Common GROUND

Issue 45 – March 2024

In this edition

Office of the Commissioner for Body Corporate and Community Management

Queensland Government

From the Commissioner

As we delve into the March edition of our newsletter, I want to emphasise the importance of ensuring compliance with the minimum housing standards. Owners and bodies corporate must take proactive steps to ensure compliance, particularly with regards to existing tenancies from 1 September 2024, and new tenancies initiated in September 2023. The more proactive you are the more time there is to negotiate any speedbumps that may pop up unexpectedly along the way.

I take this opportunity to acknowledge the recent challenges weather-wise that have impacted many within our Queensland community, our office stands ready to assist. Whether it's navigating maintenance obligations, motions, or spending limits related to repairs, we are here to provide information and support.

In light of the recent ABC investigation into the activities of New South Wales strata management company Netstrata and the ongoing discussions surrounding insurance commissions, I think it's imperative to acknowledge the regulatory framework in place for Queensland. Although my office does not handle contractual disputes directly, it's crucial to highlight that the Queensland body corporate legislation outlines the entitlements and disclosure requirements for any commissions, payments or other benefits. Should you have any concerns regarding commissions payable to your body corporate manager or another relevant person, other than the body corporate, it's advisable to initiate a conversation with them directly as the first step. Alternatively, seek independent legal advice to provide further clarity and guidance.

This year has proven to be busy as ever for our office, with ongoing reforms to various legislation significantly impacting our operations. I've been actively engaging with both internal and external stakeholder groups, discussing amendments and anticipated commencement dates. I thoroughly enjoyed my attendance at the SCA conference on March 13th, where I connected with industry leaders and stakeholders to gain insights into the future of our sector.

Notably, the most important news came from the Governor-in-Council mid-March meeting where a commencement date of 1 May 2024 was provided in relation to the provisions of the Body Corporate and Community Management and Other Legislation Amendment Act 2023. Our office is busily working on all the required updates to our website, factsheets, and practice directions to ensure that we are ready to assist with any queries in relation to the new legislation.

Our conciliation service has seen a notable 16.5% increase in applications compared to the same period last year. It's encouraging to note that nearly 93% of our conciliation clients in February expressed satisfaction and indicated they would recommend our services for future disputes. I encourage all clients to reach out to Information and Community Education Unit or review the practice directions available on our website when lodging applications.

On a positive note, we're pleased to report that we're currently clearing more matters than we're receiving, leading to improvements in our dispute resolution timeframes.

As always, my office remains committed to serving our community and ensuring we inform, educate and resolve.

Body corporate bank accounts

One of the general functions of a body corporate is to administer the common property and body corporate assets for the benefit of owners of lots in the scheme. This includes maintaining common property and, in some circumstances, taking out insurance policies.

The funds to finance insurance or maintenance are from owner contributions. But who is authorised to access a body corporate bank account and spend the funds?

This article will address these questions and more.

Which regulation module applies?

It depends on which regulation module your scheme falls under. In Queensland, there is an Act, but there are also five subordinate pieces of legislation (regulations). Only one of these regulations will apply to your body corporate.

The Community Management Statement (**CMS**) for your scheme will indicate which regulation module applies. If you do not have a copy of your CMS, you can request a copy from Titles Queensland.

Two-lot Schemes Regulation Module

If your scheme is registered under the *Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011* ("the Two-lot Schemes Module"), it is optional for the body corporate to have a bank account in its name.

If a bank account is going to be opened, that decision should be made by lot owner agreement. At least one owner should be authorised to operate the account.

All other regulation modules

The following information is relevant to schemes that fall under any of the following regulation modules:

- *Body Corporate and Community Management (Standard Module) Regulation 2020* ("the Standard Module")
- *Body Corporate and Community Management (Accommodation Module) Regulation 2020* ("the Accommodation Module")
- *Body Corporate and Community Management (Commercial Module) Regulation 2020* ("the Commercial Module")
- *Body Corporate and Community Management (Small Schemes Module) Regulation 2020* ("the Small Schemes Module")

Does my body corporate need a bank account?

All bodies corporate, except for those under the Two-lot Schemes Module, ***must*** have at least one account with a financial institution such as a bank, building society or a credit union.

The account can only be opened with the consent of the body corporate. This can be a committee decision.

Who controls the account?

The account can be run by either:

- authorised members of the body corporate; or
- a body corporate manager or an associate of the manager who is authorised by the body corporate to operate the account.

Who is an authorised member?

Authorised members are members of the committee that the body corporate has chosen to manage the account. There are usually two members of the committee authorised to manage an account, although community titles scheme registered under the Small Schemes or Two-lot Schemes modules require only one authorised member.

Can an authorised member approve spending?

To approve any spending, the body corporate makes decisions by voting on motions. This can be done at a committee meeting, a vote outside of committee meeting, or general meeting. The type of resolution required to approve the spending will depend on the committee's spending limit and other things like if the spending is on an improvement.

Whilst an authorised member is usually the person who has the authority to allow funds to exit the body corporate's bank accounts, they do not have sole decision-making power when it comes to spending in a body corporate. Before agreeing to access the bank account funds, the authorised member needs to ensure the body corporate agrees to the spending.

What if an authorised member is no longer on the committee, or the body corporate manager is terminated?

If an authorised member has sold their lot, or alternatively is no longer on the committee, the body corporate should take immediate steps to pass relevant motions to appoint a new authorised member while having the outgoing member sign any relevant forms with the financial institution to pass over authorisation.

A BCCM Form 2 can be issued to the financial institution to advise that the body corporate has changed body corporate managers. This should prevent the outgoing manager from accessing the accounts.

It is common practice for body corporate managers to close the bank account and give a cheque to the body corporate. However, the bank account should not be closed if a body corporate manager's engagement ends. The adjudicator in *Ocean Resort Village (No 1)* [2021] QBCCMCmr 159 noted that:

The body corporate should give notice to the financial institution in the approved form [BCCM Form 2]*, which sets out the signatories for the account. The institution should then cease to allow the BCM* [body corporate manager] *to operate the account and the account will be taken to be operated by the persons in the notice.*

What if the outgoing person does not do as requested?

The bank account and its finances are a body corporate asset. The body corporate can request that its asset be returned by a previous body corporate member or body corporate manager.

To request the asset be returned, the committee will need to:

1. Pass a resolution requiring the person to return the property to a specific committee member or the body corporate manager (the committee should ensure this motion is very specific in naming the outgoing member or body corporate manager that is to return the asset, the asset or records that need to be returned, and the person and place it should be returned to); and

2. Serve the minutes of the motion to the outgoing member.

The outgoing authorised member or body corporate manager has 14 days to comply. It is an offence to not comply with the notice and fines may be imposed by a court.

You can read more about the return of records and assets on our website.

Case examples:

In *Pinetree Pocket* [2004] QBCCMCmr 644 a body corporate manager was ordered to take steps and do all things necessary to ensure that the signatories to the body corporate bank accounts include two voting members of the body corporate committee where the body corporate manager was the sole authorisation on the account.

In *Sunny-Lea* [2016] QBCCMCmr 253, a lot owner, who was previously a committee member, was ordered to return all body corporate property, including access to the bank accounts, to the incoming body corporate manager. The body corporate had previously issued the lot owner with a prescribed notice directing the property to be given to the new body corporate manager, but the lot owner had failed to comply.

In *23 Woodstock* [2008] QBCCMCmr 140 a lot owner who was the authorised member over an account was ordered to facilitate the closing or dealing of the account (as decided by the body corporate).

Does the body corporate need separate accounts for the sinking and administration funds?

No. One bank account is sufficient. Some bodies corporate, though, will have separate bank accounts for each fund and that is okay too.

There are rules on how to manage the administrative and sinking funds. For example, funds cannot be transferred between the administrative and sinking funds (Standard Module, section 167). Be mindful, that if a body corporate only has one bank account, it needs to ensure that it can appropriately track the funds.

Can the body corporate put funds in a term deposit?

Yes. Section 96(2)(b) of the Act and section 167(4) of the Standard Module state that a body corporate may invest funds - that are not immediately required, in the same way, a trustee may invest funds.

Solar infrastructure in community titles schemes

Rising cost-of-living expenses and an environmentally conscious community have ignited a surge in demand for sustainable and energy-efficient solutions across Queensland.

Already, with more than 790,000 homes and small businesses connected to solar energy across the state, Queensland boasts the highest rate of residential rooftop solar installations in the nation.

With that number expected to continue to rapidly rise, this article will explore the regulatory framework regarding the installation of solar panels and solar hot water systems (solar infrastructure) in Queensland community titles schemes.

Amendments to the Building Act 1975

Amendments, commonly known as 'ban the banners' provisions, were introduced to the *Building Act 1975* (the Building Act) in 2010 to support sustainable housing and enable homeowners to install solar panels or a solar hot water system without regard to aesthetic considerations.

However, the Court of Appeal in *Bettson Properties Pty Ltd & Anor v Tyler* [2019] QCA 176 highlighted the need for further reforms to reinforce the original policy intent of the 2010 provisions.

Amendments to the Building Act in 2022 clarified the 2010 provisions by restricting the reasons a body corporate or a developer can – through a 'relevant instrument' such as the by-laws or any architectural and landscape code in the community management statement – prohibit the installation of solar infrastructure on a roof or other external surface of a 'prescribed building'.

Installing solar panels in a building format plan scheme

For bodies corporate registered under a building format plan of subdivision (formerly, a building unit plan), the roof and the outside of the building are typically **common property**.

According to the Building Act, if a roof or other external surface of a prescribed building is common property, a body corporate **cannot**, under a relevant instrument:

- prohibit the installation of – or restrict the location of – solar infrastructure on that roof or other external surface, or withhold their consent to install solar infrastructure in these areas, **unless**:
  - it is necessary to preserve the building's structural integrity; or
  - there is insufficient space on the roof or other external surface for the installation of solar infrastructure by each lot owner; or
  - in relation to a solar hot water system – it is necessary to prevent noise from piping causing unreasonable interference with a person's use or enjoyment of the building.

However, these provisions are not a 'green light' for owners to install their solar infrastructure.

Owners must also be mindful of their obligations under the body corporate legislation, which requires any improvements to the common property for the benefit of their lot to be **authorised by the body corporate** – either by the committee (where certain criteria is satisfied) or by ordinary resolution at a general meeting.

Failure to obtain the appropriate body corporate approval may result in unnecessary disputes over unauthorised improvements.

Responsibilities of owners for their improvements to the common property

There is sometimes a reluctance to approve these installations on common property because of a misconception that it may lead to additional body corporate expenses.

However, the body corporate legislation requires an improvement by an owner which is authorised by the body corporate to be **maintained in good condition by the owner** (unless excused by the body corporate).

A further safeguard against body corporate liability is the ability to impose conditions upon the approval. For example, a condition may be that if works need to be carried out on the common property roof, the owner would be responsible for any costs associated with the temporary removal of their solar infrastructure.

When imposing any conditions, the body corporate must always bear in mind its legislative obligation to make reasonable decisions.

Details about improvements to common property by owners and any conditions made upon the approval should be kept by the body corporate in a register of common property authorisations.

Installing solar panels in a standard format plan scheme

Conversely, for bodies corporate registered under a standard format plan of subdivision (formerly, a group title plan), the roof and the outside of the building are **part of a lot**.

Under the Building Act, if an owner in a prescribed building is seeking to install solar infrastructure on their roof or another external surface of their lot, they will not be affected by a relevant instrument that prohibits the installation of solar infrastructure or restricts its location in these areas.

Nonetheless, an owner will still need to **obtain consent** for the installation, if required to do so, under a relevant instrument. For example, a by-law may require body corporate approval to make a change to the external appearance of a lot. Failure to obtain body corporate consent in this situation may mean an owner is breaching the by-laws.

If an owner seeks body corporate approval for the installation of solar infrastructure under a relevant instrument such as the by-laws, the body corporate cannot unreasonably withhold its consent.

Limitation on the operation of the Building Act, chapter 8A, part 2

Importantly, the Building Act does not give owners unfettered rights to install solar infrastructure on the roof or other external surfaces of a prescribed building.

In addition to the limited reasons discussed earlier for which an installation can be prohibited, or consent can be withheld in relation to a *common property* roof or other external surface, the Building

Act specifies that part 2 does not entitle owners to install solar infrastructure in a way that unreasonably prevents or interferes with a person's use and enjoyment of any part of the building.

This sentiment is further supported by a similar section in the body corporate legislation which provides that the occupier of a lot must not use the lot, or the common property, in a way that interferes unreasonably with the use or enjoyment of another lot or the common property.

Consequently, owners should consider whether an installation could have a negative impact on others in the scheme – for example, if the solar panels would cause a significant glare into another lot.

This reminder is particularly important for owners seeking to install solar infrastructure purely on their lot, as they may understandably assume that there are no other considerations beyond obtaining body corporate consent (if required under a by-law).

Considering statutory easement rights

Another relevant consideration when installing solar infrastructure is the possible existence of a statutory easement under the *Land Title Act 1994* (Land Title Act), which may allow an owner to enter or use the common property or another lot for accessing utility services and utility infrastructure.

Chapter 2, part 7 of the *Body Corporate and Community Management Act 1997* provides for the application of statutory easements that may exist under the Land Title Act.

An instructive consideration of statutory easement rights, in the context of installing solar infrastructure, was in the decision of *Neptune Point* [2022] QBCCMCmr 34, in which the applicant sought retrospective approval for solar panels installed on a common property roof.

The adjudicator observed that the interaction between the statutory easement provisions and the provisions regarding improvements to common property can be confusing, and that "*a claimed statutory easement does not displace the requirement to obtain body corporate approval where required under the regulations or a by-law*".

The adjudicator further remarked:

Accordingly, a body corporate should consider the statutory easement provisions when deciding whether to approve an improvement involving the installation of utility infrastructure to service a lot. The body corporate should consider if the infrastructure is reasonably necessary to supply the service, and whether the manner of installation would unreasonably interfere with the use and enjoyment of lots or common property.

Improvements that affect insurance premiums

If the installation of solar infrastructure on common property or a lot is likely to increase the body corporate's insurance premium, an owner must notify the body corporate about the nature and value of the improvement as soon as possible after the work is substantially completed.

If the body corporate's insurance premium increases due to an owner's improvement, the owner may be asked to pay more towards the premium.

Body corporate by-laws contrary to the Building Act

Section 180(8) of the *Body Corporate and Community Management Act 1997* specifies that a by-law must not include a provision that has no force or effect under chapter 8A, part 2 of the Building Act.

For example, if a body corporate records a by-law that restricts the installation of solar infrastructure to maintain uniformity of appearance throughout the scheme, it may result in a dispute application being lodged through our office regarding the validity of the by-law.

Where the body corporate refuses consent for the installation of solar infrastructure

If the body corporate refuses an owner's application for the installation of solar infrastructure, the owner may, after sufficient efforts have been made to resolve the matter internally, lodge a dispute application through our office.

Alternatively, if you would like further information about the application of the Building Act provisions and avenues for dispute resolution under this legislation, you can contact the Queensland Building and Construction Commission or seek independent legal advice.

We hope this article improves your understanding of the extensive legislative framework surrounding the installation of solar infrastructure in community titles schemes and reduces the likelihood of avoidable disputes arising on this subject.

The committee: a body corporate decision maker

Community living requires a body corporate to make formal decisions to ensure the smooth day-to-day running of the complex.

However, it is not always clear whether a body corporate decision should be made by the committee or by owners at a general meeting.

There is a common misconception that if a by-law or a provision of the legislation refers to a *body corporate* decision, a general meeting vote of the owners is automatically required.

However, many of these decisions can simply be made by the committee – the body corporate's elected representatives.

This article clarifies the committee's integral role as a body corporate decision-maker.

General meeting decisions

Some body corporate decisions **must** be made by the owners at a general meeting – namely, at an annual general meeting (AGM) or an extraordinary general meeting (EGM).

Various general meeting resolution types exist under the legislation. For each of the resolution types listed below, there is a different method of counting votes to determine if a motion passes or fails:

- ordinary resolution
- special resolution
- resolution without dissent
- majority resolution.

When the legislation specifies a general meeting resolution type, it is clear what is required to decide an issue.

However, when no resolution type is specified, or an issue to be considered by the body corporate is not covered under the legislation or the by-laws, the process for decision-making can be unclear.

When no resolution type is specified, a decision can normally be made by:

- an ordinary resolution at a general meeting; or
- a committee resolution (if it is not a restricted issue for the committee).

Restricted issues for the committee

While the committee is empowered to make many decisions on behalf of the body corporate, certain issues fall outside the scope of their decision-making power – these are called 'restricted issues.'

The Standard Module and the Accommodation Module specify that the committee cannot:

- set or change a body corporate levy
- make decisions which change the rights, privileges or obligations of owners
- make decisions that must be decided by one of the general meeting resolution types (as discussed above)
- start a legal proceeding, unless it is:
  - to recover a *liquidated* debt against an owner (debts with a clearly defined amount such as levies or interest)

(list cont. over page)

- related to a proceeding where the body corporate is already a party
- for an offence under the by-law contravention provisions of the *Body Corporate and Community Management Act 1997* (the Act)
- a proceeding under chapter 6 of the Act (including for the enforcement of an adjudicator's order)

- pay remuneration, allowances, or expenses to a committee member unless it is for:
  - reimbursement of expenses of no more than $50 incurred in attending a committee meeting; and
  - the reimbursement would not result in more than $300 being reimbursed to the member in a 12-month period for this purpose.

While mostly the same as the Standard Module and the Accommodation Module, restricted issues for the committee differ slightly under the Commercial Module and the Small Schemes Module.

Starting legal proceedings

The type of legal proceeding a body corporate wants to initiate will determine how the decision is made.

The committee cannot start legal proceedings unless it falls into one of the exceptions listed above – these exceptions are called 'prescribed proceedings' under the Act.

Normally, proceedings (other than prescribed proceedings) must be decided by special resolution at a general meeting.

According to section 312 of the Act and the restricted issues provisions in the modules, an appeal against an adjudicator's order is the only prescribed proceeding that cannot be decided by the committee. As such, a general meeting vote by ordinary resolution is required to lodge an appeal.

Paying committee members

Most body corporate committee members are volunteers who are not paid for their services.

As highlighted earlier, the committee cannot vote to pay a committee member unless the payment falls within the specified exception about expenses incurred in attending a committee meeting.

Any other remuneration, allowances or expenses paid to a committee member must be approved by ordinary resolution at a general meeting.

There is no equivalent restriction on paying committee members under the Commercial Module.

Power of the committee to make decisions for the body corporate

The committee's role as a decision-maker is vital to the administrative and day-to-day running of the body corporate.

Given the time and expense often involved in organising a general meeting – especially in larger bodies corporate – it would be impractical for every decision to be made at a general meeting.

According to section 100 of the Act, **a committee decision is a body corporate decision** unless it is a restricted issue.

Also, in section 94(2) of the Act, a resolution made at a committee meeting is listed as an example of a body corporate decision.

Consequently, if a by-law or a provision in the legislation simply refers to a *body corporate* decision, or an issue is not covered under the legislation or a scheme's by-laws, the committee has the authority to make the decision – either at a committee meeting or by a vote outside a committee meeting (VOCM) – provided it is not a restricted issue.

When discussing the committee's role as a body corporate decision-maker, the adjudicator in *Hedges 252 [2022] QBCCMCmr 457* referred to the Queensland Civil and Administrative Tribunal (QCAT) appeal of *Carroll and Ors v Body Corporate for Palm Springs Residences CTS 29467* [2013] QCATA 21 in which it was observed that: "*as between the committee and the body corporate, the general rule is that the committee is for most purposes the agent, or alter ego of the body corporate*."

Examples of committee decisions as the body corporate

Some common examples are outlined below to help illustrate the committee's power to make decisions for the body corporate.

Example 1: improvements to common property by a lot owner

The legislation provides that the body corporate can authorise an owner's improvement to the common property for the benefit of their lot if:

- the total cost is $3000 or less; and
- the improvement does not detract from the appearance of any lot or common property; and
- the body corporate is satisfied that the use and enjoyment of the improvement is not likely to be a breach of the owner's duties as an occupier (such as causing a nuisance).

However, an owner's improvement must be authorised by ordinary resolution at a general meeting if any of the points above are not satisfied.

The distinction between *body corporate* approval on the one hand, and approval by *ordinary resolution* on the other, indicates that committee approval is sufficient for an owner's improvement that meets the relevant criteria.

The regulations for owner improvements to common property differ under the Commercial Module.

Example 2: improvements in an exclusive use area

Unless a body corporate's exclusive use by-law states differently:

- an owner can only make an improvement to their exclusive use area if it is authorised by the body corporate; or
- if the cost of the improvement is greater than $3000, it must be authorised by an ordinary resolution.

Again, a distinction is made between *body corporate* approval (which can be satisfied by a committee resolution) and approval that must be authorised by an *ordinary resolution* at a general meeting.

Example 3: animal by-laws

Many bodies corporate have a by-law which requires written approval of the body corporate to keep an animal. If there is only a reference to the *body corporate* in the by-law (and no reference to a general meeting resolution), a committee decision is usually sufficient.

In the matter of *Robina Crest [2016] QBCCMCmr 275*, the by-law required written approval of the body corporate to keep an animal. The committee refused the applicant's request to keep a Maltese terrier and suggested that the applicant submit their request to the AGM to be voted on by the owners instead. As several owners did not want animals in the scheme, the committee did not want to make the decision on their behalf.

Rather than submitting a motion to the AGM, the applicant lodged an application disputing the reasonableness of the committee's decision to refuse the animal.

The adjudicator noted that "the fact that the committee invited the applicant to submit a motion to the AGM does not make the committee's decision to refuse consent any less unreasonable".

The adjudicator also observed that although an owner can still submit a motion to a general meeting after the committee has made their decision, "this does not negate the committee's responsibility to make decisions reasonably on behalf of the body corporate".

Reserved issues

If there are certain matters that owners do not want the committee to rule on, they can vote by ordinary resolution at a general meeting to make the matter a 'reserved issue'.

Any reserved issues must be recorded in a register kept by the body corporate. The register must include:

- a description of the issue
- the date of the general meeting decision reserving the issue.

A copy of the register of reserved issues must also be circulated to owners with the notice of the AGM.

We hope that this article has clarified some of the confusion surrounding the committee's important role as a body corporate decision-maker. In view of the potential impact that certain decisions may have on individuals in a body corporate, it is imperative to understand *who* has the power to make these decisions. Equipping yourself with this knowledge may help to avoid unnecessary disputes in the future.

Adjudicator's order case study: Enderley Gardens [2024] QBCCMCmr 60

Key issues: Maintenance obligations and reimbursement for damages

This case examines the jurisdiction and powers of adjudicators and whether a body corporate is responsible for damage to property, or other costs, caused by defects in original elements of the building that a body corporate has a duty to maintain.

Background

This dispute arose because of defects in the construction of a concrete suspended flooring system that formed the first floor of the scheme's building. The defects were likely there from when the building was built, but only came to light after movement in the floor of the applicant's bathroom caused tiles to crack and the waterproofing to fail. The applicant said the body corporate had a duty to maintain the floor in structurally sound condition and its failure to do so had caused damage to his property.

The applicant was seeking to be reimbursed more than the $10,000 limit an adjudicator could award for damage to property caused by a body corporate's failure to maintain (section 281(2)(b) of the Act). He also wanted to be compensated for lost rent, which he said was beyond an adjudicator's power to order. For these reasons, he asked the adjudicator to dismiss the application so all of his claims for damages could be dealt with in at one time in another court or tribunal of competent jurisdiction.

However, the adjudicator declined to dismiss the application for it to be heard elsewhere. The adjudicator found the primary issue in dispute was whether the body corporate had breached a duty to maintain the floor. She was thus satisfied the dispute was about the performance of duties under the Act and a claimed contravention of the Act and was therefore within an adjudicator's jurisdiction. Although some of the orders sought by the lot owner might be beyond the powers of an adjudicator, that could only be assessed once a finding had been made on the primary issue in dispute.

The applicant explained that in 2015, it was thought his bathroom was the source of water leaks into the lot next to his. The applicant says he paid a body corporate insurance excess relating to claims for damages to the neighbouring lot. He then renovated his bathroom, including re-waterproofing and re-tiling the area. However, in 2017 his tenants reported another water leak, this time, within his own lot. He says his lot became uninhabitable and the tenants vacated it in or around October 2017.

This started a lengthy dispute between the applicant and the body corporate about the cause of the leak and the resulting damage. Both parties obtained several engineering reports to discover the source of the issue. In summary, it was discovered that at the time the building was constructed, a 'control joint' - which is intended to move – had erroneously been placed in the floor of the lot and through the bathroom. There were also questions raised whether the floor was properly supported from underneath. The engineering reports recommended certain works be carried out to brace the joint and limit the movement at the joint.

The applicant and body corporate could not agree on which party was responsible for the costs of repairing the bathroom and the costs of consequential works to the kitchen. In the meantime, the lot remained untenanted between 2017 and 2020. In 2020, the applicant completed further renovation works to make the lot habitable again. The parties could also not agree on whether additional investigation or works to the floor were required.

The applicant sought orders that the body corporate:

(1) reimburse him for the insurance excesses he paid and his first bathroom renovations relating to the 2015 leak;

(2) reimburse him for the reports he obtained to ascertain the cause of the damage;

(3) reimburse him for the works to his kitchen and bathroom caused by the 2017 leak; and

(4) obtain a further engineering report and take all reasonable steps to execute rectification works in accordance with that report.

Decision

The adjudicator was satisfied that the body corporate had a duty to maintain the floor in a structurally sound condition and that it had breached that duty.

She said that given the credible evidence that the defects in the floor may not have been sufficiently remediated, she made orders for the body corporate to engage a structural engineer to provide a further report.

She also made orders pursuant to section 281 of the Act that the body corporate reimburse the applicant for some of the more recent repairs he had carried out to his bathroom. The adjudicator also made an order pursuant to section 276(1) that the body corporate reimburse the lot owner for some works to his kitchen that were necessitated by the repairs to the floor. A further order was made that the body corporate reimburse the applicant the cost of one, but not all, of the engineering reports.

BCCM Office updates

KEY DATES

1 May 2024

- BCCMOLA Bill commences (click here for the announcement)

1 July 2024

- Penalty units increase to $161.30

1 September 2024

- Minimum housing standards apply to existing tenancies.

CTS TRACKER

(December 2023 data)

Number of schemes

- 52, 421

Number of lots

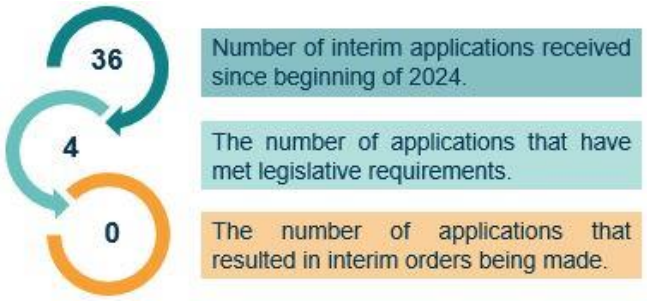
- 532, 932

2024 INTERIM ORDERS

The purpose of an interim order is to maintain the current situation for up to 12 months to safeguard rights until an adjudication application is resolved, usually by final order.

Below we take a look at the numbers surrounding interim order applications lodged with our office since January 2024.

It is highly recommended that applicants review Practice Direction 16 prior to application lodgment.



HAVE YOU MET BOXY?

Your friendly neighbourhood body corporate guy!

EVENTS UPDATE

On 19 March the BCCM office collaborated with the Residential Tenancies Authority's (RTA) in hosting free information sessions on the Gold Coast.

It was a great opportunity for property managers, owners and tenants to learn and ask questions.

The seminars explored common topics where there is an overlap in Queensland tenancy and body corporate laws, outlining who does what, timeframes required and how everyone can communicate and work effectively together.

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