

Queensland Retirement Village and Park Advice Service

Disputes and Complaints

GET ADVICE

The information contained in this factsheet is for general information only and should not be relied upon as advice. It is important to get legal advice that is specific to your circumstances, particularly before you commence any kind of legal action.

The Queensland Retirement Village and Park Advice Service (QRVPAS) at Caxton Legal Centre provides free information, advice and assistance to residents and residents committees about the law relating to retirement villages.

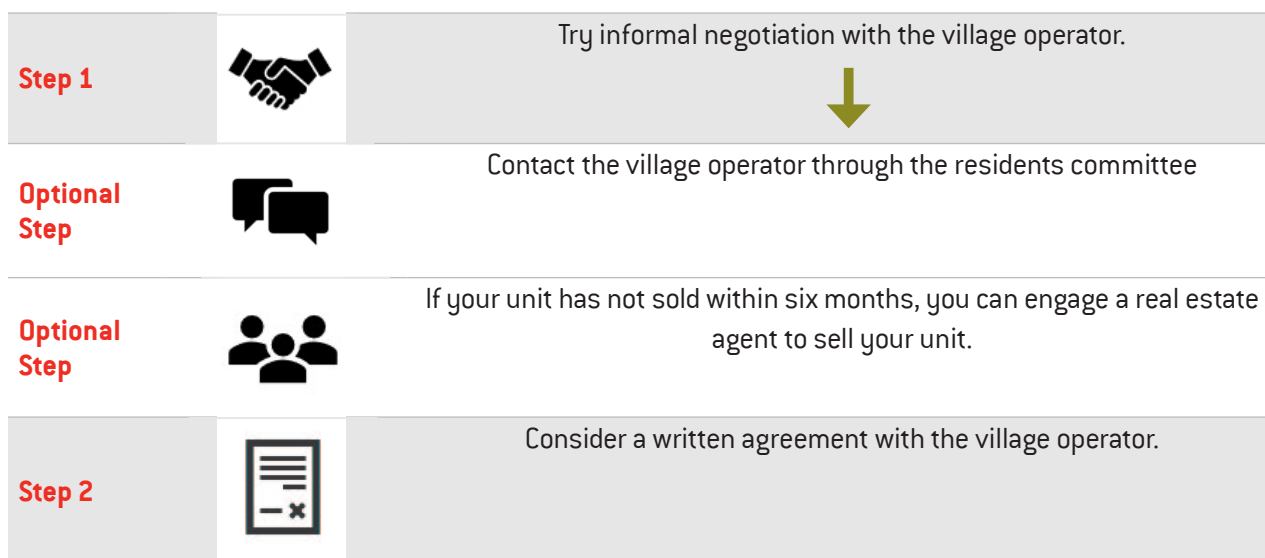
Call (07) 3214 6333 to request an appointment with this service.

DISPUTE RESOLUTION

As a resident of a retirement village, your rights and obligations will be governed by the Retirement Villages Act 1999 (Qld) (the Act) in conjunction with the terms of your residence contract and disclosure documents (the Public Information Document if you signed your contract before 1 February 2019, or the Village Comparison Document and Prospective Costs Document if you signed on or after this date).

If you are not able to resolve a dispute through informal discussions, there is a step-by-step dispute resolution process that you must follow to raise a retirement village dispute under the Act.

INFORMAL DISPUTE RESOLUTION STEP BY STEP



Informal Negotiation

Informal dispute resolution processes are methods for resolving disputes that do not require going to court. At first instance, you should inform the village operator of the issue by writing them a letter that sets out the issues in dispute, and

asks for the outcome that you are seeking. It is important to ensure that you keep copies of this correspondence in case you need it as evidence in future legal proceedings.

A village operator is required to provide you with a complete written response to the issues raised

in your letter within 21 days (unless they have already dealt with those issues in previous correspondence).

Sometimes a simple letter will be enough to resolve a dispute and no other action is required.

If you do not receive a response from the village operator, or the response that you receive is not satisfactory, you should consider your options for escalating the dispute.

Residents Committee

If you do not feel comfortable raising the issue with the village operator directly, or you have tried to do so without success, you may wish to talk to the residents committee in your village (if there is one).

Under the Act, residents can form a committee and adopt a constitution. The benefit of raising issues with the village operator via the residents committee (rather than individually) is that it may give you more leverage when negotiating with the village operator, particularly where other residents have similar concerns.

There may also be individuals on the residents committee who have more experience dealing with the village operator and/or are familiar with the Act, which may place them in a better position to negotiate on your behalf.

Free Mediation

If you are unable to resolve your complaint through informal negotiations, you may consider arranging an independent person to mediate the dispute. The [Department of Justice and Attorney-General](#) provides a free mediation service through its Dispute Resolution Branch.

This is not part of the [Queensland Civil and Administrative Tribunal](#) (QCAT) process and is completely voluntary (i.e. both parties would need to be willing to attend). You should also keep in mind that if you apply to QCAT you will need to undertake a further mediation process before you can have a hearing.

Written Agreement

If you reach an agreement with the village operator, either informally or through mediation, you should consider putting it in writing. The written agreement should be dated and signed by you, the village operator and any relevant parties.

If you are asked to sign an agreement that has been drafted by a lawyer or contains clauses that you do not understand, you should get legal advice.

FORMAL DISPUTE RESOLUTION UNDER THE ACT STEP BY STEP

Step 1		Preliminary negotiation between you and the village operator
Step 2		Mediation in QCAT
Step 3		Hearing in QCAT

If you have attempted to resolve the dispute informally and have not had any success, you will need to follow each step of the formal dispute resolution process under the Act.

You can use formal dispute resolution for a range of complaints including disputes about your and the village operator's rights and obligations under your residence contract or the Act. If you are unsure if you

can commence formal dispute resolution about your complaint you should seek legal advice.

The Act requires you and the village operator to resolve a dispute through negotiation and mediation before you can apply to the QCAT for a hearing to decide the issue.

QCAT will require you to follow the dispute resolution processes under the Act correctly before it will consider your dispute.

Primary Negotiation

Before taking legal action to resolve a dispute, you must first attempt to resolve the issue by preliminary negotiation with the village operator. You must give the village operator a written notice:

- stating the matters in dispute
- nominating a suggested day, no earlier than 14 days after the date your notice is given, to meet with the village operator and attempt to resolve the dispute.

The village operator must respond within seven days and should try to work out a suitable time to meet with you.

Attached to this factsheet is a [sample dispute resolution letter](#) that you can use as a guide when writing a letter to your village operator to notify them of the dispute.

Mediation

If you are not able to resolve the dispute by preliminary negotiation, then you can apply to QCAT to have the dispute mediated.

Attached to this factsheet is a sample QCAT Form 3 Dispute Notice for Referral to Mediation (page 7) to have a dispute mediated. You can use this sample as a guide if you are making an application to QCAT for mediation.

Queensland Civil and Administrative Tribunal

If you have participated in mediation and are still not able to resolve the dispute, then you can apply to QCAT for a hearing.

At a hearing, QCAT is able to make any order that it considers to be just to resolve a dispute. Another resident of the village or a relative (who is not a lawyer) may represent you at QCAT. You can only be represented by a lawyer at QCAT if you are given permission to do so. This factsheet includes a sample QCAT Form 31 Application for a Tribunal Hearing (page 16) that can be used as a guide if you are making an application to QCAT to have a decision made about your dispute.

The [Form 56 Application for Leave to be Represented](#), which you need to complete if you want to apply to have legal representation, and other application forms are available on the [QCAT website](#) or you can call QCAT on 1300 753 228 and ask for the forms to be sent to you.

QCAT Fees

There is an application fee of \$352 that you will need to pay when making an application to QCAT for mediation, and a further fee of \$352 when you apply for a hearing.

You may be able to obtain a waiver of these filing fees if you are in a situation of financial hardship (e.g. if you are a pensioner). To apply for a fee waiver you will need to complete a [Form 49 Application for Waiver of Fees by Reason of Financial Hardship](#) and attach supporting documents. (Note: if you are attaching a copy of your pensioner/concession card, make sure you copy both sides).

Get Advice

If you are considering taking action against a village operator, it is important to get legal advice first. Legal advice will help you to set out your concerns properly and to realise what QCAT would deem relevant in order to consider your dispute. It will also help to reduce the risk that QCAT orders you to pay costs because your application was not properly made.

COMPLAINTS

If you are concerned that the village operator may have breached the Act, you may have grounds to complain to [Regulatory Services](#). See our [Making a Complaint to Regulatory Services factsheet](#) for further information, including on the strict time limits that apply to making a complaint.

If you believe that the village operator has breached fair trading laws, it is important to get legal advice before you decide what action to take.

DISPUTE WITH ANOTHER RESIDENT

If you have a dispute with another resident at your retirement village, you should attempt to resolve it with them informally. Talk to the other resident or, if this does not work, write them a letter. If you need assistance to resolve your dispute, the [Dispute Resolution Centre](#) may be able to help you by providing free mediation.

See our [Neighbourhood Disputes factsheet](#) for more information about the steps you can take to resolve the dispute.

Please note

Caxton's Retirement Village and Parks Advice Service cannot advise on or assist with disputes between neighbours in retirement villages. If you require legal advice or assistance, another community legal centre or a private solicitor may be able to assist. We maintain a private solicitor list for the greater Brisbane area, available on our Caxton Legal Centre website. Contact details for other private solicitors can be obtained from the Queensland Law Society via phone on 1300 367 757 or their ['Find a Lawyer' website](#).

FURTHER READING

The Queensland Government website provides further information about dispute resolution and the laws that apply to misleading or deceptive conduct and unconscionable conduct in retirement villages.

The [Tenants' Union Queensland factsheet QCAT Preparation](#) may also be of assistance when completing your application.

CONTACTS

QUEENSLAND RETIREMENT VILLAGE AND PARK ADVICE SERVICE

This service, situated at Caxton Legal Centre, provides free legal advice and information to current and prospective retirement village residents and residents committees. We also offer community legal education presentations for residents or community groups.

Caxton Legal Centre
1 Manning Street
South Brisbane Qld 4101

Tel.: (07) 3214 6333
www.caxton.org.au

ASSOCIATION OF RESIDENTS OF QUEENSLAND RETIREMENT VILLAGES

This association provides advice and information to members about dispute resolution.

Tel.: 0437 906 074

www.arqrv.org.au

DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL—DISPUTE RESOLUTION CENTRES

Dispute resolution centres provide free mediation services to help settle disputes without having to go to court.

Tel.: (07) 3239 6269 or
1800 017 288 (toll free outside Brisbane)

www.qld.gov.au

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

QCAT can make orders about disputes relating to retirement villages.

Tel.: 1300 753 228

www.qcat.qld.gov.au

QUEENSLAND LAW SOCIETY

The law society can provide referrals to a lawyer who has experience advising and assisting people who are thinking of moving into a retirement village.

Tel.: 1300 367 757 or the seniors enquiry line
on (07) 3842 5842

www.qls.com.au

DEPARTMENT OF HOUSING AND PUBLIC WORKS—REGULATORY SERVICES UNIT

This unit regulates the [Retirement Villages Act 1999 \[Qld\]](#). This includes investigating complaints and alleged breaches of the Act.

Tel.: (07) 3008 3450

email: regulatoryservices@hpw.qld.gov.au

COMMUNITY LEGAL CENTRES QUEENSLAND

This service maintains a list of community legal centres in Queensland.

Tel.: (07) 3392 0092

www.communitylegalqld.org.au

Caxton Legal Centre Inc.

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1 Manning Street

South Brisbane Qld 4101

Telephone: (07) 3214 6333

Facsimile: (07) 3846 7483

Internet: www.caxton.org.au

Know Your Rights! www.queenslandlawhandbook.org.au

This information is current at December 2020.

Disclaimer

This information is intended only as a guide. It is not a substitute for legal advice.

No responsibility is accepted for any loss, damage or injury, financial or otherwise, suffered by any person acting or relying on information contained in or omitted from this publication.

SAMPLE DISPUTE RESOLUTION LETTER

25 December 2020

Ms Jayne Harrison
Manager
Silky Oaks Retirement Village
234 Hilltops Drive
Brisbane Qld 4001

Dear Ms Harrison,

Maintenance of pool and barbecue area

As you know, I live in unit 25 at Silky Oaks Retirement Village (Silky Oaks).

I have noticed that the common pool and barbecue area at Silky Oaks are not being appropriately maintained. In particular, the pool is often covered in leaves, the barbecues are not cleaned, the gas bottles are empty and the paint on the cladding that surrounds the common area is peeling.

I understand that the village operator is responsible for the maintenance of communal facilities as is set out in Clause 24 of my residence agreement.

On 1 October 2020, I attended a residents committee meeting and shared my concerns in relation to the state of the common area. Other residents shared my concerns and an agreement was reached to raise these issues with you.

On 3 October 2020, I telephoned you and informed you of our concerns. Since that time no steps have been taken to address our concerns.

Resolution of this matter

In order to discuss and resolve this matter, I would like you to attend a meeting with me as provided for by section 154 of the *Retirement Villages Act 1999* (Qld). I am available at 10 am on either 9, 10 or 13 February 2021. Please advise me of whether any of these dates are suitable.

Your response

Please provide your written response within seven days of the date of this letter as required by section 154(3) of the Act. If I do not receive a response, I will consider making an application to the Queensland Civil and Administrative Tribunal.

I look forward to hearing from you.

Yours sincerely

Mary Jacobson
Tel.: 0411 876 890

The heading should describe what the dispute is about. Other examples could be the installation of a new facility, reinstatement costs, improvements to a unit, increase in general services charges or payment of exit entitlement.

In this paragraph briefly outline the background to, or reason for, the dispute and refer to any documentation or notice that you may have received.

In these paragraphs, you should outline the basis for the dispute. It is a good idea to get legal advice to make sure that your concerns are properly set out and that you find out what the tribunal would consider to be relevant in order to consider the dispute.

In your letter you should suggest some dates for a meeting to resolve the dispute. The dates should be at least 14 days from the date of the letter.

The other party is required to respond to your letter in writing within seven days of receiving your letter.

Instructions for completing dispute notice**Dispute notice for referral to mediation –
*Retirement Villages Act 1999*****General instructions****Copies of the application and providing copies to other parties**

The application form and all attachments must be accompanied by three copies. Where there is more than one respondent, an extra copy of the application form and attachments is required for each additional respondent.

Generally, you must give a copy of the application to all parties to the proceeding as soon as practicable, and no later than seven days after the application is filed.

Applications may be lodged

In person: Queensland Civil and Administrative Tribunal, Level 9, Bank of Queensland Building, 259 Queen Street, Brisbane QLD 4000, or at any Magistrates Court outside of the Brisbane CBD.

By mail: QCAT, GPO Box 1639, Brisbane 4001

Some applications may be lodged by fax or email. For more information call 1300 753 228 or visit www.qcat.qld.gov.au

Applications must be accompanied by the prescribed application fee

For more information on QCAT fees, please refer to the QCAT factsheet or go to www.qcat.qld.gov.au

Payment can be made by cash, cheque (payable to Department of Justice and Attorney-General), money order or credit card payment authorisation (see credit card payment authorisation form – mastercard and visa accepted).

PART A APPLICANT'S AND RESPONDENT'S DETAILS

- More than one applicant or respondent can be named in an application. For instance, an application may be brought by more than one resident. If there is insufficient space for the names of either applicant or respondent, you may attach additional pages with similar details.
- If the applicant or respondent is not an individual then the correct name must be used, for example:
 - a company name
 - a business name regardless of whether it is registered under the *Business Names Act 1962*
 - a State agency name, for example a Queensland Government department.
- Your address will be the address at which documents are given or sent to you, unless you indicate your representative's address as your address for notices.
- Any change in your address for notices must be filed in the tribunal and served on all other parties.

Instructions for completing *(continued)*

PART A APPLICANT'S AND RESPONDENT'S DETAILS *(continued)*

Representative's details

If you want your representative's address as the address for notices, please complete your representative's details and tick the relevant box. A party may be represented by a lawyer or an agent at mediation unless the mediator is satisfied the party should not be represented. If you want your representative to represent you at mediation, please tick the relevant box. Generally the tribunal expects people to represent themselves. It may not grant your request.

PART B RETIREMENT VILLAGE DETAILS

Please complete the name and address of the retirement village to which the dispute relates.

PART C PRELIMINARY NEGOTIATION

You must have attempted to resolve the dispute by negotiation within the village before the dispute can be mediated under the Act.

Form 3 – *Dispute notice for referral to mediation – Retirement Villages Act 1999* may only be used when the dispute is referred to mediation. If are applying for a tribunal hearing, use the form 31 – *Application for a tribunal hearing*.

PART D GENERAL DISPUTE DETAILS

You must tick the appropriate boxes and fill in the details wherever you have ticked the yes box.

Chief Executive: at the time of preparation of these instructions, the Chief Executive is the Director-General of Department of Employment, Economic Development and Innovation.

PART E OUTLINE OF THE DISPUTE

Please include a clear outline of the history and nature of the dispute and state the remedy you consider would resolve the matter in dispute. A copy of the contract or any other documents which are relevant to the dispute may be attached.

Form Number 3 (version 1)
Retirement Villages Act 1999 (section 157)

Dispute notice for referral to mediation – Retirement Villages Act 1999

Refer to attached instructions at the front of this application
prior to filling out this form.

For office use only

Case number:	
Date:	
Registry:	
Sent to:	
Fee paid:	
Rec no:	

PART A APPLICANT'S DETAILS

Name

Ms.	Mary	Jacobson
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

	ABN	
--	------------	--

Business Name

Address

Unit 25, 234 Hilltops Drive		
Brisbane Qld	Postcode	4001

Telephone

()	()	0411 876 890
<i>Home</i>	<i>Business</i>	<i>Mobile</i>

Fax

Email

PART A APPLICANT *(continued)*

Representative's details *(if applicable)*

- ☐ Tick if you want this to be your address for notices
- ☐ Tick if you want your representative to represent you in proceedings before the tribunal *(see Part A of the instructions – you may be required to seek the tribunal's leave for this to happen by making an application under the form Application for leave to be represented).*

Name

<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

	ABN	
--	-----	--

Business Name

--

Address

	Postcode

Telephone

()	()	
<i>Home</i>	<i>Business</i>	<i>Mobile</i>

Fax

()

Email

--

Applicant is *(please tick)*

- ☒ village resident
- ☐ village operator

PART A RESPONDENT'S DETAILS *(continued)***Name**

Ms.	Jayne	Harrison
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

	ABN	
--	-----	--

Business Name

Silky Oaks Retirement Village

Address

234 Hilltops Drive

Brisbane Qld

Postcode	4001
----------	------

Telephone

()

Home

(07) 3812 3456

Business

--

*Mobile***Fax**

()

Email

manager@silkyoaks.org.au

Representative's details *(if applicable)***Name**

<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

	ABN	
--	-----	--

Business Name

--

Address

--

Postcode	
----------	--

Telephone

()

Business

--

*Mobile***Fax**

()

Email

--

Respondent is *(please tick)*

- ☐ village resident
☒ village operator

PART B RETIREMENT VILLAGE DETAILS

Retirement village name:	Silky Oaks Retirement Village		
Retirement village address:	234 Hilltops Drive		
	Brisbane Qld	Postcode	4001

PART C PRELIMINARY NEGOTIATION

Please tick correct box:

☒ Yes ☐ No **1. Preliminary negotiation**

Have you attempted to resolve the dispute by negotiation within the village under section 154 of the Act?

Note: before a dispute can be referred to mediation, section 154 of the Act requires the applicant and the respondent to first attempt to resolve the dispute. This preliminary negotiation process is outlined in the Act.

☒ Yes ☐ No **2. Dispute notice for referral to mediation**

Are you seeking mediation of your dispute, under section 157 of the Act? (for any other application, refer to Form 31 – Application for a tribunal hearing, Retirement Village Act 1999)

PART D GENERAL DISPUTE DETAILS

1.	The date the residence contract was entered into	<input type="text"/>
2.	Are you alleging a contravention or failure to comply with a residence contract?	
	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
	If yes, please indicate what the contravention or failure relates to:	
	<input type="checkbox"/> accommodation	<input checked="" type="checkbox"/> facilities
	<input type="checkbox"/> residents' contributions	<input type="checkbox"/> mandatory funds
	<input type="checkbox"/> operator's payments to resident	<input type="checkbox"/> resale process
	<input type="checkbox"/> village land	<input type="checkbox"/> other (please set out details)
3.	Are you alleging a contravention or failure to comply with a section of the Act?	
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	If yes, please state which section or sections:	
	<input type="text"/>	
	<input type="text"/>	
	<input type="text"/>	

PART D GENERAL DISPUTE DETAILS *(continued)*

- 4. If you are alleging a contravention or failure to comply with a section of the Act, are you materially prejudiced by the alleged contravention or failure to comply?**

☐ Yes ☐ No

If yes, please state how you believe you are materially prejudiced:

- 5. Is the dispute the subject of arbitration, or has the dispute been the subject of an interim or final award in an arbitration proceeding?**

☐ Yes ☒ No

If yes, please provide details:

- 6. Is the dispute before, or has the dispute been decided by, a court?**

☐ Yes ☒ No

If yes, please specify:

- which court
- file number
- town or city
- commencement date

- 7. Have you made a previous complaint to the Chief Executive or the tribunal about any of the issues in this dispute?**

☐ Yes ☒ No

If yes, state date of complaint
and file number of complaint

PART E DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

If there is insufficient space here, please attach additional page/s.

1. Set out the main points of the dispute:

Insert main points in numbered paragraphs

1. The residence contract dated 20 October 2010 (see attached) provides that I have a right, in common with other residents at Silky Oaks Retirement Village (Silky Oaks) to use and enjoy the retirement village's common facilities.
2. Clause 24 of my residence agreement says that the scheme operator of Silky Oaks is responsible for organizing and carrying out maintenance of common facilities.
3. I believe the scheme operator of Silky Oaks is in breach of clause 24.
4. I am not able to use and enjoy the common area because it has not been appropriately maintained. In particular:
 - a. The pool is often covered in leaves.
 - b. The barbecues are not cleaned.
 - c. The gas bottles are empty.
 - d. The paint on the cladding that surrounds the common area is peeling.
5. On 25 December 2020 I wrote to the manager of Silky Oak about my concerns and invited her to mediation.
6. Attached and marked 'A' is a copy of my letter dated 25 December 2020.
7. I have not received a response to my letter dated 25 December 2020.
8. The maintenance reserve fund is contributed to by residents and established for the maintenance and repair of the village's capital items. The scheme operator is responsible for maintaining the village's capital items using this fund. The scheme operator has not fulfilled their obligations under clause 24 by failing to maintain the common areas.

2. Set out the remedy you are seeking to resolve the dispute:

Insert orders sought in numbered paragraphs

That the scheme operator of Silky Oaks Retirement village ensures that:

1. The pool and barbecue area, including barbecues, are cleaned on a weekly basis.
2. All gas bottles of the barbecues are refilled within two days of being empty.
3. The cladding that surrounds the pool and barbecue area is repainted within 30 days.

PART F CHECKLIST AND SIGNATURE

Complete the checklist below:

- ☒ I have completed all questions on the dispute notice according to the instructions.
- ☒ I have provided the correct number of copies of the application form and attachments
(for the number of copies required – see instructions)
- ☒ I have paid the prescribed fee or completed an application for waiver of the fee.
- ☒ I am ready to proceed with this application.

Interpreter

Is an interpreter required?

☐ Yes ☒ No

If YES, please specify language

Warning

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* makes it an offence for a person to knowingly give the registry documents containing false or misleading information.

Maximum penalty for such an offence – \$10,000.

SIGN AND DATE HERE

The information in this application is true to the best of my knowledge.

Applicant/s sign here

Date

If more than one applicant is named all must sign the application.

Instructions for completing**Application for a tribunal hearing –
*Retirement Villages Act 1999*****General instructions****Copies of the application and providing copies to other parties**

The application form and all attachments must be accompanied by three copies. Where there is more than one respondent, an extra copy of the application form and attachments is required for each additional respondent.

Generally, you must give a copy of the application to all parties to the proceeding as soon as practicable, and no later than seven days after the application is filed.

Applications may be lodged

In person: Queensland Civil and Administrative Tribunal, Level 9, Bank of Queensland Building, 259 Queen Street, Brisbane QLD 4000, or at any Magistrates Court outside of the Brisbane CBD.

By mail: QCAT, GPO Box 1639, Brisbane 4001

Some applications may be lodged by fax or email. For more information call 1300 753 228 or visit www.qcat.qld.gov.au

Applications must be accompanied by the prescribed application fee

For more information on QCAT fees, please refer to the QCAT factsheet or go to www.qcat.qld.gov.au

Payment can be made by cash, cheque (payable to Department of Justice and Attorney-General), money order or credit card payment authorisation (see credit card payment authorisation form – mastercard and visa accepted).

PART A APPLICANT'S AND RESPONDENT'S DETAILS

- More than one applicant or respondent can be named in an application. For instance, an application may be brought by more than one resident.
- If there is insufficient space for the names of either applicant or respondent, you may attach additional pages with similar details.
- If the applicant or respondent is not an individual then the correct name must be used, for example:
 - a company name
 - a business name regardless of whether it is registered under the *Business Names Act 1962*
 - a State agency name, for example a Queensland Government department.
- Your address will be the address at which documents are given or sent to you, unless you indicate your representative's address as your address for notices.
- Any change in your address for notices must be filed in the tribunal and served on all other parties.

Instructions for completing *(continued)*

PART A APPLICANT'S AND RESPONDENT'S DETAILS *(continued)*

Representative's details

If you want your representative's address as the address for notices, please complete your representative's details and tick the box.

If you want your representative to represent you in any proceedings before the tribunal you must complete the form *Application for leave to be represented*. Generally the tribunal expects people to represent themselves. It may not grant your request.

You are not required to seek leave if:

- you are a child or a person with impaired capacity
- your case is a disciplinary case
- an Act or the Rules state that you may be legally represented.

Note: under section 174 of the Retirement Villages Act 1999, a resident of a retirement village who is an individual may be represented before the tribunal by another resident of the retirement village who is not a lawyer or by a relative who is not a lawyer.

Details of the body corporate/community titles scheme

The full name and address of the community titles scheme and the community titles scheme number must be provided. Please include a copy of a title search for the scheme with your application.

PART B RETIREMENT VILLAGE DETAILS

Please complete the name and address of the retirement village to which the dispute relates.

PART C ATTEMPTED MEDIATION

This form is used to apply for a tribunal hearing if you have already attended mediation and it did not settle the dispute. You may also use this form to make an application to the tribunal without mediation first occurring where circumstances under section 169, 170 or 170 of the *Retirement Villages Act 1999* have occurred.

Please tick the relevant boxes.

PART D GENERAL DISPUTE DETAILS

You must tick the appropriate boxes and fill in the details wherever you have ticked the yes box.

Chief Executive: the Chief Executive is the Director-General of Department of Employment, Economic Development and Innovation.

PART E DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

State what orders you are seeking from the tribunal and why you consider the orders sought should be made. Include a clear outline of the history and nature of the dispute. A copy of the contract may be attached.

Form Number 31 (version 1)

Queensland Civil and Administrative Tribunal Act 2009 (section 33)

Application for a tribunal hearing – Retirement Villages Act 1999

Refer to attached instructions at the front of this application
prior to filling out this form.

For office use only

Case number:

Date:

Registry:

Sent to:

Fee paid:

Rec no:

PART A APPLICANT'S DETAILS**Name**

Ms.

Title

Mary

Given name/s

Jacobson

Surname/Family name

Company/Partnership/other

ABN

**Business
Name****Address**

Unit 25, Hilltops Drive

Brisbane Qld

Postcode

4001

Telephone

()

Home

()

Business

0411876890

Mobile

Fax

()

Email

maryj@hotmail.com

PART A APPLICANT'S DETAILS *(continued)*

Representative's details *(if applicable)*

- ☐ Tick if you want this to be your address for notices
- ☐ Tick if you want your representative to represent you in proceedings before the tribunal *(see Part A of the instructions – you may be required to seek the tribunal's leave for this to happen by making an application under the form Application for leave to be represented).*

Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

<input type="text"/>	ABN	<input type="text"/>
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Business Name

Address

<input type="text"/>	<input type="text"/>
<input type="text"/>	Postcode <input type="text"/>

Telephone

<input type="text"/> () <input type="text"/>	<input type="text"/> () <input type="text"/>	<input type="text"/>
<i>Home</i>	<i>Business</i>	<i>Mobile</i>

Fax

 ()

Email

Applicant is *(please tick)*

- ☒ village resident
- ☐ village operator

PART A RESPONDENT'S DETAILS

Name

<input type="text" value="Ms."/>	<input type="text" value="Jayne"/>	<input type="text" value="Harrison"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

<input type="text"/>	ABN	<input type="text"/>
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Business Name

Address

<input type="text" value="234 Hilltops Drive"/>		
<input type="text" value="Brisbane Qld"/>	Postcode	<input type="text" value="4001"/>

Telephone

<input type="text" value="()"/>	<input type="text" value="(07) 3812 3456"/>	<input type="text"/>
<i>Home</i>	<i>Business</i>	<i>Mobile</i>

Fax

Email

Representative's details *(if applicable)*

Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

<input type="text"/>	ABN	<input type="text"/>
----------------------	------------	----------------------

Business Name

Address

<input type="text"/>		
<input type="text"/>	Postcode	<input type="text"/>

Telephone

<input type="text" value="()"/>	<input type="text"/>
<i>Business</i>	<i>Mobile</i>

Fax

Email

Respondent is *(please tick)*

- ☐ village resident
☒ village operator

PART B RETIREMENT VILLAGE DETAILS

Retirement village name:

Silky Oaks Retirement Village

Retirement village address:

234 Hilltops Drive

Brisbane Qld

Postcode

4001

PART C ATTEMPTED MEDIATION

Please tick correct box:

☒ Yes ☐ No Has a form – *Dispute notice for referral to mediation* been filed in relation to the dispute?

If yes, insert case number

☐ Yes ☒ No Are you being threatened with removal, deprivation or restriction in the village?
(section 169 of the Act)

☐ Yes ☒ No Have you been given false or misleading documents? (section 170 of the Act)

☐ Yes ☒ No Are you a former resident applying for payment of exit entitlement?
(section 171 of the Act)

PART D GENERAL DISPUTE DETAILS

1. The date the residence contract was entered into

03/07/2012

2. Are you alleging a contravention or failure to comply with a residence contract?

☒ Yes ☐ No

If yes, please indicate what the contravention or failure relates to:

☐ accommodation

☒ facilities

☐ residents' contributions

☐ mandatory funds

☐ operator's payments to resident

☐ resale process

☐ village land

☐ other (please set out details)

3. Are you alleging a contravention or failure to comply with a section of the Act?

☐ Yes ☒ No

If yes, please state which section or sections:

PART D **GENERAL DISPUTE DETAILS** *(continued)*

- 4. If you are alleging a contravention or failure to comply with a section of the Act, are you materially prejudiced by the alleged contravention or failure to comply?**

☐ Yes ☒ No

If yes, please state how you believe you are materially prejudiced:

- 5. Is the dispute the subject of arbitration, or has the dispute been the subject of an interim or final award in an arbitration proceeding?**

☐ Yes ☒ No

If yes, please provide details.

- 6. Is the dispute before, or has the dispute been decided by, a court?**

☐ Yes ☒ No

If yes, please specify:

• which court

• file number

• town or city

• commencement date

Select Date

- 7. Have you made a previous complaint to the Chief Executive or the tribunal about any of the issues in this dispute?**

☐ Yes ☒ No

If yes, state date of complaint

and file number of complaint

PART E DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

If there is insufficient space here, please attach additional pages.

1. I want the tribunal to make the following order/s: *Insert orders sought in numbered paragraphs.*

1. That the scheme operator of Silky Oaks Retirement Village ensures that:

- a. the pool and barbecue area, including barbecues, are cleaned on a weekly basis
- b. all gas bottles for the barbecues are refilled within two days of being empty
- c. the cladding that surrounds the pool and barbecue area is repainted within 30 days.

2. Any other order that the tribunal considers just to resolve the dispute.

2. The reasons I consider the order/s sought should be made are: *Set out reasons in numbered paragraphs.*

Please see page attached at the end of the document.

PART F CHECKLIST AND SIGNATURE

Complete the checklist below:

- ☒ I have completed all questions on the dispute notice according to the instructions.
- ☒ I have provided the correct number of copies of the application form and attachments (for the number of copies required – see instructions).
- ☒ I have paid the prescribed fee or completed an application for waiver of the fee.
- ☒ I am ready to proceed with this application.

Interpreter

Is an interpreter required?

☐

Yes

☒

No

If YES, please specify language

Warning

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* makes it an offence for a person to knowingly give the registry documents containing false or misleading information.

Maximum penalty for such an offence – \$10,000.

SIGN AND DATE HERE

The information in this application is true to the best of my knowledge.

Applicant/s sign here

Date

If more than one applicant is named all must sign the application.

Part E:

2. The reasons I consider the orders sought should be made are:

1. The residence agreement dated 20 October 2010 (see attached) provides that I have a right, in common with other residents at Silky Oaks Retirement Village (Silky Oaks), to use and enjoy the retirement village's common facilities.
2. Clause 24 of my residence agreement says that the operator of Silky Oaks is responsible for organising and carrying out maintenance of common facilities.
3. I believe the operator is in breach of Clause 24.
4. I am not able to use and enjoy the common area because it has not been appropriately maintained. In particular:
 - a. the pool is often covered in leaves
 - b. the barbecues are not clean
 - c. the gas bottles are empty
 - d. the paint on the cladding that surrounds the common area is peeling.
5. On 25 December 2020, I wrote to the manager of Silky Oaks about my concerns and invited her to mediation. Attached and marked 'A' is a copy of my letter dated 25 December 2020.
6. I did not receive a response to my letter dated 25 December 2020.
7. On 31 January 2021, I filed a dispute notice for referral to mediation in the Queensland Civil and Administrative Tribunal.
8. Mediation was arranged to take place on 8 March 2021. The respondent did not attend mediation.
9. Attached are statements of Jayne Denise dated 20 November 2020 (marked 'B') and Peter Welsh dated 20 November 2020 (marked 'C'), which contain descriptions of the common area and also provide confirmation that other residents have not been able to use and enjoy it.
10. The maintenance reserve fund is contributed to by residents and was established for the maintenance and repair of the village's capital items. The scheme operator is responsible for maintaining the village's capital items using this fund. The scheme operator has not fulfilled their obligations by failing to maintain the common area.