



### QMHOA INFORMATION SHEET

#### Can a Home Owners Committee (HOC) Incorporate?

Following consultation with the Office of Fair Trading (OFT) QMHOA wishes to inform its members of the following:

A Home Owners' Committee (HOC) is a body that is formed and operates under sections 100 to 103 of the Manufactured Homes (Residential Parks) Act 2003 (MHA). Its affairs and functioning are therefore considered by the OFT to be regulated by the MHA.

The MHA is classed as a '**Special Act**' of Parliament.

Under the Associations Incorporations Act 1981 (Qld), an association regulated by a Special Act is **not eligible** for incorporation. Specifically, section 5(1)(d)(iii) of that Act **excludes** associations, such as HOCs, already regulated by a Special Act.

**Therefore, a Home Owners Committee cannot be incorporated.**

#### Why Incorporation Isn't Necessary for an HOC

Most groups choose to incorporate so they can obtain liability insurance. This protects their committee members (executives) in case of legal action arising from negligence or harm caused to others.

However, HOCs are not responsible for activities or decisions that typically involve financial transactions, contracts, or public events. Their role is limited to the functions set out in the MHA – such as representing homeowners in dealings with the park owner.

As a result, HOCs are unlikely to be exposed to legal liability or the kind of risks that require insurance protection through incorporation.

#### What About Other Associations in the Park?

Some parks have other resident groups – such as social clubs or general residents' associations – which do organise events or manage money. These groups may be



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QUEENSLAND MANUFACTURED HOME OWNERS ASSOCIATION INC.

eligible to incorporate under the Associations Incorporation Act and should consider doing so if their activities could expose them to liability risks.

If an incorporated association exists in a park, it must keep its HOC functionally and legally separate.

**An incorporated association must not:**

- include the HOC as a sub-committee,
- control or direct the HOC,
- require the HOC to report to its executive, or
- incorporate the HOC into its constitution or governance structure.

## Recommendation

QMHOA recommends that every Home Owners Committee remains a separate, unincorporated group – distinct from any other association in the park. Other associations may choose to incorporate if appropriate, but the HOC must remain independent.

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**Note:** This conclusion is based on the current text of the MHA and AIA. It reflects the general understanding of Qld legislation and has been confirmed by QMHOA with the Office of Fair Trading. However, should an HOC's activities materially change (for example, to hold property, enter commercial contracts or manage significant funds), the legal status may need to be reviewed. In which case you can contact the Office of Fair Trading by phone on 137468 or email at [registration.services@justice.qld.gov.au](mailto:registration.services@justice.qld.gov.au)

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