

NOT GOVERNMENT POLICY

Role of the Office of the Commissioner for Body Corporate and Community Management

With the Office of the Commissioner for Body Corporate and Community Management handling approximately 1300 dispute resolution applications and over 28,000 client contacts a year, it is timely to perhaps give an overview of what it is we do (and importantly, don't do) and the role of legal assistance and services in our jurisdiction.

Who we are and what we do

The Commissioner's Office is established under Part 6 of the *Body Corporate and Community Management Act 1997* and under this Part is tasked with two statutory roles:

- An Information Service; and
- A Dispute Resolution Service.

These services are targeted at the broader "body corporate sector", which comprises units, apartments, townhouses, villas, hotel units and commercial lots.

In Queensland, there are in approximately 45,000 community titles schemes and nearly 420,000 individual lots.

What we don't do

Our Office is not an enforcement agency.

So this means we do not take complaints, nor do we initiate investigations or audit the affairs of parties involved in bodies corporate.

Our Office does not provide legal advice or interpretation.

While we aim to provide assistance to parties and give accurate information, the onus remains on individuals to make decisions in their best interests and based upon informed advice.

For this reason, we also do not give rulings on the meaning of legislation.

Dispute resolution services

Our Office has exclusive jurisdiction to resolve body corporate disputes, with the exception of a limited amount of contractual-type matters, which would typically be resolved in the Queensland Civil and Administrative Tribunal (QCAT).

Body corporate disputes range across a variety of matters, from the neighbourhood and social-type disputes, such as keeping an animal, or disputes about parking, through to disputes about the conduct of general

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meetings, or decisions made at such meetings, and disputes about where the responsibility rests with maintenance.

Legislatively, there is a requirement that parties attempt to resolve the dispute themselves, prior to making application to our Office.

In our Office, the first step in the majority of disputes is conciliation.

Conciliation is a form of guided mediation and our conciliators are trained to inform parties about the provisions of the legislation in an effort to try to arrive at voluntary, workable solutions.

This can also contribute towards a better understanding of the issues of all parties, bringing about longer-term harmony for the scheme.

If conciliation is unsuccessful, department adjudication may typically be the next step.

Adjudication is generally conducted on the papers. The onus lies with the applicant to make the application, set out grounds, provide evidence and outcomes and generally comply with legislative requirements.

Typically, our Office does not handle debt disputes, though there is some limited scope to offer conciliation for a debt dispute in certain circumstances.

Legal advice and representation

Legal representation in a dispute resolution application with our Office is not compulsory and indeed, our jurisdiction is based upon a concept of relatively informal dispute resolution.

That said, body corporate legislation can be complex for some parties, particularly those unfamiliar with it, and there may be instances where legal advice and representation is advisable for a party.

Parties do not need to seek approval from our Office to have legal representation, although generally speaking, legal representation in a conciliation is not considered appropriate.

As our Office does not provide legal advice, it is commonplace for our Office to suggest to clients they may wish to consider seeking legal advice about their options.

For further information and for general queries about the body corporate legislation please contact our Information Service on Freecall 1800 060 119, email bccm@justice.qld.gov.au or visit our website www.qld.gov.au/bodycorporate.

Written by Chris Irons, Commissioner for Body Corporate and Community Management