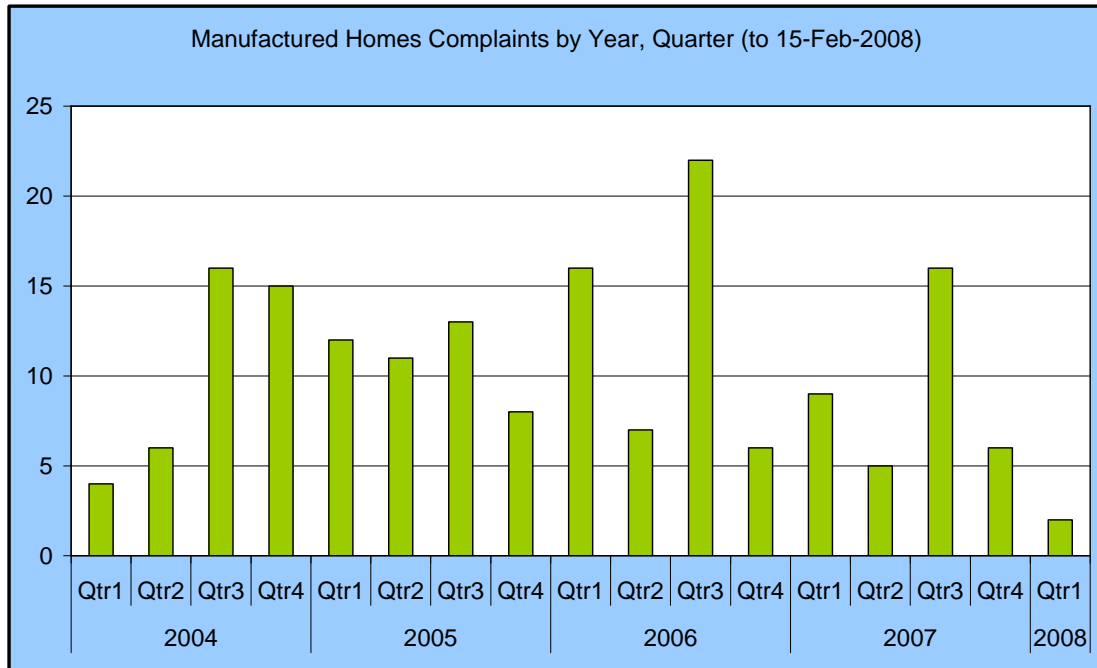


Table 2

**Manufactured Homes Complaints by Quarter,
Year to 15 February 2008**

Years	Received Date	Total
2004	Qtr1	4
	Qtr2	6
	Qtr3	16
	Qtr4	15
2005	Qtr1	12
	Qtr2	11
	Qtr3	13
	Qtr4	8
2006	Qtr1	16
	Qtr2	7
	Qtr3	22
	Qtr4	6
2007	Qtr1	9
	Qtr2	5
	Qtr3	16
	Qtr4	6
2008	Qtr1	2
Grand Total		174

9 Attachment D - Minor and Technical Amendments

Section	Omit	Insert
33 Cooling-off period	Redraft	-
49 (5)(b) Consent to assignment of seller's interest	-	Give the seller <i>written</i> notice
100 Establishment of Committee	a home owners committee	<i>one</i> home owners committee