



**Manufactured Home Owners
Association (Vic) Inc**
A01179410

A Guide to Forming a



The Voice of the Residents

also known as a Home Owners' Committee

FOR
LAND-LEASE VILLAGES

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Because this publication avoids the use of legal language, information about the law may have been expressed in general statements.



A Residents' Committee is the Voice of the Residents

Many land lease communities have a residents' committee, also known in some villages as a home owners' committee.

Such committees can play an important role as a channel for communication between the residents and the site owner/operator.

This role is formally recognised under the Act.



NOTE:

RC / HOC **Residents' Committee / Home Owners' Committee**

RTA **Residential Tenancies Act 1997 Part 4A. Referred throughout as 'the Act'**

Site tenants (the term used by the Act) are referred throughout this manual as residents but within some villages are known as home owners.

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Terms of Reference

The objectives of the RC/HOC and the scope within which the RC/HOC is intended to operate may be included in *Terms of Reference*, which support decision making and help to further define the conduct and values of the RC/HOC members.

Terms of Reference are not as formal as a Constitution and are generally easier for a RC/HOC to change and adapt over time depending on how the Constitution allows for this. They are often useful for setting guidelines for less fundamental principles and establishing social protocols for how RC/HOC members would like to interact with each other.

Incorporated Associations

Residents may also wish to consider whether it is appropriate to incorporate. You can find out more by searching <https://www.consumer.vic.gov.au/clubs-and-fundraising/incorporated-associations/incorporated-association-registration-process>

However, the Act makes no provision for a social club or for a RC/HOC to be responsible for social activities as part of its functions. As such, a social club that is established for the park is not the same as the RC/HOC, nor does it exercise the same functions or rights under the legislation, even if it has the same members.

A committee's members must be residents of the community and can only hold office for a term of one year or the term dictated in their Constitution, but then may stand for re-election.

Only one RC/HOC may be established for a land lease village/park

A majority of residents may adopt a Constitution to govern the performance of the RC/HOC's functions. The Constitution cannot be inconsistent with the Act. Once made, the RC/HOC must comply with its Constitution. The Constitution may only be changed by special resolution at a meeting of residents. A special resolution requires a quarter majority of the residents' votes.

That would be 25% of all residents attending the AGM or special resolution meeting (as long as all residents in the village/park are informed of the meeting venue date and time in writing?)

The RC/HOC can, subject to the Constitution, determine its own procedures to support how it operates, and form sub-committees and decide each sub-committee's procedures.

The RC/HOC should hold regular structured meetings with all residents, to allow discussion on matters of concern relating to the running of the village/park.

The RC/HOC should operate with core principles and values that enable the RC/HOC to conduct its functions. This may include principles and values which facilitate a RC/HOC that is approachable to residents and builds a good relationship with the village/park site owner/manager.

Dealing with the village/park site owner/manager is an important function of the RC/HOC; by working with the owner/manager this strengthens residential communities and provides better outcomes for residents and village/park managers.

The village/park site owner/manager can attend RC/HOC meetings **if invited by the RC/HOC**. The village/park site owner/manager may, for example, be invited to address specific issues of concern.



DEFINING A RESIDENTS' / HOME OWNERS' COMMITTEE

What is a Residents' / Home Owners' Committee?

A RC/HOC is a group of residents in a land lease village/park who are elected by, and represent, the residents in that village/park in dealings with the site owner/manager.

RC/ HOC should, when dealing with management, express their opinions and expectations in a respectful and constructive way.

RC/ HOC should maintain their focus on the issues presented to them by their residents, or the village/park site owner/manager.

Do not forget you are representing the site tenants, so be clear on all issues, be straightforward and present the issues with confidence and honesty.

Residents in a land lease village/park have a right to establish one RC/HOC under the Act and this right cannot be restricted by the village/park site owner/manager.

The Act does not provide guidance or requirements for how many members there should be in the RC/HOC, or what roles they should serve. This will generally be established in the Constitution for the RC/HOC and may depend on the size of the village/park.

Establishing committee rules

Establishing committee rules within the RC/HOC Constitution will support the successful operation of the RC/HOC.

The rules could cover matters like the following:

- conduct of RC/HOC meetings
- role of members including President, Secretary and Treasurer
- code of conduct – be respectful, fair and reasonable
- confidentiality
- conflicts of interest.

Changes to these rules

These rules may only be altered, rescinded or added to by a majority vote at a general residents' meeting.

What is the purpose of a RC/HOC?

A RC/HOC can contribute to fostering community spirit and engagement.

Only one elected Residents' / Home Owners' Committee can be formed at a village/park to liaise with management

The purpose of a RC/HOC is to deal with the site owner/manager **on behalf of residents** concerning:

- the day-to-day running of the village/park
- any complaints or proposals about the operation of the village/park raised by residents
- any proposals from the site owner/manager that will affect residents
- to call meetings of all the residents for the purpose of considering and voting on any matter relating to the community.

What is a successful RC/HOC?

A successful RC/HOC is one that:

- welcomes every new resident and advises them of the purpose of a RC/HOC
- works together with agreed values, principles, and objectives
- understands the role of each RC/HOC member and the functions of the RC/HOC
- is effective in its decision making
- represents the majority of residents
- has the support of the majority of residents
- establishes a strong and positive relationship with the site village/park site owner/manager
- understands the applicable legislations
- keeps records
- acts with integrity
- meets regularly with a structured agenda, and
- provides regular updates to the resident community, informing them of changes in legislation and the outcomes of meetings with village/park management.

Who is eligible to become a representative of the RC / HOC?



Residents' Rights

Any resident in the village/park may nominate themselves or be nominated to stand for a position they must then be voted into the position by the Residents.

Site owner/managers and close associates of the site owner/manager cannot be a member of a residents' / Home Owners' committee - even if they are a resident, as this may result in a conflict of interest.

Establishing a residents' / home owners' committee

Any resident or group of residents of a land lease community are entitled to establish a residents' / home owners' committee.

Committee members must be elected by residents at **a meeting to which all village/park residents have been invited.**

If more nominations are received than position available, then a formal election should be conducted.

Nomination for membership

- (1) Any resident can nominate themselves or another resident to be a member of the committee.
- (2) A current member of the committee may nominate again or be renominated.
- (3) Nominations can be made:
 - (a) by giving notice prior to the meeting at which the election of the committee is to take place, or
 - (b) in person at a meeting at which the election of the committee is to take place before a vote is taken.
- (4) All nominations must be in writing and accepted by the nominee and seconded by another resident present at the meeting before that person becomes a candidate.

Of course, putting yourself forward to be a RC/HOC member is voluntary, so committee members can only be selected from those who are nominated.

Selecting RC/HOC members and identifying roles

Selecting RC/HOC members and identifying roles should contribute to fostering community spirit and engagement by:

- commitment and availability
- language and cultural diversity
- principles and values.

In many land lease villages/parks, membership of the RC/ HOC is at least seven (7) members and includes the roles outlined below:

President

The President will generally be responsible for, and ideally will have some experience in, matters such as:

- presiding over meetings and ensuring the RC/HOC is prepared for the meeting (e.g. details of resident requests)
- calling RC/HOC meetings and residents' meetings if not called by the Secretary
- ensuring balance and providing the opportunity for all RC/HOC members to contribute
- collaborating with the Secretary to ensure relevant communication and information is distributed to all residents.

Secretary

The Secretary will generally be responsible for, and ideally will have some experience in, matters such as:

- keeping of membership and official records relating to the RC/HOC including detailing the actions of the RC/HOC
- liaise closely with the President in the calling of RC/HOC and residents' meetings, distributing agendas and preparing meeting minutes
- receiving all communications into and out of the Committee
- preparing and delivering formal and informal communication to the residents on behalf of the RC/HOC in a timely manner
- ensuring that any regulatory requirements are complied with. For example, where the RC/HOC is an incorporated association under the Incorporated Associations Act 1981.

Treasurer

The Treasurer will generally be responsible for, and ideally will have some experience in:

- bookkeeping for RC/HOC funds
- managing funds within budget and paying invoices in a timely manner and obtaining any necessary RC/HOC approval for any financial expenditure
- preparing financial reports for delivery to the RC/HOC and residents
- coordinating the auditing of financial records.

Ordinary Committee Members

Ordinary Committee members will:

- attend all meetings, if possible
- participate in all discussions and put their views forward
- vote in all Committee matters, where required
- be available for residents to pass on issues
- participate in sub-committees, if required.

Committee vacancies

(1) A vacancy occurs if a member:

- (a) dies, or
- (b) ceases to be a resident of the community, or
- (c) resigns their membership of the committee, or
- (d) is removed from office by a vote of all other committee members.

(2) In the event of a vacancy, the committee may:

- (a) choose to carry the vacancy until election of committee at the next annual general meeting, or
- (b) the executive committee may appoint an eligible member.

(3) In the event of a vacancy in the position of either President or Secretary, the committee must elect another committee member to fill the vacancy within 14 days after the vacancy arises.

How RC/HOC members can be removed

Failure by a member to meet standards may lead to the residents, or the committee, passing a special resolution to remove the member from the RC/HOC if the behaviour is not remedied.

A member of the RC/HOC may also be removed at any time, by special resolution at a meeting of the residents, if that option is included in the Constitution.

How to have effective meetings

It is important that RC/HOC meetings are effective, so that residents get the best outcomes, and that the time and effort of the committee is not wasted.

It is suggested that a RC/HOC develop and implement:

- a meeting schedule
- standard agenda items
- a record of minutes.

The Act does not prescribe standards or requirements for the format of meeting minutes, however, it is recommended that minutes include the following:

- the date, time, and place of the meeting
- the names of persons absent and present, including invitees and details of the capacity in which they attended the meeting
- issues discussed and how each issue was decided or dealt with including any votes
- details of any correspondence, reports, notices, or other documents tabled. To ensure the accuracy of minutes, they may be presented at the next HOC meeting for confirmation.

If the minutes are accepted and confirmed, the President or Secretary of the RC/HOC could sign the minutes to confirm they are accurate. (The village/park site owner/manager when invited to attend a meeting should also sign to confirm for accuracy.)

The village/park site owner/manager can attend RC/HOC meetings **if invited by the RC/HOC**. The village/park site owner/manager may, for example, be invited to address specific issues of concern.

Confidentiality



Example:

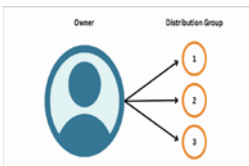
Minutes can be shared, if they provide notification of the final decision that was achieved, but not usually the discussion that got the RC/HOC to that point.

The RC/HOC may have a duty to deal with matters relating to a resident in a confidential manner.

For example: this duty may arise if information of a confidential nature is provided to the RC/HOC on a confidential basis. In addition, any records that are held on file for the RC/HOC must be treated sensitively and should be held securely.

This relates to any confidential information whether it is verbal, electronic or in writing. The RC's/HOC's Constitution should reflect the confidentiality requirements for all RC/HOC members.

Distribution and communication with Residents



Good communication supports keeping a community connected.

The RC/HOC can issue informal and formal communication to Residents.

Formal communication can include the minutes of meetings and annual reports.

The RC/HOC should seek to ensure communication about the minutes of RC/HOC meetings are distributed to residents in a timely manner.

Good practice suggests within 7 days of the meeting being held. This may be as simple as posting them on the RC/HOC noticeboard.

Informal communication can be an effective way to keep residents updated and could include weekly or monthly newsletters and general updates.

RC/HOC performing its function

In performing its functions, the RC/HOC can:

- provide a voice for all residents in dealing with the owners/managers of the village/park
- assist residents with the presentation of submissions for any request, proposal, or complaint to the village/park site owner/manager
- work collaboratively with, and in the best interests of, all residents in the village/park
- promote communication between residents and the village/park site owner/manager.

If the RC/HOC gives notice to the village/park site owner/manager of any complaint or proposal about the operation of the village, the village/park site owner/manager must provide a written response to that notice within 21 days of receiving it.

Resolving personal disputes between individual home owners is a role which a RC/HOC should not engage in. Generally, committee members are not trained mediators or counsellors. The site owner/manager should address such disputes.

Committees' rights in negotiations



- The right to correct information
- The right to be heard
- The right to be consulted
- The right to have respect and loyalty from both **management and Residents**

It is essential that all items discussed are reported back to Residents without censorship.

The maintenance process - Repairs

It is important to communicate all information about repairs in writing and keep copies of all letters, emails, forms and reports on file. (Residents may request to view these at any time.)

Occupational Health and Safety issues will require appropriate action, as priority dictates (High/Medium/Low)

1. Residents may be unclear about the process for carrying out maintenance work. It benefits the owner/manager, and the residents, if there is a transparent process that addresses timeliness, and how the work will be carried out.
2. Write to all residents to let them know of the outcome of the discussions and to include details of what further action the committee will be taking to resolve the issue.
3. If the issues cannot be resolved a Notice to part 4A site owner (Word, 732KB) should be used

Handling disputes

Working with the village/park site owner/manager and residents

RC/HOC vs village/park site owner/manager

Attempt to reach an agreement with the RC/HOC on implementing any changes.



If a dispute arises about a matter relating to the day-to-day running or operation of a village/park between the site owner/manager and the RC/HOC, this is referred to as a 'residential' dispute under the Act and its resolution may be dealt with between the parties or under the Act.

When the RC/HOC works well with the village/park site owner/manager and residents it promotes:

- effective relationships and communication methods
- successful results
- home-owner engagement, including raising matters of issue or proposals with the RC/HOC
- collaborating with other interest groups within the village/park community (i.e. social clubs)

Resident / RC/HOC vs village/park site owner/manager



If a dispute arises about a matter relating to the day-to-day running or operation of a village/park between the village/park site owner/manager and the resident / RC/HOC, this is referred to as a 'residential' dispute under the Act and its resolution may be dealt with between the parties or under the Act.

Informal dispute resolution

When a dispute arises, the parties should first explore discussing and negotiating the issue.

If the dispute is between a resident and the site village/park owner, the resident may enlist the RC/HOC for support.

Things to consider in these types of discussion include the following:

- Disputes can often be caused by a misunderstanding or a personal perception of an event. Consider: is this a factual issue or an emotional response?
- Being clear on what has occurred and what the key issues of the dispute are.
- What are the facts/evidence/proof that the resident or RC/HOC can collate and present to support their position?
- Are there any residual/background circumstances that may have led to this issue?
- Try to evaluate the situation from the other party's perspective. Consider what their issues may be and what they may want to achieve.
- Think about what the resident or RC/HOC want to achieve and what it can realistically expect to achieve. Will the village/park site owner/manager think the desired outcome is reasonable?
- Make clear, written notes detailing the discussion and outcomes, and if possible, prepare an agreed record of the discussion at the end of the meeting to take back to the residents.

Formal dispute resolution

If, through informal conversation and negotiation the resident and/or RC/HOC is unable to resolve the dispute, a formal dispute resolution process can be commenced under the Act for disputes that are considered 'residential' disputes under the Act.

If the issue is between a resident and the village/park site owner/manager, it would be wise for the resident to engage with their RC/HOC.

Before engaging in dispute resolution for land lease village/park disputes under the Act, the resident and the RC/HOC should carefully review the below description of dispute resolution processes.

This does not constitute legal advice, nor should it be relied upon as legal advice.

Dispute negotiation

Negotiation Involves the following steps by one party to the dispute:

- 1) Giving written notice to the other party that sets out the matter in dispute and nominates a time on a stated day and place for a meeting (dispute negotiation notice). The dispute negotiation notice may be in the form of a letter.
- 2) Giving the party at least 14 days' notice, but not more than 28 days' notice, of the meeting. In responding to a dispute letter, the responding party must:
 - Provide a written response within 7 days of receiving the notice agreeing to meet the first party.
 - Confirm the time and place in the response; or suggest another time and/or place if the original time or place does not suit, provided the other day or time is within 7 days after the nominated day and time.
 - Both parties to the land lease village/park dispute have an obligation to meet and try to resolve the dispute at the nominated time, or within 7 days after the nominated day and time.

Parties may agree to meet multiple times to try to resolve the dispute by negotiation.

RTA 4A

Residents' Committee Legislation

A village/park site owner/manager must not:

- discourage or prevent the establishment of a residents' committee
- obstruct a residents' committee in carrying out its functions
- prevent the residents' committee from using community facilities that are generally available to residents
- require the committee to be incorporated (but it is a good idea to do so) or to take out any form of insurance.

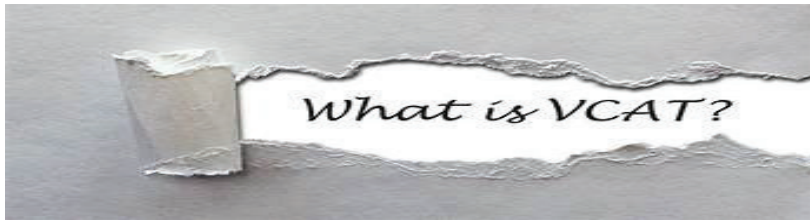
Under Section 198 of the Residential Tenancies Act 1997 Part 4A

- *206ZZB Participation in site tenants' committee*
A site tenant is entitled to participate in any site tenants' committee formed in respect of a Part 4A park of which he or she is a site tenant

Under Section 198B of the Residential Tenancies Act 1997 Part 4A

- *206ZZC Site owner's duties to site tenants' committees*
 - (1) *A site owner must not unreasonably interfere with a site tenant's right to participate in a site tenants' committee.*
 - (2) *A site owner must allow the site tenants to use suitable communal park facilities for meetings of a site tenants' committee*
 - (3) *A site owner must consult with the site tenants committee about—*
 - (a) *a proposed change to the Part 4A park rules; and*
 - (b) *a proposal to remove or substantially restrict a facility or service available within the park; and*
 - (c) *a proposal to provide a new facility or service within the park.*
 - (4) *A site owner is taken to have consulted with a site tenants committee about a matter referred to in subsection (3) if the site owner—*
 - (a) *has provided details of the proposal in writing to the committee; and*
 - (b) *has allowed at least 14 days for the committee to respond in writing; and*
 - (c) *has considered and responded in writing to any written complaint*

Victorian Civil and Administrative Tribunal (VCAT) Hearing



Either party to the dispute can apply to VCAT for a hearing if:

- the parties cannot reach a mediation agreement
- one party does not attend or withdraws from mediation
- the parties cannot settle the dispute within four months of its referral for mediation
- one party claims the other has not complied with the mediation agreement within the specified time (or within two months of the agreement being signed if no time is specified)

The tribunal may make an Order as authorised by the Act or otherwise as it considers appropriate to resolve the dispute through negotiation. They can apply to the Registrar at the Victorian Civil and Administrative Tribunal (VCAT) to have the matter referred to mediation.

Within 14 days of receiving an application, the registrar will appoint a mediator who will organise a mediation conference with the parties to the dispute.

Mediation conferences are private but may involve other persons where the mediator is satisfied the person has a sufficient interest in the resolution of the dispute.

For further information contact.

1. www.vcat.vic.gov.au/contacts-and-locations Contacts and locations | VCAT
2. www.disputes.vic.gov.au Homepage | Dispute Settlement Centre of Victoria

VCAT contact information

Contact details for VCAT in our city and suburban locations are listed below where you can find the answers to common questions.

For regional hearing locations across Victoria you should firstly contact the Melbourne office to locate one nearest to you.

Melbourne

55 King St Melbourne 3000

Phone: [1300 018 228](tel:1300018228)

Opening hours - Monday to Friday from 9am to 4.30pm.

Frankston

1 Balmoral Street, Frankston VIC 3199

Phone: [1300 018 228](tel:1300018228)

Opening hours - Monday to Friday from 9am-12.30pm and 1.30pm-4.30pm.

Bundoora

Level 2, Uni Hill Town Centre,

1-3 Janefield Drive, Bundoora VIC 3083

Phone: [1300 018 228](tel:1300018228)

Opening hours - Monday to Friday from 9am-12.30pm and 1.30pm-4.30pm.

Oakleigh

Level 1, 20 Atherton Road, Oakleigh VIC 3166

Phone: [1300 018 228](tel:1300018228)

Opening hours- Monday to Friday from 9am-12.30pm and 1.30pm-4.30pm.





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