

## Strata & Community Schemes Division

# Adjudication

Adjudication is a dispute resolution process used by the CTTT to resolve most strata and community schemes disputes.

### What is 'Adjudication'?

The term 'Adjudication' is used to describe the specialised dispute resolution process employed by the CTTT to resolve most strata and community schemes disputes.

An Adjudication application is determined by an Adjudicator 'on the papers'. The Adjudicator's decision is based only on the information provided in the application and any written submissions received. There is no face-to-face hearing.

The Adjudication process generally takes between 8 to 12 weeks after an application is lodged for an order to be made.

### Who is an Adjudicator?

An Adjudicator is a person appointed under the *Strata Schemes Management Act 1996* or *Community Land Management Act 1989*. Most Adjudicators at the CTTT are also appointed as Tribunal Members.

### What orders can an Adjudicator make?

Adjudicators can make enforceable orders on a wide range of strata and community schemes disputes, including:

- Repairs to common property, ceilings, walls and floors
- Water penetration through a window or the roof
- Breach of by-laws such as:
  - Keeping pets
  - Excessive noise
  - Insufficient floor coverings
  - Parking on common property
- Unauthorised alterations to common property
- Making, changing or invalidating a by-law
- Appointment of a managing agent (strata schemes only)
- Validity of meetings and resolutions
- Variation of insurance
- Contributions and levies (strata schemes only)

#### CTTT Tip

An Adjudicator cannot make orders to pay money.

### Adjudication process

The Adjudication process for strata and community schemes disputes usually involves five steps.

#### Step 1: Attempt mediation

Before the CTTT can accept an application, mediation must generally be attempted to resolve a strata or community scheme dispute.

Mediation is an informal negotiation process in which a neutral and independent person assists parties in a dispute to achieve their own settlement.

NSW Fair Trading has qualified specialist mediators who are skilled in dealing with strata and community schemes disputes. Other approved mediation services may also be used. Contact NSW Fair Trading on 13 32 20 for details.

Any settlement reached in mediation is binding. The settlement agreement may also be made into an enforceable order by an Adjudicator.

#### CTTT Tip

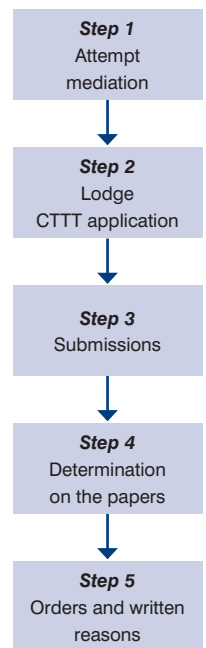
Mediation is compulsory for most strata and community schemes disputes prior to lodging an application to the CTTT.

Contact NSW Fair Trading on 13 32 20 for information about mediation requirements.

#### Step 2: Lodge CTTT application

If no settlement is reached during mediation or an agreement breaks down, an application may be lodged to the CTTT for orders by an Adjudicator. The applicant does not need to be the person who applied for mediation.

The application must request at least one of the orders listed on the application form. You must also provide reasons describing why you are requesting the orders.



### Step 3: Submissions

A letter with a copy of the application is sent to all interested parties, inviting them to lodge a written submission stating whether they agree or disagree with the application and any attachments. The submissions period timeframe is generally set at 28 days.

Submissions received are made available for the parties to view up to 3 days before the application and submissions are referred to the Adjudicator for determination. Written submissions received after the closing date are placed on file. The Adjudicator will decide whether or not to consider any late submissions when determining the application.

#### CTTT Tip

Your submission must include all documents relevant to your case, such as the strata plan, by-laws and minutes of meetings.

### Step 4: Determination on the papers

The Adjudicator's decision is made 'on the papers'. This means the application is decided only on the documentation and submissions received by the CTTT. There is no hearing.

At the end of the submissions period, the application and any submissions received are forwarded by the CTTT Registry to an Adjudicator. The Adjudicator considers the application and all submissions before making their final decision.

### Step 5: Orders and written reasons

The Adjudicator's orders and reasons for the decision are made in writing and sent to the people involved. This includes the applicant, respondent, those who sent a submission, and the Owners Corporation or Community Association.

## Interim orders

In certain circumstances, an Adjudicator can make an interim order. Interim orders can **only** be made where it is considered urgent orders are necessary, such as for an action to be delayed, or where time is needed to intervene before a certain course of action is taken.

An application for an interim order **must be accompanied by an application for Adjudication** (a 'substantive application'), or relate to a substantive application already with the CTTT.

### Applying for an interim order

The following interim orders can be made by an Adjudicator:

- An order that could otherwise be made by an Adjudicator or Tribunal Member
- Renewal of an interim order previously issued by an Adjudicator (time limits apply)

### Determination of interim order applications

An Adjudicator will determine the interim order application generally within 48 hours from the time the application is received by the CTTT. To make an interim order, the Adjudicator must be satisfied on reasonable grounds that urgent considerations justify the making of the order without seeking submissions from interested parties.

### What happens to the substantive application?

Once the interim order application is determined, the substantive application will be processed in the usual way after the mediation process is finalised.

## Enforcing an order

An Adjudicator's decision is binding and it is an offence to wilfully contravene or fail to comply with the Adjudicator's orders. A party can apply to the CTTT to impose a penalty order on anyone who does not comply with an Adjudicator's decision. You should get advice before pursuing this option.

## Appealing a decision

An Adjudicator's decision can be appealed to the CTTT.

- An appeal against an order dismissing an application must be lodged within 21 days after the order takes effect. The time limit may only be extended in limited circumstances.
- An appeal against any other order must be lodged within 21 days after the order takes effect. The time limit may be extended up to 90 days after the order takes effect.

If you are lodging an appeal out of time, you will need to provide reasons why you have not lodged within the time limit.

## Further information

The CTTT's *Getting help* fact sheet lists a number of organisations that can provide information and assistance.

### CTTT Registries

Telephone: 1300 135 399

Facsimile: 1300 135 247

[www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au)

### Fair Trading Centres

General enquiries: 13 32 20

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)