



# Strata disputes

R-01

November 2001



## HANDY HINT

*Have you made every attempt to resolve the dispute with the other party? Would it help to have the owners corporation discuss the problem at a meeting?*

**Strata living often brings people of diverse interests and backgrounds close together. Disagreements and disputes sometimes arise. Tolerance, understanding of others and communication are essential to harmonious living. The *Strata Schemes Management Act 1996* sets out a process for resolving disputes. This includes mediation and formal orders by the Strata Schemes Adjudicator and/or the Residential Tribunal. This process is illustrated below.**



## COST

*The Act sets a \$54 fee for each application for mediation, Adjudicator or Tribunal orders.*

## Step 1. Talk about it

Sometimes people in dispute have not even spoken to each other about the problem. This makes it very hard for people to continue living together happily.

## Step 2. Mediation

The Department of Fair Trading provides a mediation service through Strata Schemes & Mediation Services Branch. Other mediation services can also be used. Many disputes can be resolved through mediation.

The mediator's role is to:

- help identify the issues in dispute
- assist the parties, where necessary, to understand their rights and responsibilities under the *Act*
- suggest options and strategies by which the issues may be addressed.

## Step 3. Notice to comply with a by-law

Where the owners corporation is satisfied an owner/occupier has breached a by-law it can issue a Notice requiring that person to comply with the by-laws. If it is not complied with the owners corporation may, within 12 months of serving the Notice, ask the Residential Tribunal to impose a penalty of up to \$550.

## Step 4. Orders by an Adjudicator

Before you can take the matter to an Adjudicator, you must try mediation. Here are some examples of disputes the Adjudicator can rule on if other attempts at resolution fail:

- repairs to ceilings, walls and bathrooms
- water penetration through windows and shower floors
- parking on common property without approval
- keeping pets without approval
- alterations to common property (eg. closing in balconies)
- use of air conditioners
- insufficient floor coverings
- noisy residents
- appointment of a managing agent
- invalidation of meetings
- variation of insurance.



## DEFINITION

*Mediation is a structured negotiation process in which a neutral and independent mediator assists parties in dispute to achieve their own resolution.*



## IMPORTANT

When your application for adjudication is received, a letter is sent to interested parties asking for submissions (the views of anyone involved).



## QUICK TIP

You don't need a solicitor for hearings before the Residential Tribunal. You can represent yourself.



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**13 32 20**  
business hours

### How is an Adjudicator's decision made?

Applications to an Adjudicator are dealt with in the office and the people in dispute do not have to appear before anyone. The Adjudicator looks at the application and all submissions, as well as decisions made in similar cases. The decision, and the reasons for that decision, are made in writing.

Notice of the order is sent out to the people involved (the person who applied, the person it is against, anyone who sent in a submission and the owners corporation). An Adjudicator's order can take between 6 to 10 weeks after an application is lodged.

### What do you do if you're unhappy about an Adjudicator's decision?

You can appeal to the Residential Tribunal but you must do this quickly (within 21 days of the order coming into effect). In some cases it may be possible to extend the time to make an appeal to 90 days but you must have good reasons. If the Adjudicator dismissed your application, the appeal must be made within 21 days.

## Step 5. A hearing before the Residential Tribunal

Here are some examples of disputes that the Tribunal can rule on:

- appeals against Adjudicator's decision
- change unit entitlements
- authorisation of certain acts in the initial period to preserve the facilities of the scheme in the early stages of a development.

### How is a Residential Tribunal case different from an Adjudicator's case?

The preliminary process is the same (ie. filling in the application, paying the fee, sending in submissions) but this time there is an open hearing before the Tribunal. The hearing is similar to a Local Court although it is not quite as formal. There is one Tribunal for NSW which has regular hearings in Sydney and in other metropolitan and country locations.

### When will the Tribunal make its decision?

Usually a decision is made by the Tribunal after everyone has finished giving their evidence. Sometimes the Tribunal might want more time to think about it and will give a reserved decision later. A notice of the order is sent out after the Tribunal makes its decision.

### Can you appeal a decision by the Tribunal?

Yes, but only to the Supreme Court and only on a question of law. You should get legal advice about this.

## What is the Strata Schemes & Mediation Services Branch?

We're part of the Department of Fair Trading. We provide information to all people connected with strata schemes in NSW about the *Strata Schemes Management Act 1996* and the services provided by the Strata Schemes Commissioner, the Adjudicator and the Tribunal. Face to face interviews can be made by appointment.

### How do you apply?

Call us for an application form, pick one up from any Fair Trading Centre or drop in to our office at Level 6, 234 Sussex Street, Sydney. After carefully reading the guide notes, complete the form and send it to the Registrar with your application fee.

## Where to get more information

### Department of Fair Trading

#### Strata Schemes & Mediation Services

Level 6, 234 Sussex Street  
Sydney NSW 2000

8.30am – 4.30pm Monday to Friday.

Tel. 9338 7900

Outside Sydney 1800 451 431

Fax. 9338 7999

#### TTY Telephone service for hearing impaired

Tel. 9338 4943

**Web site:** [www.fairtrading.nsw.gov](http://www.fairtrading.nsw.gov).

#### Language assistance

Ask for an interpreter in your language

Tel. 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, please refer to the appropriate legislation.