

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** [REDACTED]

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**From:** [REDACTED]  
**Sent:** Friday, July 05, 2019 11:37 AM  
**To:** [REDACTED]  
**Subject:** [REDACTED]

Hi [REDACTED]

As discussed in our telephone conversation on Monday the 1st of July 2019, please find listed below our concerns with the hearing that took place from 1.15 pm on Thursday the 27th of June 2019 at [REDACTED] and the number of hearings/applications attached to our case.

- The first application ([REDACTED]) was lodged in July 2017.
- A directions hearing was held at [REDACTED] on the 9th of August 2017.
- The hearing for a breach of sec 77(3) of the Residential Land Lease Act 2013 was held on Tuesday the 2nd of November 2017. The presiding member was [REDACTED].
- On the 1st of December 2017, [REDACTED] dismissed our application. ([REDACTED]).
- In December 2017 the applicants lodged an appeal of member [REDACTED] decision. ([REDACTED]). A directions hearing was held on the 11th of January 2018.
- The appeal hearing was held on the 5th of March 2018. The presiding members were [REDACTED] and [REDACTED].
- On the 24th of May 2018, the two members handed down their decision which allowed the appeal in favour of the applicants. They remitted the case to the Consumer and Commercial Division of NCAT to determine the amount of refund (if any) that was due to the applicants.
- In June 2018 a directions hearing for the application [REDACTED] was held to determine a date for the hearing to determine the amount of refund (If any). The member stated that the hearing would not occur until the Supreme Court Hearing in [REDACTED] v [REDACTED] t/as [REDACTED] had been concluded.
- On the 4th of September 2018 [REDACTED] handed down his decision in favour of [REDACTED]. Shortly thereafter we were advised that our application hearing ([REDACTED]) would be held in the Consumer and Commercial Division of NCAT. on Friday the 28th of September 2018.
- On the 28th of September 2018, the hearing took place presided by [REDACTED].
- The appellant's submitted a detailed submission, including copies of the respondents [REDACTED] invoices and a detailed spread sheet of how we reached our calculation's.
- The [REDACTED] however failed to decide on the amount of refunds due, although she did make a direction that the respondents could "only charge residents IAW with the provision of sec 77(3)".

- The appellants appealed the Members decision regarding the issue of refunds and we also applied for a renewal application for the amount residents should be paying going forward. (The respondents chose to ignore the members direction)
- On the 25th of October 2018 [REDACTED] presided over a directions hearing for our appeal [REDACTED]. The date for the appeal was set for the 16th of January 2019.
- On the 12th of November 2018 both parties attended a directions hearing presided by [REDACTED]. ([REDACTED]) At first the member stated that she could not hear our case as it included an appeal of her previous decision. However once we explained that we were only there to discuss the Respondents non compliance to her previous direction she agreed to hear the application to have the matter reheard.
- On the 16th of January 2019, the appeal ([REDACTED]) was heard by [REDACTED].
- On the 9th of May 2019, the Members handed down their decision and upheld our appeal (in part). They remitted the matter back to the Consumer and Commercial Division to decide the issue of refunds due (If any).
- On the 22nd of January 2019 a hearing ([REDACTED]) was held at NCAT [REDACTED] relating to our application regarding a breach of our site agreements by the Respondents.
- The member issued an order that “both parties should abide by the conditions of their site agreements”.
- On the 31st of January 2019 there was another hearing at NCAT Sydney presided over by [REDACTED]. ([REDACTED]) the member dismissed our application to renew our application.
- On the 14th of March 2019 a directions hearing was held at NCAT Penrith for our application that the Respondents did not conduct themselves with honesty and did not behave in a professional manner when dealing with the various applications raised by the appellants. [REDACTED].
- The matter was listed for three hours on Thursday the 27th of June 2019 at NCAT [REDACTED]. The appellants prepared a detailed submission for the hearing.
- On the 12th of June 2019, a directions hearing for [REDACTED] (The hearing was a relisting of the application for refunds) took place at NCAT [REDACTED] presided by [REDACTED]. The appellants have now submitted their submission and the respondents have until 17/7/19 to provide their response.
- At the hearing on the 27th of July 2019, [REDACTED] declined to hear our application and adjourned the matter to be heard in conjunction with [REDACTED]. This was in spite of us informing the member that the two matters need to be heard separately.

The amount of file numbers and hearings that have already occurred reflect badly on NCAT and its members. The fact that this matter has dragged on for two years, (and is still not finished) has placed the two appellant's under a lot of stress and financial strain (repeatedly preparing submissions for all of the various hearings). Obviously we do not have the resources of the respondents. We ask that a complete review of our case be carried out, with a view to expediting the final outcome.

The obvious flaw in the NCAT process is that for cases like ours there are far too many Members involved. Which begs the question do all of the Members involved actually read the files prior to the hearing?. The verdict in the Supreme Court last September and the success of our two appeals should have been enough for the matter to have been finalised weeks ago. By their own admission the respondents admit that they have been overcharging their Residents. (Hence the reduction in the perkw/h price last December)

We ask that a new date for the hearing of [REDACTED] be set as soon as possible. On a final note as the member who dismissed our original application, which was then overturned on appeal, [REDACTED] should have been excluded for hearing any of our additional applications.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Submission for the review of the Civil and Administrative Tribunal Act 2013:**

[REDACTED]

[REDACTED]

[REDACTED]

**To whom it may Concern**

*Is it easy or difficult for people to work out whether NCAT is the right body to resolve their legal issue?*

**My personnel experience with NCAT relates to trying to have an issue of overcharging for electricity, which is supplied by the owner of a Residential Land Lease Community resolved.**

**We commenced our case in July 2017, and in spite of attending multiple hearings with many different NCAT Members (refer attached email to NCAT [REDACTED]) The matter is still dragging on. At our first hearing in July 2017, we were lead to believe that we would receive a fair hearing. However this was not the case and the matter is still not finalised.**

*Is NCAT accessible and responsive to its users needs?*

**NCAT lacks the ability to resolve complicated issues quickly and efficiently. We have been in hearing rooms when members are dealing with the simple matters, for example a landlord seeking an eviction order for non-payment of rent.**

**The current system works well for these cases, however when it comes to complicated matters such as breach's of the Residential Land lease Act, many members seem to lack even a basic knowledge of the Act. The appellants and the respondents are required to provide submission that often contain information that has already been provided.**

For example when we have attended hearings in [REDACTED] we have been told to resubmit documents that are available at NCAT [REDACTED]

On one occasion we explained to a member that the only way we could have the respondent provide us with copies of their electricity bills was to issue a summons. The member's response was "so what you got them in the end". On other occasions we have been told by members "I haven't read the files its up to you to explain your case." It's little wonder that we have a low expectation of receiving a fair outcome from the NCAT process.

*Is NCAT accessible and responsive to its users needs?*

Defiantly not, on more than one occasion during the past two years we have had to wait months for members to hand down their decision. For example we had an appeal hearing on the 16<sup>th</sup> of January 2019, the two [REDACTED] did not issue their decision until the 9<sup>th</sup> of May 2019. In the meantime the Community Operator continued to overcharge [REDACTED]

*Are there things that NCAT could do to make it easier for people appearing in the Tribunal to understand the process and participate?*

Yes, for issues relating to the Residential (Land Lease) Communities Bill 2013. There should be a small group of members who have a good working knowledge of the Act and are able to dedicate the time, to reading the submissions that are prepared to support the applicant's and respondent's case.

One of the common statements we receive from members is "the system is overloaded therefore it may well be weeks/months before we have a date for your next hearing" by having a dedicated group to deal with complicated matters, NCAT will become more efficient as more resources will be available to deal with the mundane issues.

*Does NCAT resolve legal issues quickly, cheaply, and fairly?*

No, the current process is almost unworkable; the applicants in many cases are aged pensioners. Who are required to prepare multiple submissions on home PCs and printers. As mentioned previously the process is anything but quick.

*Should NCAT resolve matters just by looking at the documents submitted by the parties without a hearing in person?*

**Yes, this would most certainly be suitable for some cases, such as signing eviction orders etc. This would free up time for the more difficult cases.**

*Does NCAT need additional powers to enforce its decisions?*

**In some respects NCAT already has the powers to enforce its decisions, however it seems to be reluctant to do so. There are provisions within the RLL that require Community Operators to provide (when requested) copies of bills and documents that will assist the applicants in preparing their case. NCAT Members should be able to order the release of requested documents. Under the current system applicants have to pay \$46.00 (Pensioners price) to have a summons issued.**

**This process often requires an additional hearing, which results in further delays for both parties and an additional burden on the NCAT system.**

**Prior to November the 1<sup>st</sup> 2015, Residents [REDACTED] etc, were “protected” by the Residential parks Act 1998. From 2012 a number of “big money” consortiums began buying up ailing Caravan Parks and turned them into Manufactured Home Estates. Where by Residents purchased new homes from the Operator and leased the site that the home sits on.**

**NCAT have been unable to deal with the results of these changes. A number of Community operators have taken advantage of their Residents who have been unable to seek assistance from NCAT.**

**Disputes between Park Owners and Residents often become “David and Goliath” battles. [REDACTED]**

**The entire NCAT system requires a detailed review that covers all aspects of their operations.**

**From [REDACTED]**

