



Strata mediation

R-02

November 2001

Under the *Strata Schemes Management Act 1996*, mediation is the preferred way to resolve disputes once you have made every effort to resolve it yourself.

What is mediation?

Mediation is an informal process where a neutral mediator assists those involved in a dispute to achieve their own settlement.

Mediators are impartial

Mediators do not make decisions for people. They are skilled in assisting those involved to find their own solutions based on the issues of real concern.

This means that the agreement reached best suits both sides' present situation and is not based on what a 'judge' thinks is best for them. It also means a decision will not be imposed on them.

Mediation is confidential

The *Act* ensures privacy and confidentiality. Any offers or admissions made during the mediation session cannot be referred to in any later proceedings.

Why mediate?

Under the *Strata Schemes Management Act 1996* mediation must be attempted before an order can be sought from a Strata Schemes Adjudicator or the Residential Tribunal. ★

Most customers attending mediation have found it to be a beneficial means to resolve

their strata or community scheme problems. The highly skilled mediators of the Department of Fair Trading encourage parties to resolve their disputes without the need for formal adjudication of the problem. The settlement rate is generally about 75%.

What are the results?

Any settlement reached at the end of a mediation is binding for those involved. The settlement may be made into an enforceable order by an Adjudicator in certain circumstances. If no settlement is reached or an agreement breaks down, one side can apply for an order by an Adjudicator or the Tribunal.

What matters are suitable for mediation?

Any dispute that an order can be applied for under the *Act* is suitable for mediation. This includes, but is not restricted to, disputes about:

- alterations to common property
- appointment of managing agents
- repairs to walls, ceilings and bathrooms
- noise problems
- validity of meetings
- keeping pets
- water penetration problems
- use of air conditioners
- parking on common property
- insurance matters.



IMPORTANT

By law, you must attempt to resolve your dispute through mediation before you can take the matter to an Adjudicator or the Residential Tribunal.



NOTE

★*Since 1 March 1999 the functions of the Strata Schemes Board have been exercised by the Residential Tribunal.*

What happens during mediation?

Everyone involved will be encouraged to participate in the mediation session. It begins with each side briefly telling the mediator about the dispute and what they are hoping to achieve from the session.

The mediator will help those involved to discuss the issues and explore what is in dispute. They help them identify options and negotiate possible settlements.

When an agreement is reached, the mediator may help with drafting a written agreement.

Who attends the mediation?

It is important that all the relevant people involved in the dispute attend the session. You may also want to bring a support person or your lawyer to the mediation session.

Who are the mediators?

The Department of Fair Trading has qualified mediators who are skilled in dealing with strata and community schemes disputes.

If you prefer, you can use a mediator of your own choice.

Preparing for mediation

It is essential that you are fully prepared for the mediation session.

This includes getting your own legal or other advice (eg. financial or technical) regarding your situation. Department of Fair Trading staff can give information about the legislation.

You will also need to prepare any relevant documents, plans or photographs and bring them to the mediation session.

The mediator will arrange for an interpreter to attend if required.

How to apply for mediation

Pick up an application form from your nearest Fair Trading Centre or Strata Schemes & Mediation Services at Level 6, 234 Sussex Street, Sydney. Alternatively, call us and we will post one out to you.

You can lodge your application for mediation with Strata Schemes & Mediation Services Branch or with any Fair Trading Centre.

A mediator will contact those involved and arrange a time and place for all to attend the mediation session. Parties must agree to attend the mediation session before it can go ahead.

How much does it cost?

The Department of Fair Trading charges a \$54 fee for mediation services. This fee is set by regulation under the *Act*.

Where to get more information

Department of Fair Trading

Strata Schemes & Mediation Services

Level 6, 234 Sussex Street, Sydney

Tel. 9338 7900

Outside Sydney 1800 451 431

Fax. 9338 7999

Fair Trading Centres

Tel. 13 32 20

TTY *Telephone service for hearing impaired*

Tel. 9338 4943

Web site: www.fairtrading.nsw.gov.au

Language assistance

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.

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 **13 32 20**
business hours