

# *Bannermans Lawyers*

## *Resolving Disputes at Strata Meetings – The Role of the Strata Managing Agent*

We are constantly being told how many people live in strata schemes. Currently a quarter of the population of greater Sydney lives in strata title and it is anticipated that by 2040 this figure will rise to half of the population.

With such a large number of people living and owning in strata, disputes in strata schemes are common. Add into the mix the diverse backgrounds of these people, cultural differences, the differing interests of owner-occupiers and investors, differing levels of knowledge and you have a recipe for conflict.

Strata managing agents are usually more knowledgeable when it comes to meeting procedures and strata compliance than other attendees at meetings and are often looked upon to solve these disputes.

Strata managing agents should approach disputes with caution and in most cases take on a role akin to a mediator/facilitator and not a decision maker.

Ultimately it is a democratic system and the decision making should be left to the owners by way of a vote.

Strata managers should consider the following prior to any meeting:

- Review the agenda to anticipate any disputes or contentious motions.
- If a problem is likely to arise in the meeting, consider obtaining advice prior to the meeting. This can prevent issues becoming larger than need be and prevent subsequent legal proceedings.
- If there is likely to be threats, intimidation or violence consider appropriate safety measures, such as, security guards or secure premises. If it occurs at the meeting consider voting to adjourn the meeting.

Strata managers should keep in mind the following points when attending meetings:

- At the outset, structure the meeting to ensure that it runs smoothly and on time.
- Treat people with respect and more often than not, you will receive respect in return. Be aware of cultural issues, especially if it appears that someone could lose face.
- Be impartial. Acknowledge that a strata meeting is a democratic process and act accordingly.
- Take the emotion out of the dispute and be clear to discourage yelling, name calling, finger pointing, bullying or intimidation. If any of these occur, consider moving a motion to adjourn the meeting.
- Allow each party an opportunity to speak and limit interruptions from the floor. As strata managing agent try not to interrupt the speaker, unless it is to get the discussion back on track. Redirect any enquiries through the Chairperson.

- Set boundaries for people speaking on the issues. If it is likely that the dispute will be a lengthy one, ask the owners how many people would like to speak to the meeting and perhaps limit the length of time allocated, i.e. 5 minutes per person. Then be strict in making sure owners adhere to their allotted time.
- Suggest options to resolve the dispute. If the parties cannot come to an agreement, try suggesting any options available.
- If a resolution is achieved, have the owners agree on the next steps. If they are unsure of the next steps make suggestions.
- If an amicable solution to the dispute is reached, advise the owners corporation on how to implement that solution. If it is not in your area of expertise, advise the owners corporation on a suitable person to assist.

Sometimes a satisfactory resolution of the matter cannot be achieved. For instance one owner may wish to keep a large dog in their unit in contravention of the by-laws and seeks the owners' approval. The owners may not want to provide that approval. In situations such as these, it is the strata managing agent's role to allow the parties to be heard and direct the owners corporation to proceed with a vote (provided that it is a motion that has been placed on the agenda).

Similarly, if the dispute is in relation to a meeting procedure, once parties have been heard, a vote should be taken on the way to move forward. Although strata managing agents are well versed in meeting procedures, unless you are sure of the correct procedure a vote should be recommended.

Once a vote has occurred, do not enter into any more discussion of the issues. Remind the parties that they have been heard on the matter and a vote has been taken.

If a party is still aggrieved, you could advise them of their further options, such as mediation in the Office of Fair Trading or Adjudication and Tribunal proceedings in the NSW Civil and Administrative Tribunal.

**Disputes in strata schemes often arise where owners and/or occupiers are not aware of their rights or responsibilities when living and owning in strata.**

From our experience, the five most common disputes arise out of the following:

1. **Large expenditure** – where the owners corporation is considering a large expenditure, such as an upgrade of lifts, balconies or remedial works. Owners, who have not been involved in the process, either due to complacency or being left out of the decision making process, often become disgruntled when large special levies are raised.
2. **Unauthorised works** – where an owner is not aware of what is lot and common property and undertakes work to the common property without the necessary approval from the owners corporation.
3. **Pets** – disputes regarding pets can arise where owners or occupiers keep pets in contravention of the scheme's by-laws, where the owners corporation seeks to enforce by-laws or where groups of owners wish to amend the scheme's pet by-law.
4. **Noise** – Very common disputes between owners and occupiers due to an owner or occupier making too much noise due to music, a change in flooring, loud parties, etc.
5. **Parking** – parking in visitor spaces or on common property can lead to disputes regarding parking, especially where owners or occupiers are inconvenienced.

**By David Bannerman and Matthew Jenkins**

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