

## RENT INCREASE AND DISPUTE ANALYSIS PROJECT

### Introduction

ARPQ continually receives complaints from members questioning the integrity and validity of the market reviews undertaken by valuers to determine the rent increase for their park. These reviews, which compare a park with others supposedly of a similar quality and in a similar locality, more often than not lead to high site rent increases far in excess of both CPI and the residential rent in the locality.

In most cases the home owners consider the increases to be excessive, disputes are initiated, and most find their way to QCAT for resolution. A further deficiency for which ARPQ is often approached for advice is the inordinately long time taken by QCAT to hear and determine the dispute. Even when heard, the decision appears to favour the park owners in most cases, as members of the tribunal tend to readily accept the valuer's justification for the increases regardless of the merits of the applicant's case. It appears to us that the resolution of these simple disputes taking more than a year to be heard is totally unacceptable.

An example of the process of market reviews and the subsequent increase in site rent followed by the dispute is outlined in 8. Case Study below.

These complaints about the market rent review and the deficiencies in the dispute resolution process have been continually growing. Unfortunately, the amendments to the Manufactured Homes Act 2003 (the **Act**) in 2017 exacerbated the problems rather than solving them.

Because of these continuing concerns regarding the deficiencies of the Act, ARPQ prepared an Issues Paper addressing some of the deficiencies and recommending specific amendments to the **Act**. That paper was sent to the Minister for Housing and Public Works on 15 May 2020. To date, four months later at the time of writing this report, ARPQ is not aware that any substantive discussions have been conducted on those issues raised.

ARPQ is aware of the recent interest in dispute resolution by government and some discussions have taken place. In the opinion of ARPQ, the market rent dispute resolution in itself may not be the correct place to look for solutions and we feel that the underlying issues leading to those disputes need be addressed in the first place. This report addresses one of those underlying issues.

### State of the Industry

#### (a) Changing Industry Structure

As we outlined in our Issues Paper which made recommendation for changes to the **Act**, the industry has significantly changed from the days when caravan/mixed parks or the earliest Residential Parks were either converted caravans or prefabricated homes constructed off site and "trucked in".

Now the industry is dominated by large corporations, including both ASX listed and overseas owned, who do not need the support or benefits currently offered in the **Act** at the expense of the elderly home owner.

In 8. Case Study below, we give the example of a park owner substantially increasing the rent and refusing to negotiate, so leading to four disputes going to QCAT for the same rent increase issue. As an example of the way the industry is changing that particular park is owned by a joint venture of a \$500 billion Singaporean Sovereign Fund and an Australian investment fund showing that large corporates are entering the industry with the only objective being to participate in the lucrative profits the industry now achieves.

Similarly, Hometown America, one of the top five owners and operators of residential land lease communities in the US, has also recognised the high profit potential in Australia and has purchased 49 communities with about 10,000 residents.

## **(b) Industry Statistics**

Of the 20,086 home sites in the 201 parks covered by the **Act**, 11,561 or 58% are owned by large corporates including multi nationals.

It is estimated that a further 3,509 or 17.5% of home sites are owned by small to medium sized corporates that is, run totally under management.

Thus 75.5% of homes in the purpose built parks are managed by corporations whose primary motive is one of profit and who do not require the support received in the **Act**.

There are 112 mixed use parks where the predominant income is derived from holiday letting and not from homes covered by the **Act**. In fact, the median number of homes covered by the **Act** in the mixed use parks is only 8.

This reinforces our opinion that the **Act** has not kept pace with the significant changes in the industry, and further amendments are essential to reduce the balance of power that park owners have over the elderly residents who are mainly pensioners and are the vulnerable section of the community.

It is this domination the park owners have over the ever increasing rents that is the main subject of this report.

## **The Project**

### **(a) Objective**

The overall objectives of the project are:

- determine the actual situation with rent increases;
- quantify the increases occurring;
- compare the increases with community measures;
- investigate alternative methods of rent increases if the current method of market reviews are shown to be defective or result in excessive increases.

## **(b) Survey**

In order to quantify the market review rent issues and indeed, rent increases in general, we needed hard data. We surveyed our members asking various questions about rent increases and details of the dispute process arising from rent increases.

Included in the questions were the rent figures for the previous 6 years and the current year, whether the rent increase resulted in a dispute, how far the dispute was taken and the outcomes of the dispute.

## **1. Market Reviews**

As this rent increase assessment project is designed to also quantify the effect of market reviews, we need to discuss the process of those market reviews. As we demonstrate below in Part 5 of this report, increasing the rent annually only by the CPI increases does not disadvantage the park owners and, in fact, allowing for the provision of s71 of the **Act** as a safeguard for special costs, the park owners can actually increase their profitability even without market reviews.

The market reviews allow for inappropriate and excessive rent increases simply by the nature of the process. The reason all but a handful of park owners insist on market review increases is the opportunity for exceptional increases in profitability.

When a rent review is scheduled, the park owner will engage a valuer to undertake a comparison of his park with various other parks. Invariably, amongst those selected for comparison are parks with higher rents and in many cases, better facilities. The valuer will then make an assessment of the “market” rent applicable to the park based on the comparisons.

As we have ascertained by the survey, those increases are more often than not substantial and often subject to dispute. In fact, our survey shows that in 70% of the cases the home owners considered the increase not to be fair and reasonable, 47% then entered into the dispute process.

Now that this particular park has increased the rent, in many cases significantly, the valuer for the next park owner will use this higher rent in his comparison and that is a contributing factor for the snowball effect of higher park rents as quantified in this report.

## **2. Results of Survey Questionnaire**

The survey was sent to all ARPQ members with email addresses. 32% of the members completed the survey which we consider a good response as a significant number of the individual members left it up to their Home Owners Committees to respond to the survey as the HOCs would have the required information readily available. Responses came from 108 parks.

The following are results for the rent increase survey. Of the respondents answering the particular question:-

1. 70% considered the rent increases were NOT fair or reasonable;
2. 47% disputed the rent increase;
3. 76% of the negotiations with the park owner as required under the Form 11 Dispute Negotiation Notice failed;
4. 54.2% of the respondents who disputed the increase, and where the negotiations failed, took the dispute to QCAT;
5. Of those respondents who did not take the dispute to QCAT, the reasons given were:

Expense of proceeding	18.7%
Process is too difficult	20.0%
Process is too stressful	13.3%
Unlikely to succeed	28.0%
Not confident of a good hearing	20.0%
6. The compulsory mediation by QCAT failed for 82% of respondents;
7. Where mediation failed, 78% of respondents continued on to a tribunal hearing;
8. At a tribunal hearing,

5% were successful;
20% were satisfied with partial success;
10% were not satisfied with partial success;
65% of the decisions went against the home owner.

### **3. Survey Rent Increase Data**

#### **(a) Data Requested in Survey**

Members were asked to supply the rent paid during the 7 years 2014 to current where available, or any of those years for which they had the figures.

#### **(b) Collation of Data**

The rent data was collated and identical duplicate rent figures for the same park were discarded. Many of the parks have tiered rents depending on when the home owner entered the park or when various rents were selectively increased. Where the rents varied significantly within a park for these reasons, these were treated as if from separate parks.

#### **(c) Analysis of Data**

Analysis was undertaken to assess the increases over each of the years within the 2 to 6 years. The objective was to determine the range of increases for various parks and to assess the effect of increases for those parks undertaking market reviews.

#### **(d) Comparing the Rent Increases With CPI**

The obvious comparison for the rent increases are to CPI. Some park owners have site agreements with home owners which allow CPI only and we note that another has now decided to revert to CPI only.

**(e) Comparing the Rent Increases with Residential Rents.**

We compared the increases to those of the Rental Tenancy Authority’s data for the particular location of the park. Although we found reasonable correlation for short periods of say 3 years, there was not sufficient correlation over the longer period which was not considered as strong as the comparison to that of CPI so was not pursued further.

**4. Survey Rent Increase Analysis**

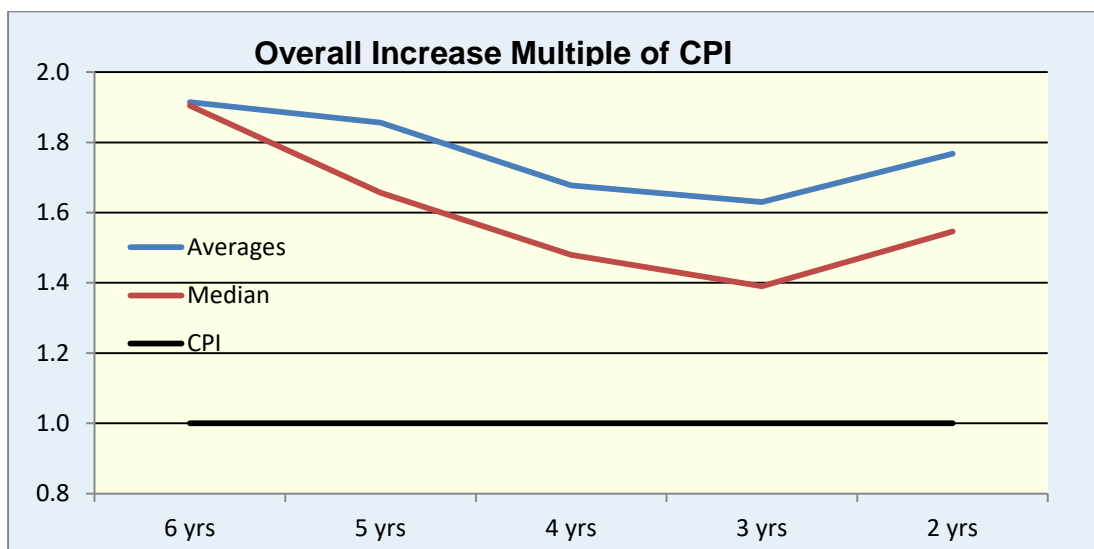
The rent increases were calculated for each of the periods 6 years to 2 years.

**(a) Overall Increases compared to CPI**

The rent increase over the period of the last six years for example, was calculated as a multiple of the CPI increase for the same period. Similarly, for the 5 year period, 4 years period and so on.

	<b>Increases over period</b>				
	<b>6 years</b>	<b>5 years</b>	<b>4 years</b>	<b>3 years</b>	<b>2 years</b>
Sample size	65	76	90	104	107
Less than or equal to CPI (No.)	6	8	20	30	31
Greater than CPI (No.)	59	68	70	74	76
Greater than CPI (%)	90.8%	89.5%	77.8%	71.2%	71.0%
<b>Rent as Multiple of CPI</b>					
Maximum	3.4	4.4	5.1	7.1	9.4
Minimum	0.8	0.8	0.6	-0.2	-0.7
Average	1.9	1.9	1.7	1.6	1.7
Median	1.9	1.7	1.5	1.4	1.5

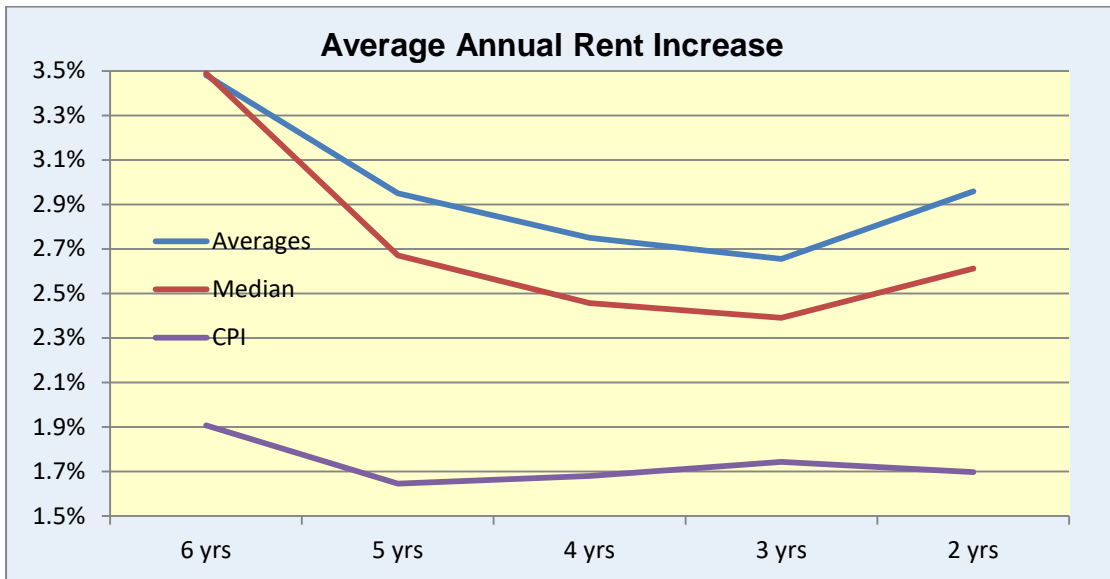
Taking the 6 year period as an example, of the sample size of 65, only 6 had multiples of one time or less of the CPI increases for the period. The average was 1.9 times the CPI increase and the highest was 3.4 times the CPI increase.



**(b) Annual Average Increases Compared to CPI**

The average annual increases also demonstrated the significantly higher rent movement compared to CPI.

<u>Average Annual Increase</u>					
	<u>6 yrs</u>	<u>5 yrs</u>	<u>4 yrs</u>	<u>3 yrs</u>	<u>2 yrs</u>
Averages	3.5%	3.0%	2.7%	2.7%	3.0%
Median	3.5%	2.7%	2.5%	2.4%	2.6%
CPI	1.9 %	1.6 %	1.7 %	1.7 %	1.7 %



**(c) Market Review Example**

From the results table it is obvious that the park owners are receiving income increases far in excess of CPI and far in excess of the increases in the costs of operating the park.

To further show how the market reviews skew the increases to higher rents, the following are examples of the actual figures for selected parks:

These are the figures for RV Homebase for which there are now at least four disputes with QCAT.

<u>Annual Park Increases</u>					
<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
2.6%	1.5%	13.8%	1.5%	1.5%	15.6%

<u>Multiple of CPI Increase</u>				
<u>6 yrs</u>	<u>5 yrs</u>	<u>4 yrs</u>	<u>3 yrs</u>	<u>2 yrs</u>
3.4	4.4	5.1	3.6	5.1

**(d) CPI Only Example**

These are the figures for Claremont Resort which is one of the parks which has annual CPI increases only.

<u>Annual Park Increases</u>					
<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
3.2%	1.5%	1.5%	1.8%	1.7%	1.7%

<u>Multiple of CPI Increase</u>				
<u>6 yrs</u>	<u>5 yrs</u>	<u>4 yrs</u>	<u>3 yrs</u>	<u>2 yrs</u>
1.0	1.0	1.0	1.0	1.0

**(e) Park Previously Included Market Review, now changing to CPI only.**

These are the figures for The Springs Lifestyle Village where a respondent has advised there is now agreement to be subject to CPI only. 2020 is low due to compensation for Covid-19 situation.

<u>Annual Park Increases</u>						<u>Multiple of CPI Increase</u>				
<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>6 yrs</u>	<u>5 yrs</u>	<u>4 yrs</u>	<u>3 yrs</u>	<u>2 yrs</u>
10.2%	3.2%	4.4%	1.7%	1.7%	0.2%	1.9	1.4	1.2	0.7	0.6

**5. CPI Increases and the Costs of Operating a Park**

One argument that park owners use for not going to the simpler CPI increases is that the costs of running the park may increase greater than CPI.

Our investigations prove that this is a fallacious argument, apparently used to incorrectly justify the continued use of the profitable market reviews.

Ingenia Communities Holdings Limited is an ASX listed group which owns 35 communities throughout Australia with 4 holiday parks and 3 manufactured home residential parks located in Queensland. These come under their Ingenia Lifestyle and Holidays Operations for which operating figures are available in their annual report.

Although Ingenia report the holiday parks and the lifestyle villages together, based on the fact that the operating cost would be similar, with the residential parks costs likely to be slightly lower, we can use these figures with some certainty to demonstrate that there is no disadvantage to MH parks using only CPI increases.

Using the Ingenia figures we can assume that the makeup of parks' income and costs are in the order of the following proportion:

Revenue	100
Expenses	68
Underlying profit (before depreciation and amortisation)	32

Knowing these ratios of Revenue to Expenses, we can determine the actual CPI impact.

When we add CPI of say 1.7% (average last 4 years) and we assume that the costs increase by same 1.7%, then logically we have a similar increase in profit as well.

	<u>Year 1</u>	<u>Increase</u>	<u>Year 2</u>	<u>Increase over Year 1</u>
Revenue	100.0	1.7%	101.7	1.7%
Expenses	68.0	1.7%	69.2	1.7%
Underlying profit (before depreciation and amortisation)	32.0		32.5	1.7%

Even though it is likely that the costs would not increase above CPI as the labour component is high and this no longer tends to keep up with inflation, we can calculate the increase in costs which would still allow a constant profit.

	<u>Year 1</u>	<u>Increase</u>	<u>Year 2</u>	<u>Increase over Year 1</u>
Revenue	100.0	1.7%	101.7	1.7%
Expenses	68.0	2.5%	69.7	2.5%
Underlying profit (before depreciation and amortisation)	32.0		32.0	0.0%

Consequently we see that costs can increase by a factor of just under 1.5 times that of CPI to maintain the current acceptable level of profit. We would contend that such an increase year on year is highly unlikely and the most probable case is increase in profits over the longer term.

## 6. New Home Construction

The above figures do not include the substantial profits made from the sale of new homes in the MH parks.

The large corporations such as Ingenia and Serenitas are embarking on significantly increasing the homes in their parks and developing new greenfield parks.

Ingenia in their annual report state that

*“The earnings contribution from development has continued to grow with development now underway at 10 communities and new turnkey settlement volumes up 17% from the prior year, with Ingenia delivering 336 new turnkey settlements in FY19”.*

Their annual report also shows a considerable profit is made from those new house sales.

	<u>2019</u>	<u>2018</u>	<u>% Increase</u>
New home settlements (#)	336	287	17%
Gross new home development profit (\$m)	51.4	34.8	48%
Earnings Before Interest & Tax (\$m)	33.4	21.0	
Earnings Before Interest & Tax margin %	28.0%	24.4%	

## 7. Conclusion

ARPQ submits that it is not the responsibility of the elderly and pensioner home owners to substantially increase the profits of corporate park owners by means of market reviews. It is demonstrated here that CPI increases and the protection of s71 of the **Act** will still allow for park owners to achieve acceptable profits to industry standards.

A change to the Manufactured Homes Act to allow rent increases of only CPI should be mandated and this plus the existing s71, will then follow the more logical path of the NSW Residential (Land Lease) Communities Act 2013 No 97 where the use of market reviews are extremely rare as the industry accepts CPI increases with the safeguard of a similar condition to the Qld s71.



## 8. Case Study

This example is given in order to:

1. Demonstrate how the underlying issues of the market reviews themselves are a major contributing cause of the downstream problems with the dispute resolution process;
2. Give just one example how the park owners are achieving significant increases to their profits by market reviews and inappropriate site rent increases.

RV Homebase in Maryborough was developed by a local Queensland family who on-sold the completed development to Serenitas in 2019.

Serenitas is a joint venture between the \$500 billion Singaporean Sovereign Fund, GIC, and Tasman Capital Partners, an Australian-owned private equity firm. The JV initially purchased ten Perth-based National Lifestyle Villages and subsequently, it has made purchases on the east coast. As well as RV Homebase, Serenitas has purchased two Hervey Bay villages and a greenfield site at Eli Waters which is being developed as Thyme Lifestyle Resort. Serenitas has stated its intention to be a major player in the industry. One could therefore say that these parks are half owned by the Singapore government.

The RV Homebase rent structure is CPI annually and a market review every three years.

In 2017 a market review was carried out resulting in a rent increase of 13.8%.

A dispute was initiated by a group of home owners. Negotiations with the park owner failed resulting in an application to QCAT.

Mediation resulted in a compromise being offered by the park owner to cap the CPI at 1.5% for the following two years until the next market review.

Although this was considered completely unsatisfactory, many of the group found the process daunting and were uncomfortable with proceeding to a tribunal hearing and reluctantly accepted the offer. It should be noted that these residents were mostly pensioners with no experience of such a process.

In 2020 a market review was again undertaken and the rent increase on this occasion was 15.6%. This made the increase 35.5% over the four years which equates to an annual average of 6.3% and 3.7 times CPI.

<b><u>RV Homebase Rent History</u></b>	<b><u>Year</u></b>	<b><u>Rent</u></b>	<b><u>Increase</u></b>
	2016	145.05	
Market Review	2017	165	13.80%
Capped CPI	2018	167.47	1.50%
Capped CPI	2019	169.98	1.50%
Market Review	2020	196.5	15.60%
Increase last 4 years		35.50%	
Average annual increase		6.30%	
Times CPI		3.7 times	

The home owners were even more disgruntled as the comparisons were made to parks in Hervey Bay which is a completely different locality to Maryborough with contrasting medical, retail and social and other facilities.

Again a dispute was commenced, but this time by 3 separate resident groups plus the Home Owners Association. Negotiations failed with the park owner not even willing to discuss the increase other than to say this is the valuer's assessment so that is what the rent will be.

All the applicants are adamant that this time they will take it to a tribunal hearing so QCAT will now need to go through the full process on four occasions for four separate applicants for the same issue. The probability of the home owners being successful is low in three of the four cases as similar applications have been rejected by the tribunal members in the past.

The problem is exacerbated by the applicants being advised that it is likely to take a year or more to have the applications finalised.