

Difficult Lot Owners and OC Complaints

Navigating Disputes and Enforcing Rules within your Owners Corporation

Dealing with Difficult Lot Owners

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Understanding Conflict

Conflict refers to a state of disagreement or opposition between individuals, groups, or entities that arises due to incompatible interests, beliefs, values, goals or actions.

It can occur in various settings, such as interpersonal relationships, workplaces, communities or even on a global scale.



Common Causes of Conflict



- Miscommunication
- Differences in goals or interests
- Scarce resources
- Power struggles
- Value and belief differences
- Personality clashes
- Unresolved past issues
- External factors (such as economic downturns, political changes, pandemics or natural disasters)
- Lack of trust
- Organisational structures

Understanding Conflict *Cont.*



Conflict is a natural part of human interactions and can offer opportunities for growth and understanding if managed effectively.

Open communication, empathy, active listening and compromise are crucial skills in resolving conflicts constructively.

Conflict in a workplace can be destructive.



It can affect productivity, workplace relationships and client satisfaction.

If not addressed, both staff and clients will leave.

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Strategies for Dealing with Difficult Lot Owners

Dealing with difficult lot owners can be challenging, but it's essential to handle such situations professionally and maintain a positive working relationship.

There are lots of strategies for effectively managing difficult lot owners.



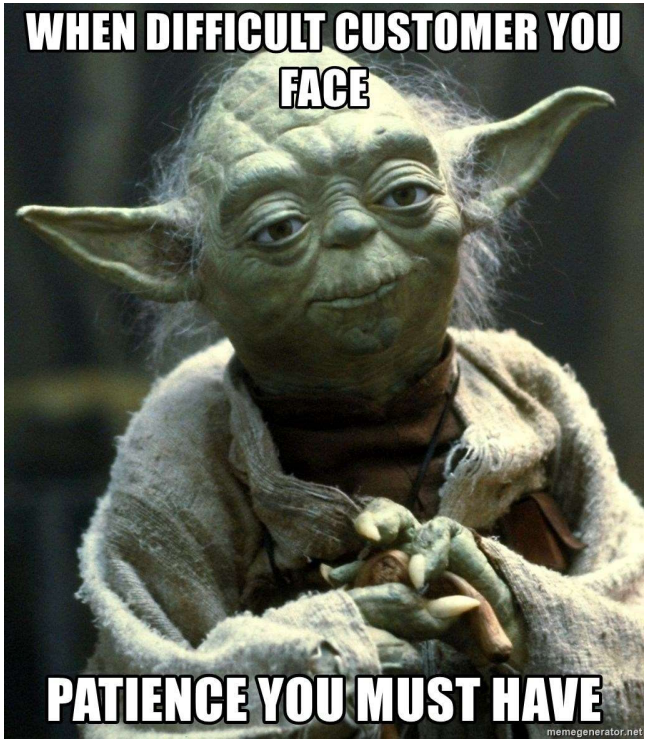
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Strategies for Dealing with Difficult Lot Owners

- Stay calm and professional
- Active listening
- Empathise and validate
- Avoid taking it personally
- Set boundaries
- Offer solutions
- Focus on communication
- Seek common ground
- Involve supervisors or managers if necessary
- Document everything
- Know when to say No
- Offer alternatives
- Learn from the experience
- Know when to end the relationship
    - Consider clause 8.2 of new SCA contract of appointment which places a positive obligation on OCs to take all reasonable steps to ensure that the manager (its employees or contractors) are not threatened, bullied or disparaged.



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WHEN DIFFICULT CUSTOMER YOU FACE
PATIENCE YOU MUST HAVE
memegenerator.net

Understanding Complaints
Who can make one and what makes it valid?

Lynda Lim

Senior Associate

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Who Can Make a Complaint?

Under **section 152** of the Owners Corporation Act 2006 (Vic), the following parties can make a complaint:

- A **lot owner**
- An **occupier** of a lot (eg a tenant)
- A **manager** of the OC

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What Makes a Complaint Valid?

- Must concern an alleged breach by a lot owner, occupier, or manager of obligations or duty imposed under the Act, the Regulations, or the OC's special rules

- Must be made in writing, using the approved form designated for complaints

- Complaint must contain
  - name and address of the complainant
  - name of the person the complaint is made against (if known)
  - alleged breach and relevant details
  - supporting information or documents

- Good faith and not vexatious



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Owners corporation complaint

Sections 152 and 159A of the *Owners Corporations Act 2006* (the Act), Owners Corporations Regulations 2018 (the Regulations) and Owners Corporation Rules (the Rules)

You can use this form to notify the owners corporation of a breach of the rules, Act or Regulations by another lot owner, occupier or manager. You cannot use this form in relation to personal injury.

Details of person(s) making this complaint

Name(s)	
Lot number	
Lot address	
Suburb	
State	
Postcode	
Postal address (if different from above)	

Are you a (mark appropriate box with an X):

Lot owner ☐ Occupier (tenant) ☐ Manager ☐

Details of person(s) you are making the complaint against

Person(s) name(s)	Address (include lot number)

Are they a (mark appropriate box with an X):

Lot owner ☐ Occupier (tenant) ☐ Manager ☐

Details of complaint/alleged breach of the rules, Act or Regulations

Describe what the complaint/breach is about including dates and times (if known)

What has been done to try to resolve this complaint? Please describe what you have done, who you have talked to and what they offered to do

What remedy are you seeking – how do you want the problem to be solved?

Declaration and signature of complainant

I declare that the above information is true and correct to the best of my knowledge. I agree that the information I have given in this form may be used or disclosed by the owners corporation to process and resolve this complaint.

Signature	
Date	

How to lodge this complaint

(Owners corporation to insert details)

By post (name and postal address)	
By email (name and email address)	
In person by	

Contact telephone number for complaints (owners corporation to insert telephone number)	

What happens next?

- The owners corporation will consider the information provided and respond to you either by telephone or in writing advising you of its decision and the next steps in dealing with your complaint.
- If the owners corporation does not respond or you are unsatisfied with the outcome:
  - for **information and advice**, contact Consumer Affairs Victoria on 1300 55 81 81 or visit the Consumer Affairs Victoria website (consumer.vic.gov.au/contact)
  - for help **resolving a dispute**, contact the Dispute Settlement Centre of Victoria on 1300 372 888 or visit the Dispute Settlement Centre of Victoria website (disputes.vic.gov.au), or
  - apply directly to the Victorian Civil and Administrative Tribunal (VCAT) to hear your case. For more information on VCAT applications call 1300 01 8228 (1300 01 VCAT) or go to the Victorian Civil and Administrative Tribunal website (vcat.vic.gov.au). Calling this number costs the same as a local call. Additional charges may apply if you call from overseas, on a mobile or payphone.

Other important information

- In accordance with Section 158 of the *Owners Corporations Act 2006*, notices can only be delivered by post or in person, or in accordance with the *Electronic Transactions (Victoria) Act 2000*.
- Your personal information is required by law to be disclosed to resolve the complaint.
- Details of all complaints and decisions are required to be reported to lot owners at the annual general meeting.
- Records of complaints must be kept by the owners corporation for 7 years.

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Invalid Complaint

A valid complaint **cannot** relate to:

- Personal injury
- Recovery of any fees, charges, contributions, or amounts due to the OC under section 28 of the Act.

OWNERS CORPORATIONS ACT 2006 - SECT 28

Liability of lot owners

(1) The owners for the time being and any purchaser in possession of, and any person entitled to receive the rents and profits from, a lot are liable to pay any outstanding fees, charge, contribution or amount owing to the owners corporation in respect of that lot.

(2) Subject to sections 24, 49 and 53, a lot owner is not liable to pay or contribute to the funds of the owners corporation a proportion of any amount required to discharge a liability of the owners corporation exceeding the lot owner's lot liability.

Invalid Complaint *Cont.*

- Verbal complaints, text messages, emails do not meet the formal requirements of a complaint
- Eg Complaints addressed to the OC

- An OC must make a copy of the approved form available at the request of a person who wishes to make a complaint under this section (section 152(3) of the Act)

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Case Study 1

Owners Corporation No 8 PS422665R v Walton (Owners Corporations) [2015] VCAT 1742

- The applicant OC No PS422665R affects land at 800 Chapel Street, South Yarra: a block of apartments
- The respondent Demian Walton owns lot 227
- The OC alleged that Mr Walton was in breach of several of its rules about noise and about restrictions on doing of building works. It sought orders requiring him to refrain from conduct that would breach those rules.
- Mr Walton argued the OC had not first followed the dispute resolution procedure required by its own rules, as s 153(3) of the OC Act had obliged it to have done, with the result that there was a fatal defect in the proceeding and it ought to be dismissed under s 164 of the OC Act.

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Case Study 1 *Cont.*

- The evidence at the hearing of the application for summary dismissal did not reveal whether there had been a complaint made by some other lot owner or occupier about Mr Walton or whether it had otherwise come to the attention of the OC that he may have breached the special rules
- The Tribunal, however, dismissed Mr Walton's application, allowing the case to proceed
- Although Mr Walton argued that the OC did not produce a copy of the complaint in the approved form and there was no meeting of the parties as required under the Model Rules, the OC was able to successfully argue that the Tribunal has a discretion, which it could exercise at a final hearing, not to dismiss the proceeding, particularly if there had been a technical non-compliance
- This decision underscores the importance of procedural compliance but also shows that VCAT may prioritise substantive resolution over technical dismissal

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Case Study 2

OC No SP034630W v Pekar (Owners Corporations) [2019] VCAT 136 (23 January 2019)

- An application by the OC for unpaid fees in the sum of $14,418.46 claimed to be owed by the respondent Mrs Ida Pekar in relation to a property in St Kilda East
- The property was purchased in 1996 and Mrs Pekar has been the sole proprietor since 16 July 2012
- The Fee Notice was addressed to "Mr I. and Mrs F. Pekar" and sent to the relevant address
- The OC issued a final fee notice addressed to "Mrs Ida Pekar" and contained no explanation as to how the April 2017 balance was calculated

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Case Study 2 *Cont.*

- Mrs Pekar argued that the OC applied for a VCAT order without referring the dispute to the owners corporation for resolution (s 153 (3)). She says that the dispute resolution process required by s 153(3) had not been followed, and she sought that the application be dismissed under s 164 as a result
- Mrs Pekar also argued that the application is false and misleading and that the OC Manager had breached s 136 of the VCAT Act

Case Study 2 *Cont.*

The Tribunal held:

- "Mr I. and Mrs F. Pekar" did not exist, the lot owner being "Mrs Ida Pekar", whose husband is Mr Fima Pekar
- Fee Notice failed to:

- Comply with section 31(1), which requires it to be in the approved form and addressed to the correct lot owner;

- Provide a breakdown or explanation of the arrears amount

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Case Study 2 *Cont.*

- Documents provided by Mrs Pekar indicate that there has been a dispute about fees since 2012.
- Copy of letter written by her husband dated 22 November 2012 complaining about the fees
- The letter does not say that it was sent on behalf of Mrs Pekar. It was written by Mr Fima Pekar.
- The complaint was in writing as required by s 152(1)
- No evidence it was in the approved form as required by s 152(2)
- Letter does not provide detail of an alleged breach by the manager of an obligation imposed on that person by the Act, the regulations or the rules, as required by s 152(1)
- No complaint made by Mrs Pekar
- As a result the OC manager cannot be in breach of s 153 as that section does not apply

Dispute Resolution Process

Elizabeth Densley

Associate

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Now What?

When an OC receives a compliant form OR becomes aware of a possible breach, the OC must decide to either:

1. Take action or
2. Take no action.

*Note – this does not apply to recovery of unpaid OC levies or breaches by short stay occupants. There are specific sections applicable to those circumstances.

Dispute Resolution and Grievance Procedure

Part 10 of the OC Act sets out the OC's possible responses to complaints and breaches.

Rule 7 of the Model Rules sets out the grievance procedure.

Section 153(3) of the OC Act:

> An owners corporation must not take action under this Part or apply to VCAT for an order in relation to a complaint made under section 152 unless—
>
> (a) the dispute resolution process required by the rules has first been followed and
>
> (b) the owners corporation is satisfied that the matter has not been resolved through that process.

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Possible Outcomes

1. Take no action and do not engage grievance procedure
2. Engage grievance procedure and then determine to take no action
3. Engage grievance procedure and then determine to take action by issuing breach notices (possibly leading to VCAT application)
4. Take action by issuing breach notices (possibly leading to VCAT application).

Crucially, if the OC becomes aware of a breach (not through a complaint form) it may bypass the grievance procedure and go straight to issuing breach notices. However, if the issue is set out in a valid complaint form, the OC must engage the grievance procedure.



Why is Compliance with Part 10 and Model Rule 7 Important?

Section 164 of the OC Act

VCAT may make an order dismissing or striking out an application by an owners corporation for an order requiring the rectification of an alleged breach referred to in section 153 if it is satisfied that the owners corporation has not complied with that section.

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Owners Corporation No1- PS336302K v Fairfax House Quest Lodging Pty Ltd (Owners Corporation) [2012] VCAT 1837

"If there is a discretion not to dismiss or strike out a proceeding when there has been non-compliance with s 153, it is very probably the case that an applicant who has not complied can expect the Tribunal to exercise the discretion adversely to it unless good reason is shown for the non-compliance. If the non-complying applicant could persuade the Tribunal that **any attempt to follow the dispute resolution procedure probably would have been futile**, a reason for exercising the discretion in favour of the applicant would exist."



Take No Action and No Grievance Procedure

Section 153(2)(c) of the OC Act allows the OC to decide to take no action and not engage in grievance procedure.

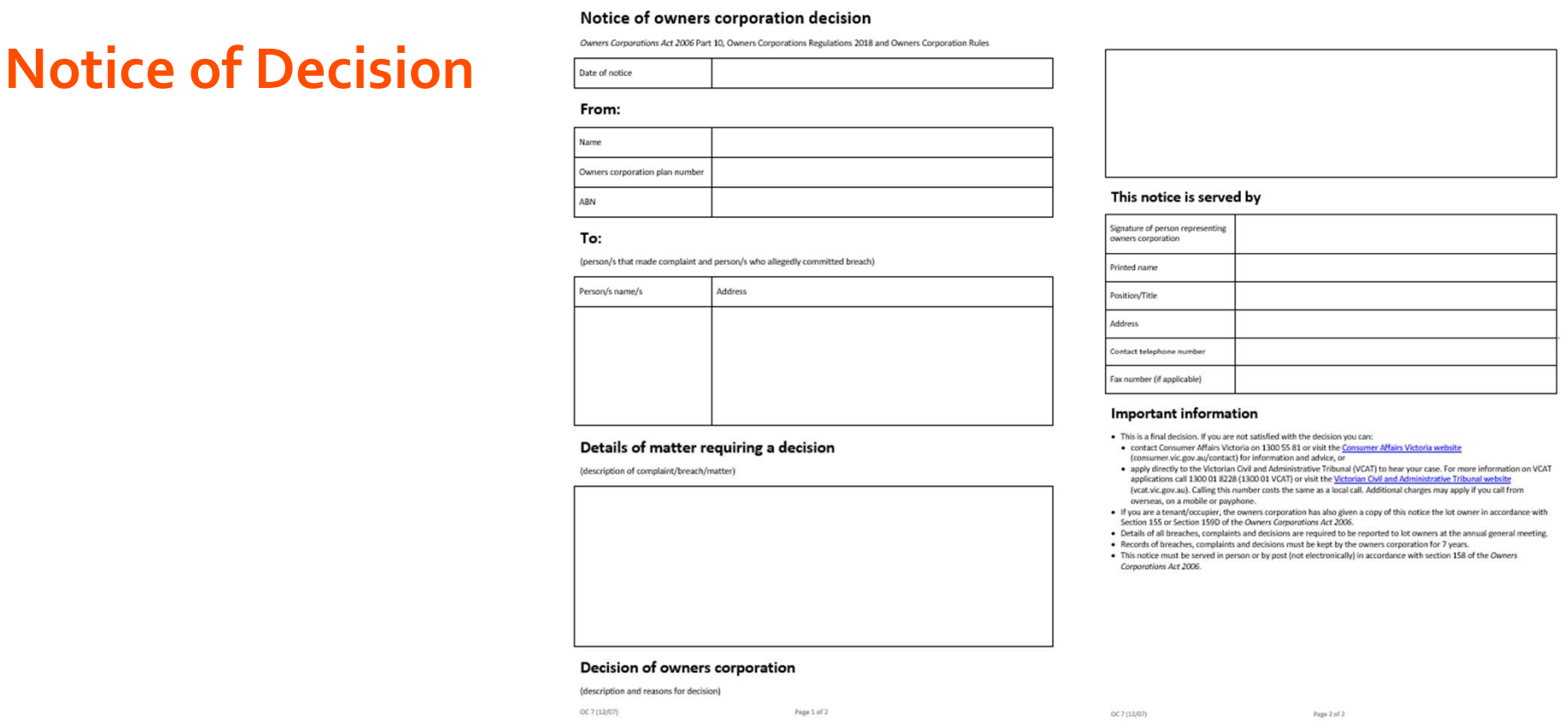
In this case, the OC must give notice of its decision to the person who made the formal complaint. The notice of decision must set out reasons for the decision.

As always, the OC must act in good faith, with due care and diligence when deciding to take no action and not engage the grievance procedure.

We recommend that the OC includes in its reasons why it has decided to not engage the grievance procedure.

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Notice of Decision



Notice of owners corporation decision

Owners Corporations Act 2006 Part 10, Owners Corporations Regulations 2018 and Owners Corporation Rules

Date of notice	

From:

Name	
Owners corporation plan number	
ABN	

To:

(person/s that made complaint and person/s who allegedly committed breach)

Person/s name/s	Address

Details of matter requiring a decision

(description of complaint/breach/matter)

Decision of owners corporation

(description and reasons for decision)

OC 7 (12/07) Page 1 of 2

This notice is served by

Signature of person representing owners corporation	
Printed name	
Position/Title	
Address	
Contact telephone number	
Fax number (if applicable)	

Important information

- This is a final decision. If you are not satisfied with the decision you can:
  - contact Consumer Affairs Victoria on 1300 55 81 or visit the Consumer Affairs Victoria website (consumer.vic.gov.au/contact) for information and advice, or
  - apply directly to the Victorian Civil and Administrative Tribunal (VCAT) to hear your case. For more information on VCAT applications call 1300 01 8228 (1300 01 VCAT) or visit the Victorian Civil and Administrative Tribunal website (vcat.vic.gov.au). Calling this number costs the same as a local call. Additional charges may apply if you call from overseas, on a mobile or payphone.
- If you are a tenant/occupier, the owners corporation has also given a copy of this notice the lot owner in accordance with Section 155 or Section 159D of the *Owners Corporations Act 2006*.
- Details of all breaches, complaints and decisions are required to be reported to lot owners at the annual general meeting.
- Records of breaches, complaints and decisions must be kept by the owners corporation for 7 years.
- This notice must be served in person or by post (not electronically) in accordance with section 158 of the *Owners Corporations Act 2006*.

OC 7 (12/07) Page 2 of 2

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Take No Action and No Grievance Procedure

Circumstances where this might be appropriate:

- Lot owner continuously files complaints and the OC has solid documentary evidence to refute all aspects of the complaint.
- Lot owner continuously files complaints about the same subject matter and the OC has previously responded in full.
- Complaint relates to a private issue between lot owners.
- Lot owner makes a complaint about "the OC" without naming a lot owner/occupier or the manager of the OC.



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Take No Action and No Grievance Procedure

Circumstances where this might not be appropriate:

- Lot owner threatens to commence proceedings in VCAT
- Lot owner has complained that the OC is not convening a grievance committee meeting.

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Grievance Procedure

If the OC has a grievance committee, the grievance committee must notify all relevant parties of complaint and arrange a meeting within 28 days of the date of the complaint.

If the OC does not have a grievance committee, it may choose to appoint a grievance committee to avoid calling a meeting of all the members. Otherwise, the OC must notify all members of the OC of complaint and arrange a meeting within 28 days of the date of the complaint.



Establishing a Grievance Committee

We recommend that a grievance committee be appointed at an AGM.

Otherwise, the committee can appoint a grievance committee as the need arises.

A grievance committee is a sub-committee for the purposes of section 116 of the OC Act and must:

- Appoint a chairperson and a secretary
- Abide by the notice requirements for calling a meeting
- Keep minutes of meetings and
- Otherwise operate in accordance with section 112 of the OC Act (quorum, voting, resolutions)

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Holding a Grievance Committee Meeting

- Can be in person or via video conference
- Parties can have support people attend or have their lawyer present
- The grievance committee can obtain expert evidence if the parties agree to share the cost of obtaining expert evidence.
- The grievance committee may seek legal advice.

Outcome of Grievance Committee Meeting

At the conclusion of the meeting the grievance committee can:

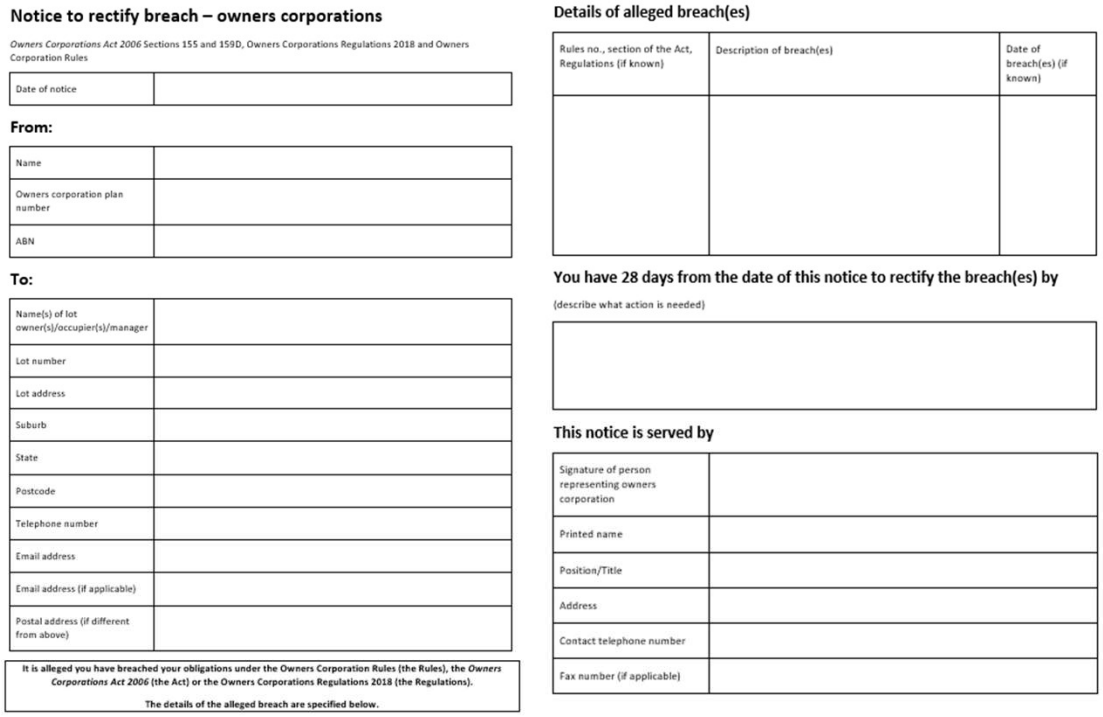
- Elect to delay an immediate response to the complaint and provide that response when the minutes of the meeting are circulated
- Agree to comply with some or all demands made by the complainant
- Make recommendations to the OC committee

Regardless of the above, the grievance committee **must**:

- Notify the parties of its decision to take action/take no action
- Notify the parties of their right to take further action under Part 10 of the OC Act

Take Action – Notice to Rectify Breach

- Must be in the approved form
- Can be sent by post, personal delivery, leaving it in the letterbox for the lot
- Can also be sent by email if that person has consented to receiving notices by email



Notice to rectify breach – owners corporations

Owners Corporations Act 2006 Sections 155 and 159D, Owners Corporations Regulations 2018 and Owners Corporation Rules

Date of notice	

From:

Name	
Owners corporation plan number	
ABN	

To:

Name(s) of lot owner(s)/occupier(s)/manager	
Lot number	
Lot address	
Suburb	
State	
Postcode	
Telephone number	
Email address	
Email address (if applicable)	
Postal address (if different from above)	

It is alleged you have breached your obligations under the Owners Corporation Rules (the Rules), the *Owners Corporations Act 2006* (the Act) or the Owners Corporations Regulations 2018 (the Regulations).

The details of the alleged breach are specified below.

Details of alleged breach(es)

Rules no., section of the Act, Regulations (if known)	Description of breach(es)	Date of breach(es) (if known)

You have 28 days from the date of this notice to rectify the breach(es) by

(describe what action is needed)

This notice is served by

Signature of person representing owners corporation	
Printed name	
Position/Title	
Address	
Contact telephone number	
Fax number (if applicable)	

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Take Action – Notice to Rectify Breach

- The OC must expressly state that the recipient has 28 days to rectify the breach
- If notice is addressed to an occupier, the OC must give a copy to the lot owner
- Explanation of breach must only be factual
- Carefully consider which Model Rule or Registered Rule is breached (valid and enforceable rules only)
- The OC must only send this notice if it believes on reasonable grounds that the person has committed the alleged breach



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What Next?

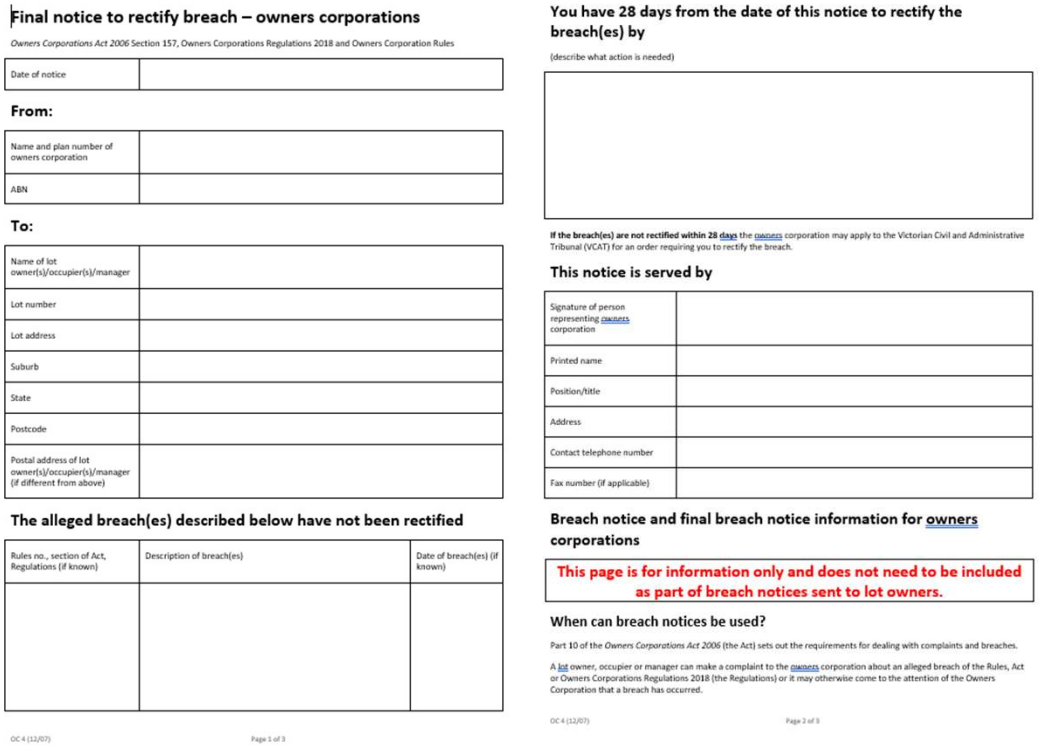
- The OC can decide to give the recipient more time to rectify their breach. To do this, the OC must give the recipient written notice of its decision to grant more time.
- The OC can decide to not take any further action. This might be desirable if further facts come to light, or if the OC decides it is not in the interests of the members to pursue further action.
- The OC can also decide to issue a final notice.

If the OC decides to take no further action after issuing a Notice to Rectify Breach, the OC must give notice of its decision to all parties involved and must set out reasons for the decision in writing.



Take Action – Final Notice to Rectify Breach

- Must be in the approved form
- Can be sent by post, personal delivery, leaving it in the letterbox for the lot
- Can also be sent by email if that person has consented to receiving notices by email



Final notice to rectify breach – owners corporations

Owners Corporations Act 2006 Section 157, Owners Corporations Regulations 2018 and Owners Corporation Rules

Date of notice	

From:

Name and plan number of owners corporation	
ABN	

To:

Name of lot owner(s)/occupier(s)/manager	
Lot number	
Lot address	
Suburb	
State	
Postcode	
Postal address of lot owner(s)/occupier(s)/manager (if different from above)	

The alleged breach(es) described below have not been rectified

Rules no., section of Act, Regulations (if known)	Description of breach(es)	Date of breach(es) (if known)

OC 4 (12/07) Page 1 of 3

You have 28 days from the date of this notice to rectify the breach(es) by

(describe what action is needed)

If the breach(es) are not rectified within 28 days the owners corporation may apply to the Victorian Civil and Administrative Tribunal (VCAT) for an order requiring you to rectify the breach.

This notice is served by

Signature of person representing owners corporation	
Printed name	
Position/title	
Address	
Contact telephone number	
Fax number (if applicable)	

Breach notice and final breach notice information for owners corporations

This page is for information only and does not need to be included as part of breach notices sent to lot owners.

When can breach notices be used?

Part 10 of the *Owners Corporations Act 2006* (the Act) sets out the requirements for dealing with complaints and breaches.

A lot owner, occupier or manager can make a complaint to the owners corporation about an alleged breach of the Rules, Act or Owners Corporations Regulations 2018 (the Regulations) or it may otherwise come to the attention of the Owners Corporation that a breach has occurred.

OC 4 (12/07) Page 2 of 3

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Take Action – Final Notice to Rectify Breach

- The OC must expressly state that the recipient has 28 days to rectify the breach AND state that the OC may apply to VCAT for an order requiring rectification of the breach
- We recommend that the OC give a copy to the lot owner if notice is addressed to an occupier

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What Next?

- The OC can decide to not take any further action. Once more, the OC must give notice of its decision to all parties involved in writing.
- The OC can decide to apply to VCAT for an order requiring rectification of the breach

Owners Corporation PS514657D v Strong (Owners Corporation) [2011] VCAT 877

Lot owner alleged that the OC's Final Notice had gone 'stale' and could not be acted upon.

"There is an irony in a person who admits the boorish behaviour described in multiple Notices relying on an alleged want of procedure, but the path of legal history is paved with ironies and it is necessary to analyse Mr Strong's submission."

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Owners Corporation PS514657D v Strong (Owners Corporation) [2011] VCAT 877

"However breaches which are behavioural in nature, such as the admitted behaviour in this case, must be remedied by multiple acts. Each new day requires a new act of refraining from engaging in the offending conduct. By saying in the Final Notice that proceedings may be commenced if the noise was made within 28 days, the Owners Corporation did not say the opposite – that proceedings would not be commenced if the noise was not made within 28 days of the Final Notice

...

I do not consider that by 16 February 2011 Mr Strong could rightfully have considered himself to be no longer bound by the Final Notice."



Reporting at AGM

The OC must report the following at the AGM:

- Number and nature of formal complaints received
- Number of times and nature of complaints where the OC decided to 'take action'
- Number, nature and outcome of VCAT applications relating to a breach of by a lot owner/occupier

This reporting must not identify the complainant or the lot owner or occupier who alleged committed the breach.

What Orders Can VCAT Make?

Catherine Emmerton, Associate

Compliance & Conduct

Section 165 of the *Owners Corporations Act 2006* (Vic).

1. In determining an owners corporation dispute, VCAT may make any order it considers fair including one or more of the following:

   a) An order requiring a party to do or refrain from doing something

   b) An order requiring a party to comply with this Act or the regulations or the rules of the owners corporation.

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Money Orders

c) an order for the payment of a sum of money—

i. found to be owing by one party to another party

ii. by way of damages (including exemplary damages and damages in the nature of interest)

iii. by way of restitution

(ca) an order requiring a lot owner to pay to the owners corporation reasonable costs incurred by the owners corporation in recovering an unpaid amount from the lot owner (other than costs in the proceeding)



Contracts

d) an order varying any term of a contract or agreement

e) an order declaring that a term of a contract or agreement is, or is not, void

Declarations

d) an order declaring—

(i) the terms of a delegation or

(ii) the meaning of a rule of the owners corporation

Appointments

g) if an owners corporation is required under this Act to have a committee and a committee has not been appointed at or immediately after the first annual general meeting, an order appointing a committee of the owners corporation

h) an order appointing (with the person's consent) or revoking the appointment of—

(i) the chairperson

(ii) the secretary

(iii) a member of a committee or sub-committee of the owners corporation

(i) an order—

(i) appointing a person (with the person's consent) as manager of the owners corporation, on specified terms and conditions

(ii) revoking the appointment of a manager of an owners corporation

(iii) imposing conditions or restrictions on the management by a manager of the owners corporation

Property, Insurance & Entry rights

j) an order in relation to damaged or destroyed buildings or improvements

k) an order as to the payment of insurance money under any policy taken out by an owners corporation

l) an order requiring an order to be recorded in the owners corporation register, the register of managers or in the Register kept under the **Transfer of Land Act 1958**

m) an order requiring the Registrar to amend the Register

Property, Insurance & Entry rights

n) an order requiring an occupier of a lot to grant entry to a lot or a building on a lot to a person authorised by an owners corporation for the purposes of section 50.

Damages, interim or ancillary orders and costs

2. In awarding damages in the nature of interest, VCAT may base the amount awarded on the interest rate fixed from time to time under section 2 of the Penalty Interest Rates Act 1983 or on any lesser rate it thinks appropriate.

3. VCAT may make any interim orders and ancillary orders it thinks fit in relation to an owners corporation dispute.

4. This section does not affect VCAT's power to award costs under section 109 of the Victorian Civil and Administrative Tribunal Act 1998 .

Penalty for reach of rules

- Section 166 of the *Owners Corporations Act 2006* (Vic)

- If VCAT determines that a person has failed to comply with a rule of the owners corporation that imposes an obligation that is binding on the person, VCAT may make an order imposing a civil penalty not exceeding $1100 to be paid to the owners corporation.

What must VCAT consider:

- Section 167 of the *Owners Corporations Act 2006* (Vic)

1. VCAT in making an order must consider the following—

    a) the conduct of the parties

    b) an act or omission or proposed act or omission by a party

    c) the impact of a resolution or proposed resolution on the lot owners as a whole

    d) whether a resolution or proposed resolution is oppressive to, unfairly prejudicial to or unfairly discriminates against, a lot owner or lot owners

    e) any other matter VCAT thinks relevant.

Case study – Civil Penalty

Fang v Owners Corporation Plan No. RP001311 (Owners Corporations) [2025] VCAT 32

VCAT order

1. By 14 February 2025, Ms Fang must remove the CCTV cameras installed by her.
2. By 14 February 2025, Ms Fang must remove the awning installed in the courtyard of Ms Fang's property.
3. By 14 February 2025, Ms Fang must remove the external component of a split system air conditioning unit installed by her some 2 metres above ground level, and relocate the unit so that it is not visible from outside Ms Fang's lot.
4. By 31 January 2025, Ms Fang must pay the owners corporation $5,000 in satisfaction of a levy of $20,000 imposed by resolution of the Owners Corporation on 19 December 2022, in anticipation of future legal costs.
5. **By 31 January 2025, pursuant to s 166 of the Owners Corporations Act 2006, Ms Fang must pay to the owners corporation a Civil Penalty of $2,371.08 in respect of the breaches.**
6. Any application for costs must be sent to the Tribunal and to the other party by 28 February 2025.
7. Any response to any application for costs must be send to the Tribunal and to the other party by 14 March 2025.

When a penalty can be imposed

1. There is a valid owners corporation rule.
2. The rule is binding on the person.
3. The person has failed to comply with it.

Factors the Tribunal considers (s 167 OC Act)

1. Conduct of the parties.
2. Any acts or omissions by a party.
3. Whether the resolution was oppressive, prejudicial, or discriminatory.
4. Any other relevant matter.

General penalty principles

- Maximum penalty is for the worst cases.
- Intentional breaches are more serious than careless ones.
- Repeated breaches increase culpability; occasional breaches are less serious.
- Penalties deter both the offender (specific deterrence) and others (general deterrence).
- Remorse can reduce the penalty; lack of remorse can increase it.

Application to Respondent

- Breaches were intentional and repeated.
- No remorse shown.
- Conduct was confrontational.
- Appropriate to impose a penalty for each breach.

Outcome

- Max under s 166: $1,100 per breach.
- Tribunal imposed $790.36 per breach (4 penalty units).
- Total: $2,371.08.

KCL
Law

Thank You

