

## Making an Application to the Owners Corporations List

### Before you apply to VCAT

#### If you own, rent and/or live in a property with an owners corporation or a service company or if you own shares in a company title corporation:

- Try to speak with the other party/ies to see if you can resolve the dispute.
- Follow the dispute resolution process contained in the rules of the owners corporation or in the constitution of the company title corporation or service company (if applicable).
- Lodge a complaint with the owners corporation or with the management of the service company or company title corporation. They may decide to follow a process of internal dispute resolution.
- Lodge a complaint with Consumer Affairs Victoria, who may provide conciliation and mediation. Visit [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au) for more information about services available at CAV.

If your settlement negotiations are not successful, you may make an application to VCAT.

#### If you are an owners corporation:

- If you are applying for the payment of outstanding owners corporations fees - you must follow the procedure set out in sections 31 and 32 of the *Owners Corporations Act 2006*.
- If you are making an application about a breach of the *Owners Corporations Act*, regulations or rules - you must follow the dispute resolution procedure set out in the owners corporations rules. If the owners corporation has not made any rules of its own, the procedure in the model rules applies.
- For all other applications (that is, applications not about the recovery of fees or breaches of the Act, regulations or rules) - you must first obtain a special resolution to make an application to VCAT.

#### If you are a service company or company title corporation:

- If you are applying for payment of services provided, try to speak with the other party to see if you can resolve the dispute.
- If the dispute is a “neighbourhood dispute” as defined by the *Company Titles (Home Units) Act 2013*, try to follow any dispute resolution process contained in the company’s constitution.

If your settlement negotiations are not successful, you may make an application to VCAT.

### Who can make an application and what types of disputes can be brought to VCAT?

Owners corporations, managers or former managers, lot owners or former lot owners, occupiers or former occupiers, mortgagees of lots, insurers under an owners corporation insurance policy, service companies, company title corporations, shareholders or former shareholders of service companies can make an application to VCAT.

Some examples of the types of disputes that can be brought to VCAT include disputes:

- between neighbours affected by the same owners corporation, service company or company title corporation
- between an owners corporation and its manager
- about behaviour such as noise, car parking or rubbish
- about owners corporations fees and levies
- about the use of common property or residual land
- about metering of services (e.g. gas, water, electricity) and how much is paid for services
- about repairs and maintenance of lots and common property

- about manager's fees and/or performance or clauses in the management contract
- about how meetings are conducted

### Time limits for applying

- In most cases, you must apply within **6 years** of the date on which the dispute arose.

### Privacy Statement

- A copy of VCAT's privacy policy can be found at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

### Fees for making an application and fee waiver

- Applicants must pay an application fee at the time of making an application.
- There may also hearing fees for the second or any subsequent hearing days.
- The fees you pay depend on the nature and/or the value of your application.
- If you are claiming payment of money (e.g. the payment of outstanding owners corporation fees) the amount of the application fee you pay will depend on the amount of your claim.
- If you are not claiming payment of money (e.g. if you want an order that an occupier of a unit stops parking on common property), a higher application fee will apply.
- If you claim both the payment of money and other, non-monetary orders, you will be required to pay the higher application fee.
- Applicants may apply for a fee waiver by completing and lodging a fee waiver form.
- The principal registrar decides whether a fee is waived.

More information about fees and the fee waiver form can be obtained from the fees page at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

## How to fill out the Application to the Owners Corporations List

You must complete **all sections on the form marked with an asterisk (\*)**

### Getting started

#### Which Act/s are you making this claim under?

##### ***Owners Corporations Act 2006 Part 6 or Part 11.***

- This Act applies to most applications in the Owners Corporations List.
- If you act for or manage an owners corporation, own a lot in an owners corporation or live in a unit or apartment with an owners corporation and your dispute arises under the Act, the regulations or the rules of the owners corporation, you should select this box.
- Some examples of owners corporation disputes include disputes about-
  - alleged breaches of the Act, regulations or rules by a lot owner, occupier or owners corporation
  - the exercise of a function by a manager in respect of an owners corporation
  - the non-payment of owners corporations fees
  - repairs and maintenance of common property or the external appearance of lots
  - the financial management or record keeping of an owners corporation

##### ***Company Titles (Home Units) Act 2013.***

- This Act gives VCAT the jurisdiction to hear and determine "neighbourhood disputes" relating to service companies or company title corporations.
- A "service company" is a company which owns the land known as "residual land", which is for the common use of all the units in a development. Each individual unit owner holds shares in the service company and has entitlements and obligations under that share arrangement.
- A "company title corporation" (also known as a "share ownership scheme") is an arrangement where owners do not own individual units but instead own shares in a company which owns the whole development. In other words, the company title corporation owns all units and residual land and each

individual “owns” their unit as a holder of shares in the company. In this type of scheme, the ownership of shares gives the shareholder the right to exclusive occupation of their particular unit.

- A “neighbourhood dispute” is a dispute that “relates only to a neighbourhood matter or matters” and “affects the company title corporation or service company”.
- A “neighbourhood dispute” may include disputes about the use of residual land, parking on residual land, repair and maintenance of residual land, the external appearance of units, the conduct of shareholders and/or occupiers of units and their guests, noise and other nuisance.
- If you are a service company, a company title corporation, a shareholder or former shareholder, an occupier or former occupier of a unit or a mortgagee of a unit, and you want to resolve a “neighbourhood dispute”, you should select this box.
- Disputes about the management of finances or the payment of fees for services provided to unit holders by a service company are not “neighbourhood” disputes and cannot be brought under this Act. Applications about the provision of services by a service company may be brought in the Owners Corporations List under the *Australian Consumer Law and Fair Trading Act 2012* (see below).

### **Subdivision Act 1988 Part 5.**

- If you seek orders to amend or alter a plan of subdivision, select this box.
- You may apply under this Act for orders -
  - requiring an owners corporation to amend or alter a plan of subdivision, or
  - that the Tribunal consents on behalf of non-consenting members of an owners corporation to the amendment or alteration of a plan of subdivision.

### **Australian Consumer Law and Fair Trading Act 2012.**

- If you are a service company seeking payment for services rendered or if you are a unit owner disputing the supply of services by a service company, select this box.
- In the Owners Corporations List, this Act will apply mostly to –
  - service companies seeking payment for services provided to unit owners, or
  - unit owners disputing the supply of services by a service company.
- A service company supplies services to a unit owner, who is the purchaser of those services. The service agreement identifies those services and requires unit holders to pay for them. Any dispute about the supply of services becomes a ‘consumer and trader’ dispute within the meaning of the *Australian Consumer Law and Fair Trading Act*.
- Examples of services which may be provided by a service company include repairs, gardening and routine maintenance of residual land.

## **Are you making this application in response to another VCAT application that has been served on you?**

- If a claim has been made against you in the Owners Corporations List and you are making this application in response to that claim, you must select the “Yes” box and provide the VCAT reference number of the claim made against you. We will then know that your application is a “counterclaim” and we will decide whether the claim and counterclaim should be heard together.
- If a claim is made against you in another List at VCAT (for example, the Building and Property List, the Residential Tenancies List or the Civil Claims List) and you are making this application in response to that claim, you must select the “Yes” box and give the VCAT reference number of the other claim. We will then decide whether the applications should or could be heard together.

## **Are there any related disputes in relation to a residential tenancies agreement, domestic building contract, planning application or another civil claim?**

- If there is a related claim in another List at VCAT you must select the “Yes” box and provide the VCAT reference number of the related claim.
- We will decide whether the applications should or could be heard together.

## **Which premises is this dispute about?**

- You must provide the details of the premises, lot(s) or unit(s) that is the subject of this dispute.

- If this dispute relates to an Owners Corporation you must provide –
  - the registered number of the Owners Corporation, and
  - the address of the lot(s) or the property that is the subject of the dispute
  - The registered number is the number on the Plan of Subdivision and usually starts with the letters “PS”, “SP” or “RP” followed by a number (e.g. “PS12345”).
- If this dispute relates to a Service Company or Company Title Corporation you must provide –
  - the Australian Company Number (ACN) of the Service Company or Company Title Corporation (e.g. ACN 000 111 222), and
  - the address of the unit(s) or property that is the subject of this dispute.
- If you reside at these premises, select the “yes” box.
- If the other party resides at these premises, select the “yes” box.

## Who is making this application?

### The applicant is the person who makes this application.

- Select the box which applies to the type of applicant you are.
- If there is more than one applicant complete this section for the first applicant and then go to the section “The second applicant” and complete the sections which apply.

### An owners corporation can be an applicant.

- If you are an owners corporation, fill in the owners corporation’s name and registered number.
- Sometimes, owners corporations may be named “Owners Corporation No.1”, “Owners Corporation No. 2” and so on. If this applies in your case, enter this in the “Name” section. If the owners corporation does not have a name, simply enter “Owners Corporation” as the name.
- The registered number is the number on the Plan of Subdivision and usually starts with the letters “PS”, “SP” or “RP” followed by a number (e.g. “PS12345”). You must provide this registered number.

### Lots owners/former lot owners of owners corporations, shareholders/ former shareholders of service companies or company title corporations and occupiers/former occupiers of lot or units can also be applicants.

- If this describes you, provide your full name.

### Service companies, company title corporations or other companies may also be applicants. They will usually have the letters “Pty. Ltd.” or “Ltd.” after their name (e.g. “1 Smith Street Pty Ltd” or “1 Smith Street Ltd”).

- If you are filling in this form on behalf of a service company, a company title corporation or another company, provide the company name (e.g. “1 Smith Street Pty Ltd”) and the company’s ACN (Australian Company Number).

### A manager or former manager of an owners corporation may be an applicant.

- A manager or former manager may be an individual, an individual trading under a business name or a company.
- If you are an individual, provide your full name. If you also trade under a business name, provide your business name.
- If you are a company (e.g. “Smith’s Owners Corporation Management Pty Ltd”) provide the same information you would for an applicant company above.

### A mortgagee of a lot or unit may also be an applicant.

- Most mortgagees are banks and other lending institutions, who are usually companies. However, in some cases, mortgagees may be individuals who may or may not trade under a business name.
- If you are an individual, provide your full name. If you also trade under a business name, provide your business name.
- If you are a company provide the same information you would for an applicant company above.

### What is your address?

- You must provide a street address.

## How can VCAT contact you?

- Sometimes, VCAT may need to contact you. You must provide the name of the person you want VCAT to contact and that person's daytime phone number and email address.

## Are you represented by a manager, lawyer or other person?

- If you are represented by an owners corporation manager, a lawyer or another person, you must include their details in this section.
- If you complete this section, your representative will receive correspondence in relation to this dispute.

## Is there another person making this application with you?

- Select the "Add another applicant" tab and complete the section "Second Applicant's details" on the form.

## Who are you making this claim against?

### The respondent is the person you are making this application against.

- Select the box which applies to the type of respondent you are making this claim against.
- Make sure you are clear about who the respondent is. If you are making a claim against the owners corporation, make sure you name the owners corporation as respondent, not the manager or the committee members.
- In owners corporations disputes, the owners corporation is frequently an interested party. If you think that the owners corporation should be part of this dispute, has an interest in the outcome or can assist in the resolution of the dispute, add them as a respondent to the application.
- If there is more than one respondent and/or if you want the owners corporation involved, select "add another respondent" or complete the section "The second respondent".

### An owners corporation can be a respondent.

- If you are making this application against an owners corporation you must provide the name of the owners corporation and the registered number.
- Sometimes, owners corporations may be named "Owners Corporation No.1", "Owners Corporation No. 2" and so on. If this applies in your case, enter this in the "Name" section. If the owners corporation does not have a name, simply enter "Owners Corporation" as the name.
- The registered number is the number on the Plan of Subdivision and usually starts with the letters "PS", "SP" or "RP" followed by a number. You must provide this number.

### Lots owners/former lot owners of owners corporations, shareholders/former shareholders of service companies or company title corporations and occupiers/former occupiers of lot or units can also be respondents.

- If you are making this application against an individual lot owner/ former lot owner, occupier/ former occupier or a shareholder/ former shareholder, provide their full name.

### Service companies, company title corporations or other companies may also be respondents. They will usually have the letters "Pty. Ltd." or "Ltd." after their name (e.g. "1 Smith Street Pty Ltd" or "1 Smith Street Ltd").

- If you are making this application against a service company, a company title corporation or another company, provide the company name (e.g. "1 Smith Street Pty Ltd") and the company's ACN (Australian Company Number).
- To get all relevant information about a respondent company, you must obtain a **Company Extract** from the Australian Securities and Investments Commission (ASIC), which will contain the company name, the ACN and the company's registered address.
- To obtain an ASIC Company Extract you must:
  - Visit [www.asicconnect.asic.gov.au](http://www.asicconnect.asic.gov.au)
  - Go to 'Search ASIC's registers' on the menu and select 'Organisations and business names'.

- In the search field type the company name or ACN and click 'go'.
- Select the correct company by checking the name and ACN.
- Scroll down to the heading 'Company extract' and select 'Current company information'. This should contain the company's registered address.
- Select 'Add to cart' and check out using a credit card.
- You will receive an email with a link to the extract. Download and save this to your computer and attach to your application.

### A manager or former manager of an owners corporation may be a respondent.

- A manager or former manager may be an individual, an individual trading under a business name or a company.
- If you are making an application against an individual, provide their full name.
- If that person also trades under a business name (e.g. John Smith trading as "Smith's Owners Corporation Management"), provide their full name, their registered business name and their ABN (Australian Business Number).
- There may be more than one owner of a registered business name (e.g. John Smith and Bill Smith trading as "Smith's Owners Corporation Management"). If there is more than one owner of a registered business name, you must add each owner to the application. Each owner then becomes a respondent and will be referred to as "the second respondent", "the third respondent" and so on.
- To get this information, you must first obtain a **Business Name Extract** from ASIC, which will contain the registered business name, the ABN and the name(s) of the owner(s) of the business name. It will also contain the address for the service of documents.
- To obtain an ASIC Business Name Extract you must:
  - Visit [www.asicconnect.asic.gov.au](http://www.asicconnect.asic.gov.au)
  - Go to 'Search business name register' tab at the top of the page.
  - In the search field type the business name or ABN and click 'go'.
  - Select the correct business by checking the name and ABN.
  - Make sure the Business Name Extract contains the address for service of documents and the name of each holder of the business name.
  - Select 'Add to cart' and check out using a credit card.
  - You will receive an email with a link to the extract. Download and save this to your computer and attach to your application.
  - If you are making this application against a manager or former manager who is a company (e.g. "Smith's Owners Corporation Management Pty Ltd") provide the same information you would for a respondent company above.

### A mortgagee of a lot or unit may also be a respondent.

- Most mortgagees are banks and other lending institutions, who are usually companies. However, in some cases, mortgagees may be individuals who may or may not trade under a business name.
- If you are making an application against an individual, provide their full name. If they also trade under a business name, provide their full name, their registered business name and their ABN. You must also obtain an **ASIC Business Name Extract** as you would for any respondent who trades under a business name. Please follow the instructions about when and how to obtain an ASIC Business Name Extract in the section above.
- If you are making an application against a mortgagee who is a company, provide the same information you would for any respondent company. Please follow the instructions about when and how to obtain an **ASIC Company Extract** above.

### What is the respondent's address and other contact details?

- If the respondent is an individual, you must provide a **street address**. We will not accept a PO Box.
- If the respondent trades under a business name you must provide **the address for service of documents** as shown on the ASIC Business Name Extract.
- If the respondent is a company, you must provide the **registered address** of the company as shown on the ASIC Company Extract.
- If the respondent is an owners corporation, you must provide the **address of its manager or contact person**.
- If you do not provide the respondent's address as required, your application may be delayed until you do so.

- You should also provide the respondent's phone and fax numbers and their email address if you know them.

### **Is the respondent represented by a manager, lawyer or other person?**

- The respondent may have a manager, a lawyer or another person to represent them or help them deal with this dispute. If this is the case and you know who is representing the respondent, provide their details in this section.

### **Is there another respondent you are claiming against?**

- Select the "Add another respondent" tab or complete the section "Second respondent's details" on the form.

## **Details of the application**

### **If the applicant is an owners corporation, is there a special resolution in support of this application?**

- In most cases, an owners corporation requires a special resolution to bring an application to VCAT. However, an owners corporation does not need a special resolution to make an application to recover fees or to enforce the Act, rules or regulations.
- If this application is not to recover fees or enforce the Act, rules or regulations, the owners corporation must first obtain a special resolution to commence this proceeding.
- Select "yes" or "no" as applicable.

### **Is this application for the recovery of fees?**

- If the applicant is an owners corporation applying for the recovery of fees, select "Yes".
- You will then be asked whether you have followed the procedure in section 31 and 32 of the *Owners Corporations Act 2006*.
- If you have followed the procedure, select "Yes" and provide the dates of the fee notice and the final fee notice.
- If you have not followed the procedure in s31 and s32, your application will be rejected.

### **Is this application about a breach of the Owners Corporations Act, regulations or rules?**

- Select "yes" or "no" as applicable

### **Has the owners corporation given any notices under Part 10 of the Owners Corporations Act?**

- Part 10 of the Act outlines the dispute resolution procedure (also known as the "grievance procedure") which an owners corporation must follow if it receives a complaint about alleged breaches of the Owners Corporations Act, rules or regulations.
- If the owners corporation has given any notices to a lot owner, occupier or other person about alleged breaches of the Owners Corporations Act, rules or regulations, select "yes".

### **What is this dispute about?**

- Briefly and clearly describe the problem.
- Provide enough information so that the respondent can understand the claim.
- If you are claiming payment of money, you must include details of each amount claimed.
- If you do not provide enough information, we may adjourn the hearing to give the respondent time to prepare a defence.
- If you need more space, include an extra sheet.

### **What orders do you want VCAT to make?**

- Enter the amount of your claim in the box provided.
- If you are not claiming an amount of money, leave the section blank.
- The application form provides options for the type of order you want VCAT to make.

- Think about the result you want to achieve and tick the box that best describes the order you want. Tick at least one of the boxes provided. You may tick more than one box.

## Hearing arrangements

- Any party in a proceeding may request security, an interpreter or special assistance (for example, hearing loop, speech assistance or assisted access). If you think you need to make specific hearing arrangements, complete this section.
- If you have requested security, the details of your security request - for privacy reasons - will not appear on the finalised copy of your application. These details are collected to assist VCAT to make appropriate security arrangements if required.
- If you have requested an interpreter, please provide the name of the person who requires the interpreter and the language or dialect spoken.
- VCAT will make all necessary arrangements at no cost to the parties.

## Supporting documents

You must attach the following documents to the application:

- An ASIC Business Name Extract if the respondent trades under a registered business name.
- An ASIC Company Extract showing the registered address of the company if the respondent is a service company, a company title corporation or other company.

## Application Checklist

Make sure that you:

- Attach any Company and/or Business Name Extract from ASIC if applicable
- Have paid or attached the relevant application fee or have applied for a fee waiver
- Keep a copy of the application and all relevant documents.

## Acknowledgement

- The person completing this application must provide their full name and the date of the application.
- That person must tick the checkboxes confirming that they have read and understood the statements specified under this section.

## How can you lodge this application?

- **Online**
- **By fax** to: The Owners Corporations List on fax number (03) 8684 1488

If lodging online or by fax, you can only pay by credit card. If paying by credit card, you must complete a "Payment by Credit Card" form available at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au).

- **By post** to: The Owners Corporations List, VCAT, GPO Box 5408 Melbourne VIC 3001.
- **By DX** 210576 Melbourne.

If mailing or sending the application by DX you can pay by credit card, cheque or money order made out to "The Victorian Civil and Administrative Tribunal".

- **In person:** at the VCAT Service Counter, Ground Floor, 55 King Street, Melbourne, from 8:30am - 4:30pm, Monday to Friday (closed public holidays).

If lodging in person you can pay by credit card, cheque, money order, cash or eftpos.

## What happens next?

After you lodge this application, it will be processed and given a VCAT reference number.

VCAT will then send you a "Notice of Application and Notice of Hearing". Make sure you read the Notice carefully. It will contain the VCAT reference number, the date, time and place of your hearing as well as important information about what else you need to do before the hearing.

The VCAT reference number will start with "OC" and end with the year the application is lodged (e.g. OC1234/2010). You must use the VCAT reference number in all correspondence and on all documents relating to the case.

**If you need further assistance with your application you can contact VCAT Customer Service on 1300 01 8228 (1300 01 VCAT)**