

UCOL Body Corporate Workshop 24th November 2019 : Dispute Resolution and Preliminary Discussion on the Process to Change Body Corp Rules in the Future

Present: Min, Sara, Sandy Ross, Karen Or, Pauline, Sander, Jess, Sue Taylor, Anne, Alex, Gay, Marianne, Rainer, Warren, Catherine.

Location: Otago University Centre for Sustainability, 3pm

The topic of discussion for this workshop was item 29 of the Body Corporate Rules, Dispute Resolution and Mediation. We are required to have this section under the Unit Titles Act 2010.

A handout was passed out to all members clarifying the types of disputes commonly faced by body corporates, and some guidelines for resolving conflict. This is attached on page 2 of this report

The members broke up into three smaller groups to discuss this item separately, and then each group presented their comments and conclusions.

There was a brief discussion about the process to change Body Corporate Rules in the future.

Currently, the rules require a 75% majority vote. However, several members feel that changing the rules should be **by consensus only via the group decision making process**, with no default voting option - although the group could by consensus agree to a vote decision if required.

The preference for changing rules by consensus only was not unanimous among all members present, as some felt voting would allow closure on issues where consensus is taking too long, or is not able to be achieved

It was noted that the Long Term Maintenance Schedule remains incomplete

OUTCOME

All members present agreed that the existing section 29 on Dispute Resolution and Mediation is not fit for purpose as it was originally written for the UCOL Shareholders Agreement, to cover the building phase of the project.

Section 29 has been extensively revised, with a draft copy attached on page 3, followed by a list further comments and recommendations

The members present agree that the language of the Body Corp Rules could be simplified, making it easier to read and understand. With this in mind, a small group will get together to re-write the document in January next year. This re-write exercise will likely replace the January Body Corp workshop, with the aim of being completed in time to be presented in the February 2020 workshop.

(Handout) Typical Issues Facing Body Corporates Which Could Result In Disputes

- a) Effect of behaviour of owner/occupier on other owners/occupiers of the unit title development. Occupier means any person occupying or in possession of a Lot on the plan of subdivision.
- b) Non-compliance with Body Corporate operational rules
- c) Non-payment of Body Corporate levies
- d) Repair and maintenance of common property
- e) Governance of the Body Corporate

Recommendations To Avoid Disputes

- a) Do not discuss contentious issues via email. Avoid responding via email, and if you have to respond, never use “Reply All” .
- b) Meet with the people directly involved in this contentious event, with or without a Body Corp representative member (in-house mediator). For every extra person at a meeting like this, the likelihood of success decreases exponentially.
- c) If one or more parties will not meet directly, or are not comfortable meeting by themselves, ask a Body Corp representative member to chair the meeting
- d) Ask for a professional mediator to chair or facilitate the meeting.

29. DISPUTE RESOLUTION AND MEDIATION (Draft Revised)

We recognise that disputes may vary in scale, and impact on just a few, or on many members of the group. For this reason, different strategies for dispute resolution will be employed as appropriate. For example, disputes may remain between two owners, or it may impact entire group and appropriately be resolved via the Group Decision Making Process.

In general:

- a) If there is a dispute between residents, the parties should first meet face-to-face to discuss the issue.
 - b) The parties may choose to use an in-house mediator, chosen from within the group
 - c) If the dispute is not resolve by a) and b), parties are obliged to appoint and consult a professional mediator, and go through the recommended mediation process before seeking legal action.
 - d) Cost of mediation is to be shared pro-rata between the parties.
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COMMENTS:

- Restate the vision statement at the top of the section. This is the part of the vision statement that is relevant to dispute resolution:

Develop and foster a thriving living environment, which uses clear communication, decision-making and conflict resolution guidelines that promote tolerance, safety, respect and co-operation.

- Encourage parties to talk directly and avoid jumping into mediation immediately.
- We should develop a group of specialist in-house mediators/facilitators with proper training provide mediation services. This is something Jan saw when she was travelling in America, and she felt it worked very well.
- A lot of disputes can be avoided by having correct processes in a group situation, and also good communication in general. The whole group should undertake a workshop focused on improving communication skills, preferably before we move in. And there should be refresher training every year.
- We should avoid the bandaid approach to dispute resolution by simply making up new rules as a patch – but instead the original issue should be addressed and discussed
- A collection of co-housing web chats online, including ones on conflict resolution can be found here <http://www.cohousing.org/past-web-chats/>

31. Powers of the Body Corporate (Existing process for changing the rules)

- e) The Body Corporate may from time to time, and by a 75% majority resolution of Group members present, amend these rules or make additional rules, regulations and bylaws for the use and enjoyment of common property or any part thereof. The quorum in a meeting to amend the Rules requires Group members present or by proxy who comprise 75% of those entitled to vote.