

Managing property properly

SOLVING DISPUTES WITH NEIGHBOURS IN SECTIONAL TITLE SCHEMES

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Principles contained in the Sectional Titles Act, and the prescribed rules, show us paths to follow to achieve certain objectives but sometimes without detailing the steps. For example, an owner must maintain his or her section. This provision has a particularly interesting implication: if some other owner fails to maintain their section and this failure damages your own section, you still have to pay to repair the damage to your section in spite of the other owner's failure. Equally, the fact that all owners must maintain their own sections means that you would have a claim against the other owner if you could prove their failure to maintain their section caused damage to your own. UCT STSM

The classic example is water leaking from a section and causing damage to the section below. If you are the owner of the section below, there's absolutely no point in repairing the damage to your section until the owner upstairs has fixed the leak. But what are the steps along the path to getting the other owner to pay your reasonable costs?

The first thing to remember is you have to take responsibility for managing this situation. Unless the common property or sections belonging to other owners are also being damaged by the leak, the trustees are unlikely to fight this battle for you. Getting your lawyer to write a threatening letter is merely an unnecessary escalation that will almost certainly alienate your upstairs neighbour, making the whole process even more time consuming and expensive, and possibly ending in avoidable enmity between you. It is important to keep a record of everything said by both parties, just in case the dispute ends up in arbitration or even in court.

As this might not actually be a battle after all, you have to make your first judgement call at this early stage: do you go and talk to the upstairs neighbour or do you write a letter? On the one hand, if you think the neighbour is approachable, the situation could be settled very quickly and amicably over a cup of tea but, on the other hand, the neighbour might refuse responsibility or deny that the water is coming from their section at all. If you have the slightest suspicion that you're going to have any difficulty dealing with the neighbour, write the letter. You might need to refer to a record of what you said and what response you received at a later stage. Try to be as polite and reasonable as possible at all times, with the aim of achieving a fair solution.

In any significant dispute with another owner, first try to identify the action or omission that is contrary to a provision of the Act or rules; then exactly who is involved, both the "perpetrator" and anyone else negatively affected by the action or omission. Be courteous and fair and keep a record of all interactions, both personal and written. Finally, do your utmost from the outset to seek a mutually acceptable solution that has no hint of a punitive element.

Article reference: Paddocks Press: Volume 7, Issue 8, Page 3

Footnote from Compeg:

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Quote of the Month



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- Benjamin Franklin

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