



“...the voice of the
owners corporation industry...”

LOT OWNERS OUT OF POCKET AT VCAT

Double whammy for seeking non-payment of Owners Corporation fees

New laws governing strata title properties will leave lot owners out of pocket when seeking outstanding debts from neighbouring owners, according to Owners Corporations Victoria.

Over one million Victorians live in, own or are affected by Owners Corporations, formerly known as Bodies Corporate. Owners Corporations Victoria (OCV) represents 75% of Owners Corporations professional managers, responsible for over 200,000 Victorian lots. Membership of the peak body is also open to other industry stakeholders and owners.

According to General Manager Rob Beck, OCV welcomed the dispute resolution procedures in the Owners Corporations Act 2006, which commenced operation on 31 December last year.

“Under Section 163, lot owners, occupiers and professional managers can have disputes heard by VCAT. Previously, disputes went before the courts and as a result, all parties were forced to incur significant legal costs. While VCAT’s jurisdiction over alleged breaches by lot owners reduces overall costs, OCV is concerned that VCAT does not grant orders for costs parties incur in civil claims. This effectively penalises Owners Corporations when they are forced to act against individual lot owners, say for non-payment of fees and charges.” Beck said.

“As a result, responsible owners, already subsidising non-paying neighbours, will be forced to pay more in fees and charges to pay for debt recovery. In some cases, Owners Corporations may be forced to forgo property maintenance or amenities to cover outstanding debts and costs.”

Sections 31 and 32 of the Act require Owners Corporations to provide an approved fee notice to all lot owners, listing the fees and charges due along with the interest rate applicable if the amount due is not paid within 28 days. Details of dispute resolution procedures must also be included. Final Notices must be sent specifying the amount outstanding after 28 days and state the Owners Corporation’s intention to take action to recover the debt.

"OCV believes it is patently unfair for owners who do the right thing to be penalised and bear the cost of debt recovery. By not awarding costs against the defaulting owner whose actions forced the matter before VCAT, other lot owners who pay on time and follow the rules are hit with a double whammy. The matter becomes even more complicated when seeking payment of debts incurred prior to the commencement of the new Act. It remains unclear whether these outstanding fees and charges, invoiced under the previous Subdivision (Body Corporate) Regulations 2001, can be consolidated into a Final Notice to commence action in VCAT to recover an outstanding debt.

"OCV is also concerned that the vast majority of people affected by the new laws governing strata properties remain in the dark about the provisions of the Owners Corporations Act and the requirements they are expected to comply with. Before the Act had even commenced, amendments making fundamental changes to allow members to elect a manager to act as chair of a general meeting, allow owners corporation committees to appoint a manager to act as secretary and enable owners corporations to charge up to the prescribed fee (\$150) for an owners corporation certificate were introduced to Parliament and only received Royal Assent on 11 February, almost six weeks after the Act came into force. Even now, fact sheets are still not available in printed form, only downloadable from the Consumer Affairs Victoria website. How are people expected to comply with laws when the Minister hasn't even put out a press release, let alone started an education campaign?" asked Beck

"We call on the Government to act urgently to resolve these issues to ensure that all stakeholders are not disenfranchised or disadvantaged by the new provisions." Mr Beck concluded.

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