

NOTICE TO TERMINATE SITE AGREEMENT

Residential (Land Lease) Communities Act 2013 Part 11

Please complete this form using a black pen in CAPITAL LETTERS

Name of home owner/s:

Site number:

I hereby give you notice to terminate your site agreement on:

(insert date on which the home owner is requested to provide vacant possession of the residential site)

____/____/____

This notice is being given on the following ground/s:

(Tick appropriate box to indicate the ground/reason for termination and complete details if required)

- Breach of agreement:** 90 days minimum notice (*section 122*)
You have seriously or persistently breached clause/s.....of the site agreement dealing with
- Arrears of site fees of at least 30 days:** 90 days minimum notice (*section 122*)
- The site is needed for repairs and upgrading:** 90 days minimum notice (*section 123*)
- Closure of community:** 12 months minimum notice **or** for a fixed term agreement - the day after the fixed term ends (whichever is later) (*section 124*)
- Change in use of residential site:** 12 months minimum notice **or** for a fixed term agreement - the day after the fixed term ends (whichever is later) (*section 125*)
- Compulsory acquisition:** 90 days minimum notice period (*section 126*)
- Lack of authority for use of residential site:** 90 days minimum notice (*section 127*)
- Non-use of residential site for at least 3 years:** 180 days minimum notice (*section 128*)

SERVICE OF NOTICE (*section 184*) (*it is not recommended to send notices by registered mail*)

- Notice served by (tick one):**
- Mailing it to the home owner / agent (allow 4 working days for service)
 - Giving it personally to the home owner / agent
 - Leaving it with a person over the age of 16 years at the residential site
 - Emailing it to the home owner (if agreed by the home owner)
 - Putting it in the home owner's mailbox

Operator

Name:

Name of Community:

Phone number:

Email:

Signature: _____ Date: ____/____/____

For information about your rights and obligations as a home owner, contact:

- NSW Fair Trading on 13 32 20 or www.fairtrading.nsw.gov.au
- Tenants' Union of NSW at www.thenoticeboard.org.au for news and information for park residents
- Law Access NSW on 1300 888 529 or www.lawaccess.nsw.gov.au

INFORMATION FOR OPERATOR

- If there are 2 or more home owners of the same site, this notice can be given to any one of them.
- When determining the day on or by which the home owner is requested to vacate, the period is counted in calendar days, starting the day after notice is given. Where that day turns out to be a Sunday or Public Holiday it may be a good idea to make the vacation date the next working day.
- If this notice is to be issued for repairs and upgrading, you must attach to this notice, a copy of any order or notice imposing the obligation to carry out works to the residential site.
- If this notice is to be issued due to a change in use of the residential site, you must first obtain an order from the NSW Civil and Administrative Tribunal (the Tribunal) authorising for this notice to be issued.
- If this notice is to be issued due to a closure of the community, you must first obtain development consent (if required) for the proposed use. You must also give at least 7 days' notice to the Commissioner for Fair Trading, **before** you issue the termination notice.
- If this notice is to be issued as the community is to be closed or where there is to be a change in use of the residential site, you are required to use reasonable endeavours to obtain (or make available) for each home owner alternative accommodation, unless a home owner has advised you in writing that your assistance is not required.
- If the home owner(s) does not vacate the site by the specified date and you still want them to vacate, you must apply to the Tribunal for an order terminating the site agreement and granting you possession of the site. You can apply directly to the Tribunal for a termination order (without the need for a termination notice) in certain situations, including serious damage to property in the community, injury to any person lawfully present in the community, illegal use of the residential site or serious or persistent threats or abuse.
- As an alternative to issuing a termination notice, you may request the home owner relocate their home to a different residential site on or by a specified date, by giving at least 90 days notice. Relocation may occur within the same community or within another community you operate within a reasonable distance.
- This notice can be revoked at any time with the consent of the home owner(s). If the notice is revoked you can give a further notice on the same ground at a later time.

INFORMATION FOR HOME OWNER

- If you dispute the ground (reason) on which this notice was given, you should first attempt to resolve it by contacting the operator. You can apply to the NSW Civil and Administrative Tribunal if you dispute this notice or you believe it was not given in accordance with the legislative requirements (i.e. a defect in the notice or the manner in which the notice was served). Alternately, you can wait and see if the operator applies to the Tribunal for a termination order and defend the action if such an application is made.
- If this notice has been issued as the community is to be closed or where there is to be a change in use of the residential site, you may apply to the Tribunal within 90 days after receiving this notice for an order to postpone the date to vacate.
- You are entitled to compensation for the termination of your site agreement under certain circumstances. For example:
 - if the residential site is to be appropriated or acquired under a compulsory process authorised by an Act, or
 - if your site agreement is terminated on the ground that the residential site is not lawfully usable for the purposes of a residential site, and you did not know this when the agreement was entered into.
- It is an offence for the community owner or operator to take possession of your residential site other than in accordance with a warrant issued by the Tribunal, or if you vacate or relocate voluntarily or the Tribunal makes an order declaring that you have abandoned the site.