



Guide to resolving strata disputes

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Practical guide to resolving strata disputes

The State Administrative Tribunal (SAT) is the one-stop-shop for strata disputes in Western Australia, with an exception being the recovery of unpaid levies which are dealt with through the court system. While the SAT has the statutory powers to efficiently resolve strata disputes, parties are encouraged to attempt to resolve the dispute between themselves in the first instance.

This guide provides you with a step-by-step process to help you navigate through common strata issues, and attempt to reach a resolution before having to progress the matter to the SAT. The below process is particularly useful for attempting to resolve disputes that may arise between different owners or occupiers within a scheme.

Steps to help you resolve a strata dispute



STEP 1

Understand the dispute

It is important that you first understand the nature of your dispute before approaching the other party involved or the strata company.

To help you check your facts and consider exactly how the dispute arose, it is recommended that you:

Ask yourself, “how did the dispute arise?”

- Write a list of the events leading up to the dispute and highlight the key points, including details of the issues you would like to be resolved.
- Check the Act and your scheme’s by-laws to clearly understand what they say about the matter in dispute.

If you do not have a copy of the by-laws for your strata scheme, you should request a copy from your strata company in the first instance. Alternatively, you can get a copy of the by-laws for your strata scheme on application to Landgate.

Landgate’s contact details are set out below:

Tel: +61 (0)8 9273 7373

Regional Australia: 1300 365 288

Email: customerservice@landgate.wa.gov.au

Website: www.landgate.wa.gov.au

STEP 2

Talk to the other party involved

Many strata disputes arise due to misunderstandings. By talking to the other party involved, it may help to clarify the issue and resolve the dispute before it needs to be progressed further. If you don’t feel comfortable directly approaching the other party, consider bringing a support person with you such as a family member or friend, or expressing your concerns in writing.

Some points to remember when dealing with the other party include:

- Remain calm, polite and professional in your spoken or written communications. Avoid using abusive or emotional language, or laying blame.
- Carefully plan out what you are going to say so that you can present your concerns as clearly as possible.
- Try to remain objective and understand the other party’s position.

Many strata schemes will also have their own internal processes for resolving disputes that occur between lot owners and residents, the strata company, the council of owners, the strata manager and/or third parties. Internal processes for resolving disputes within your scheme may be set out in your scheme’s by-laws or other rules the strata company has made.

STEP 3

Approach the strata company/council of owners

Many issues can be considered and decided upon by a resolution of the strata company.

It is recommended that you raise your issue with the strata company/council of owners. You can submit a written request to any member of the council, for the matter to be listed on the agenda for consideration at the next council meeting or general meeting of the strata company.

The strata company and council of owners have a duty to act in the best interests of the lot owners. Additionally, the Act requires a strata company to have the objective of achieving outcomes that are not:

- Unfairly prejudicial to or discriminatory against an owner or occupier; or
- Oppressive or unreasonable.

STEP 4

Consider alternative dispute resolution methods

If you have not been able to resolve the issue by talking to the other party involved, or through raising the issue with the strata company/council of owners, mediation is commonly considered to be a useful method to resolve strata disputes.

Mediation is an informal negotiation process whereby an unbiased and independent third party (the mediator) assists those involved in the dispute to achieve their own settlement.

If you need assistance with accessing a mediation service in WA, the Citizens Advice Bureau of WA may be able to provide information. Their contact details are:

Tel: +61 (0)8 9221 5711 | Website: cabwa.com.au

STEP 5

Apply to the State Administrative Tribunal

Where attempts to resolve the dispute informally have been unsuccessful, a formal process for dispute resolution is available via the SAT.

SAT is an independent body that makes and reviews a range of administrative decisions. SAT's approach is informal, flexible and transparent. It is not a court, and strict rules of evidence do not apply to proceedings.

SAT has the statutory powers to efficiently resolve strata disputes between:

- a strata company
- a lot owner
- an occupier of a lot in the scheme
- an owner of a leasehold scheme
- an administrator of a strata company
- the mortgagee of a lot
- a member of the strata council
- an officer of the strata company.

Strata disputes may relate to:

- the owner of sustainability or utility infrastructure that has been installed on the common property (through a contract with the strata company) and the strata company, about the matter connected with a common property (utility and sustainability infrastructure) easement
- the scheme developer and a strata company about matters involving the first AGM, key documents of the scheme, disclosure of remuneration and other benefits
- the strata company and a designated person about the giving of contact information, inspection of material and the giving of certificates
- a strata manager, or former strata manager, and the strata company about matters involving the authorised functions of a strata manager or the strata management contract
- a buyer or prospective buyer of a lot in a scheme and the seller of a lot about the giving of information to the buyer before or after the contract, the exercise of avoidance rights under the Act and other matters covered in the 'Protection of buyers' part of the Act
- an occupier of a lot in the scheme and the owner of the lot or the proponent about a proposal to terminate a strata titles scheme.

How to apply to SAT

Applications can be made to SAT by visiting their website: www.sat.justice.wa.gov.au.

Keep in mind that depending on the type of application you are making, there may be a time limit for applying to SAT. Check the Act to see if there is a time limit for your dispute. Other information can be found on the SAT website.

SAT's procedures

Once SAT accepts your application, you will be required to give a copy of the application and all the documents which you submit with it to each respondent named in your application.

The next step is usually a directions hearing to decide how to move forward.

Common strata disputes

The below table sets out some common issues experienced within strata schemes and practical steps to help you reach a resolution.

Disclaimer: *The below table serves as a guide only and does not constitute legal advice.*

| Common issues | Steps to resolve the issue | |
|--|---|---|
| <p>Breach of by-laws. For example, unauthorised parking, excess noise, nuisance.</p> |    | <ol style="list-style-type: none"> 1. Understand the issue: check the Act and your scheme's by-laws to ensure that there is a by-law which prohibits the resident from undertaking the particular action – for example, if the resident is parking on common property, is there a by-law which prohibits this from occurring? 2. Talk about the issue: raise the issue with the person who is responsible for the breach and/or advise the strata company/council of owners. The strata company can give a written notice to a person alleged to have contravened the scheme by-laws. 3. Apply to SAT: if the conduct continues, the strata company can make an application to SAT for an order to enforce a by-law, including an order to pay a penalty. |
| <p>Damage to a lot has occurred. For example, by water.</p> |      | <ol style="list-style-type: none"> 1. Understand the issue: check and compile your facts on how the water damage occurred and the extent of the damage – i.e. does the water damage only affect your lot, another owner's lot or common property? This is important to determine whether you are personally responsible to repair the damage, or whether it is the responsibility of the strata company. 2. Talk about this issue: raise the issue with the strata company/council of owners, or the strata manager. Check to see if your scheme has an internal dispute resolution process set out in the by-laws. 3. Approach the strata council: raise the matter with the strata council. It may be appropriate for the issue to be included on the agenda of the next council meeting or general meeting of the strata company for consideration. The request must be in writing. 4. Mediation: if the issue is not resolved by resolution of the strata company, consider using mediation to reach an agreed outcome. 5. Apply to SAT: if the issue remains unresolved, apply to SAT for a determination. |

| Common issues | Steps to resolve the issue | |
|--|---|--|
| <p>The common property requires repair.</p> |      | <ol style="list-style-type: none"> 1. Understand the issue: check and compile your facts on the common property that requires repair – i.e. what is the extent of the damage/what needs repairing? 2. Talk about the issue: raise the issue with the strata company/council of owners, or the strata manager. Check to see if your scheme has an internal dispute resolution process set out in the by-laws or rules (if any). 3. Approach the strata council: raise the matter with the strata council. It may be appropriate for the issue to be included on the agenda of the next council meeting or general meeting of the strata company for consideration. The request must be in writing. 4. Mediation: if the issue is not resolved by resolution of the strata company, consider using mediation to reach an agreed outcome. 5. Apply to SAT: if the issue remains unresolved, apply to SAT for a determination. |
| <p>Obtaining exclusive use of common property.</p> |      | <ol style="list-style-type: none"> 1. Understand the issue: check the Act and your scheme's by-laws to determine whether there are any by-laws which prohibit exclusive use of common property being requested. 2. Talk about the issue: raise your request with the strata company/council of owners. 3. Apply in writing to the strata company to create an exclusive use by-law: Exclusive use by-laws are governance by-laws which require a resolution of the strata company to be passed. In schemes of two lots, a unanimous resolution is required, and in all other schemes, a resolution without dissent is required. 4. Mediation: if you do not obtain the required resolution of the strata company to pass the exclusive use by-law, and wish to progress the denied request, consider using mediation to reach an agreed outcome. 5. Apply to SAT: if the issue remains unresolved, apply to SAT for a determination. SAT is empowered to resolve disputes regarding a resolution or decision of the strata company/ council of owners, including its validity. |

| Common issues | Steps to resolve the issue |
|--|--|
| <p>Disagreeing with a decision made by the strata company/council of owners.</p> | <div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="margin-bottom: 10px;"></div> <div style="margin-bottom: 10px;"></div> <div style="margin-bottom: 10px;"></div> <div style="margin-bottom: 10px;"></div> <div></div> </div> <ol style="list-style-type: none"> 1. Understand the issue: check and compile your facts – i.e. what was decided by the strata company/council of owners and what are your concerns with this decision. Check the Act to understand what duties the strata company/council has to fulfil. 2. Talk about the issue: raise the issue with the strata company/council of owners, or the strata manager. Check to see if your scheme has an internal dispute resolution process set out in the by-laws or rules (if any). 3. Approach the strata council: raise the matter with the strata council. It may be appropriate for the issue to be included on the agenda of the next council meeting or general meeting of the strata company for consideration. The request must be in writing. 4. Mediation: if the issue is not resolved by resolution of the strata company, consider using mediation to reach an agreed outcome. 5. Apply to SAT: if the issue remains unresolved, apply to SAT for a determination. SAT is empowered to resolve disputes regarding a resolution or decision of the strata company/ council of owners, including its validity. |
| <p>Dissatisfied with strata manager.</p> | <div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="margin-bottom: 10px;"></div> <div style="margin-bottom: 10px;"></div> <div></div> </div> <ol style="list-style-type: none"> 1. Understand the issue: check and compile your facts to understand what the strata manager has or hasn't done, and compare it with the Act to understand the duties of strata managers. Understand that the strata manager is engaged by the strata company, so ultimately it is the strata company that must decide if any action is to be taken. 2. Talk about the issue: Raise the issue with the strata company or the council of owners, explaining your reasons for being concerned. 3. Next steps: Under some circumstances it is possible for the strata company to terminate the strata management contract - for example, if the strata manager has been dishonest or not followed the Act. Refer to the Act to see the full process for terminating the contract. Note that the strata manager has the right to apply to SAT for a review of the decision to terminate the contract. |

Disclaimer of liability

This guide is produced by the Western Australian Land Information Authority (Landgate) to provide the community with a basic understanding of issues that may arise in resolving strata disputes. It is a general information source only. It is not legal advice and should not be taken as legal advice on strata titles. You should refer to the legislation available on the WA government legislation website

www.legislation.wa.gov.au

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