

Strata disputes in the SAT: do time limits apply?

December 2019

The recent amendments to the *Strata Titles Act 1985 (WA)* (the ACT) will give the State Administrative Tribunal (SAT) sole jurisdiction for the resolution of strata disputes.

SAT works to a variety of time limits, depending on the type of dispute before it. This article looks at some of these time limits, both in relation to starting proceedings as well as in relation to procedures after they have been started.



Strata scheme disputes

Strata scheme disputes are disputes between scheme participants such as occupiers and owners, the strata company, strata council members, company administrators and managers.

For example, the disputes may be about:

- scheme documents, including the validity of scheme by-laws;
- a resolution or decision of the strata company, or the council of the strata company; or
- the appointment or election of a member of the council or an officer of a strata company.

Strata scheme disputes may also involve alleged breaches of the statutory duties owed by the strata manager to the strata company. These duties include the strata manager's duty to enforce the by-laws and to keep the common property in good and serviceable repair.

There is no time limit for applying to the SAT to resolve strata scheme disputes.

Time limits for lodging an application to the SAT depend on the type of dispute

Decisions by The Western Australian Planning Commission

Disputes may arise with the Western Australian Planning Commission (**WAPC**)

For example, if someone wishes to subdivide land, the WAPC must approve the strata plan or strata amendment plan.

Where the WAPC does not give approval, the Act allows aggrieved parties to apply to the SAT to review that decision.

Applications to review WAPC decisions must be made within 28 days of:

- the day on which the decision maker gave notice of the decision; or
- the day on which the decision maker made the decision.

Decisions by local governments

Disputes may arise with local governments. For example, in addition to the approval of the WAPC, a subdivision must be approved by the local government. Where the local government does not grant approval, the Act allows aggrieved parties to apply to the SAT to review that decision.

These applications must be made within 30 days after receiving notice of the local government's decision.

If the local government does not issue notice within 40 days of the application being made then it is taken to have refused the application. An application to review these decisions must be made within 30 days of the expiry of this 40 day period.



Strata scheme terminations

Where confirmation of a proposal to terminate a strata scheme requires SAT approval, the application must be made within 28 days after the date on which the termination resolution was passed.

Strata lease enforcements

An order to enforce a covenant or condition in the strata lease or obligation imposed by the Act cannot be made immediately.

Before the application to SAT is made, notice must be served on the owner and a reasonable time must be given to remedy the breach.

Time limit for giving notice of an application

When an application to the SAT is accepted, the applicant must provide a copy of the application to:

- each other party to the dispute;
- any person to whom the applicant is directed by the Tribunal to give a copy of the application, and
- any other person entitled to notice of the application.

There are various people who are entitled to receive notice, depending on the circumstances.

If the strata company is a party to the dispute the following persons are entitled to receive notice:

- each member of the strata company;
- each mortgagee of the lots; and
- the occupier of each lot in the strata title scheme that would be affected if the order was made.

If the owner of a lot is a party to the dispute, their mortgagee is entitled to notice.

The requirement to serve notice on mortgagees of lots serves to remind all lot owners and council members that engaging in strata disputes exposes them to substantial financial liability, which their banker will want to know about.

Application to review or appeal decisions of the SAT

If a party wishes to seek an internal review of the decision then an application must be lodged within 28 days of the decision being made.

If the party wishes to appeal the SAT's decision, an application to appeal must be lodged within 28 days after:

- the day on which the Tribunal's decision was given; or
- if written reasons were given on a later date, the day on which the written reasons were received.

Summary

Various time limits apply to strata scheme disputes and other disputes involving strata stakeholders, by reason of the rules operated by the SAT.

Once a dispute starts to develop, it is important for all affected parties to organise themselves so that they can be well prepared to engage effectively in the dispute resolution processes of the SAT.

Contact



Anthony Quahe
Managing Principal
T 9200 4900
E aquahe@civiclegal.com.au

Disclaimer: This article contains references to and general summaries of the relevant law and does not constitute legal advice. The law may change and circumstances may differ from reader to reader. Therefore, you should seek legal advice for your specific circumstances. The law referred to in this publication is understood by Civic Legal as of publication date.