



STRATA MANAGEMENT GUIDE: 9

Dispute Resolution: Common Disputes and Courses of Actions



Preamble

This series of Strata Management Guides published by the Building and Construction Authority (“**BCA**”) is intended to help councils of the management corporations (“**MCs**”), subsidiary proprietors (“**SPs**”), council members and managing agents (“**MAs**”) better manage their estates.

The guide sets out recommended procedures and good practices to address common issues (e.g. how to conduct a general meeting, how to requisite a motion, etc).

The guide is aimed at providing a consistent approach and standard for the strata community to facilitate better self-regulation.

Disclaimer

This guide has been prepared to provide practical information on the Building Maintenance and Strata Management Act (“**BMSMA**”) and regulations made under the BMSMA (“**BM(SM) Regulations**”).

This guide:

- Does not provide a legal interpretation of provisions in the BMSMA or BM (SM) Regulations; and
- Is not a substitute for independent legal advice.

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Important Notice: Readers must not rely on this guide for legal advice.

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Content

| | |
|--|----|
| Preamble | |
| (1) Introduction | 3 |
| (2) Common Disputes in an Estate | 4 |
| (3) Courses of Actions | 7 |
| (3.1) Approaching MC | 7 |
| (3.2) Filing of application with CMC | 8 |
| (3.3) Filing of application with the STB | 9 |
| (3.4) Filing of application with Court | 12 |

Icon in this guide



Good Practice



Example

Abbreviations

| | |
|---------------------------------|--|
| AGM | Annual General Meeting |
| BMSMA | Building Maintenance and Strata Management Act |
| BM(SM) REGULATIONS | Building Maintenance(Strata Management) Regulations 2005 |
| CMC | Community Mediation Centre |
| MA | Managing Agent |
| MCST | Management Corporation Strata Title |
| MC | Management Corporation |
| SP | Subsidiary Proprietor |

01

Introduction



- 1.1 People of diverse backgrounds and interests are brought together when they live in the same community. There are bound to be disagreements and disputes arising among them. Tolerance, understanding of others and communication are essential to living together harmoniously.

In many instances, parties involved in a dispute have not even spoken to each other about the problem. The other party may not even be aware that there is an issue. This makes it tough for people to continue living harmoniously together. The first step towards resolving a dispute is to communicate with the other party.



02

Common Disputes in an Estate



2.1 There are a few types of disputes that commonly surface — these are mainly disputes between the MC and MA, SP and MC, SP and MA, and SP and SP. Please see the table below for more information.

| Parties Involved | Possible Dispute | Suggested Recourse |
|--|---|---|
| SP vs MA | Unsatisfactory response by MA regarding SP's feedback on estate maintenance | Bring the matter to the MC for their attention and follow up |
| MC vs MA | Unsatisfactory performance of MA on duties tasked by MC | <ul style="list-style-type: none"> • Look at the terms and conditions in the MA service agreement for any recourse e.g. termination • File complaint with an accrediting body if the MA is an accredited member |
| SP vs MC | SPs having queries or problems with one or more Council Members on their decisions or actions | Bring the matter to the MC for their attention and follow up |
| SP vs SP | Breach of by-laws including encroachment and nuisance such as noise, littering, pets, etc. | <ul style="list-style-type: none"> • Approach the neighbour directly and try to resolve the problem amicably • Bring the matter to the MC for their attention and follow up |
| SP vs Upper Unit Owner (e.g. SP and MC) | Water seepage into unit from above | <ul style="list-style-type: none"> • Approach the upper unit owner, discuss repair costs and try to resolve the problem amicably • File an application with STB under Section 101(8) of the BMSMA |



Example 1: Dispute between SP and MC/MA on poor maintenance of common property

Under Section 29(1)(a) of the BMSMA, it shall be the duty of an MC to control, manage and administer the common property for the benefit of all the SPs in the development. The MC shall also properly maintain and keep in a state of good and serviceable repair the common property.

What can the SP do?

- ✓ If there is a dispute regarding common property, e.g. poor maintenance, obstruction of common property etc, the SP can bring the matter to the attention of the MC.
- ✓ If the SP has an issue relating to the exercise or performance of the MC's power, duty or function, he/she may apply to the Strata Titles Boards ("STB") for a resolution, under Section 101(1) of the BMSMA.



Example 2: Dispute between SP and MC/MA on obstruction of common property

It is not uncommon for SPs to place shoe racks, bicycles etc. outside their doors in the common area, which can cause obstruction of the common property. The SP can request his neighbour to remove the obstruction and if there is no response, the SP can raise the matter with the MC.

What can the MC do?

- ✓ Approach the SP to remove the obstruction
- ✓ Send circular(s) to remind SPs that prescribed by-laws should be complied with
- ✓ Apply for Court Order to enforce by-laws
- ✓ Inform SCDF if there is contravention of the Fire Safety Act





Example 3: Dispute between SP and SP on inconvenience/ nuisance

Often neighbours have differences in opinion especially when there is a disturbance to the quality of life in one's own home. E.g. Noise from the neighbour's unit, keeping of animals etc.

The BMSMA prescribes a set of by-laws that every estate is required to adopt. There are specific prescribed by-laws that address matters relating to 'Noise', 'Keeping of Animals' etc.



What can the SP do?

- ✓ The SP can talk to his neighbour and try to arrive at an amicable solution.
- ✓ If that does not help, the SP can bring the matter to the MC.

What can the MC do?

- ✓ Approach the SP to comply with by-laws.
- ✓ Send circular(s) to remind SPs that by-laws should be complied with.
- ✓ Apply for Court Order to enforce by-laws.
- ✓ Make additional by-laws to control and manage the estate.





Example 4: Dispute between SP and SP on inter-floor water seepage

One of the common disputes between the upper floor unit and lower floor unit SPs is water seepage from the upper floor unit to the lower floor unit.

It is advisable that both SPs come together to seek an amicable solution to the problem by co-operating to investigate and repair the leak. If they cannot come to an amicable solution, the SPs can request for the MC to intervene.

What can the MC do?

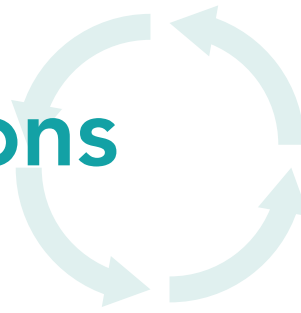
- ✓ Assist to write to the upper floor unit SP and request for a joint investigation with the lower floor unit SP.
- ✓ Assist both parties to resolve the issue amicably.
- ✓ Inform parties that they may have to apply to the STB to make an order to settle disputes or rectify complaints if they are still not able to resolve the issue.



- 2.2 The parties concerned should endeavour to resolve the disputes with each other. Otherwise, the proper course of action will be through the Strata Titles Boards or the courts. Neither the Commissioner of Buildings nor BCA is empowered to resolve disputes under law.

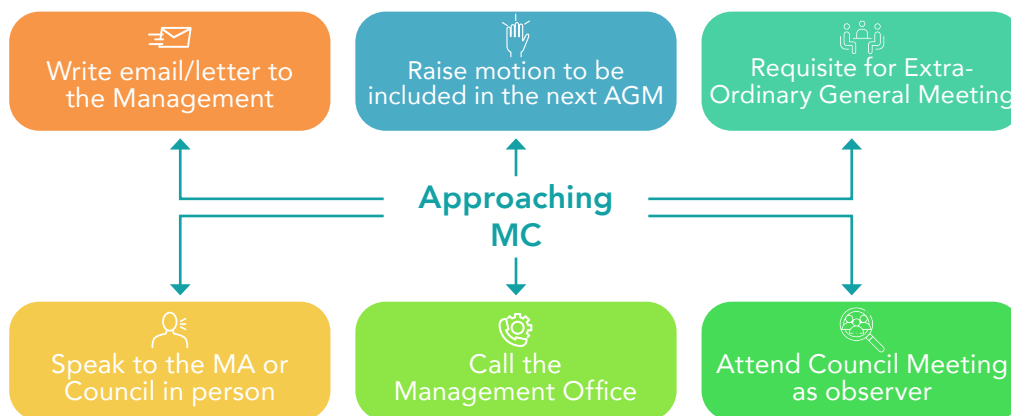
03

Courses of Actions



There are many courses of action an SP can take should a dispute arise. The first step an SP should take is to approach the MC to try and achieve an amicable solution even if the dispute involves the MA or a particular Council Member or Council Members. If the MC is unable to, or fails to address the SP's problem, the SP may bring the matter for discussion at the next general meeting, file an application with the Community Mediation Centre ("CMC"), the STB or the courts for a resolution. However, do take note that both CMC and STB do not hear all types of disputes. The types of disputes that they hear are discussed further below.

3.1 Approaching MC



An SP can call, email or write to the Management Office to provide feedback or enquire for advice. The SP should allow the MC to investigate the matter before taking further actions. The MC and MA should try to assist the SP, by talking through the problem and if possible, do so 'face-to-face' to resolve the problem or situation or recommend the appropriate actions that the SP should take.

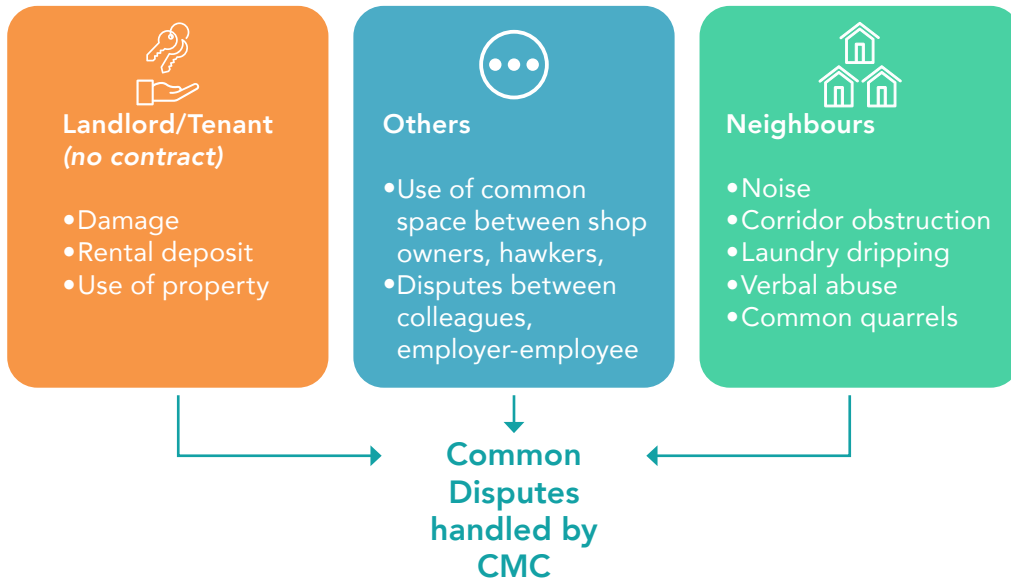
If the situation does not warrant a 'face-to-face' discussion, the MC or MA can send a letter, outlining what needs to be done to resolve the situation and what will happen if the expected conditions are not met. In many cases, the relevant person may not be aware of the issue, e.g. that he has breached by-laws.

Alternatively, an SP can attend the Council Meeting as an observer to further understand the decisions or suggestions brought up at the meeting. The SP can also raise his matter during the Council Meeting subject to the Chairman's approval.

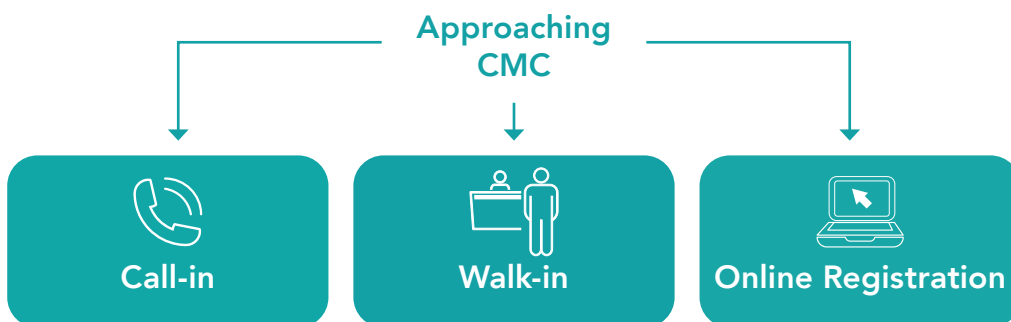
Last but not least, an SP can also raise motions to the MC to be included in the next AGM or request for an Extra-Ordinary General Meeting ("**EOGM**").

3.2 Filing of application with CMC

If an aggrieved person has some difficulties or issues with his/her neighbour, he/she can approach the CMC to commence voluntary mediation between them, provided that the neighbour is also agreeable. The CMC hears disputes involving inter-personal matters and is a less costly alternative. However, please note that CMC does not handle cases that require expert technical knowledge such as water seepage. The common disputes that CMC handles are appended in the chart below.



Parties interested to apply for mediation can call in, walk in or make an online application. For more information on the mediation process, please visit CMC’s website at <http://www.cmc.gov.sg/>.



3.3 Filing of application with the STB

An SP who wishes to seek a resolution of a dispute can file an application with the STB.

The STB is a quasi-judicial tribunal, established under the BMSMA to mediate and hear applications between SPs and MCs, or between SPs, on matters relating to certain disputes arising within strata-titled properties. The STB consists of a panel of experts, including lawyers, architects, and engineers. The STB's role is to facilitate communication between parties, identify issues, explore options and find a mutually acceptable settlement for the dispute. The STB is not allowed to give any legal advice to any party involved. The decisions of the STB are final. After STB has made its decision, an appeal can only be made to the High Court on a question of law.

Common disputes brought before the STB include those on:

- a. Inter-floor water leakages;
- b. Performance or failure to perform certain duties under the BMSMA or by-laws;
- c. Applications to convene meetings or invalidate resolutions passed by the MCs;
- d. Car parking woes
- e. Complaints with regard to alterations to common property;
- f. Applications to revoke or invalidate certain by-laws;
- g. Supply of information by management corporation; or
- h. Management corporation requesting to enter an apartment to carry out particular work.

In general, the STB can make orders and hear certain types of disputes which are stipulated under the BMSMA.

The types of disputes listed in the BMSMA that can be heard by the STB and the fees involved are stated on the following page.



3.3.1 Types of orders by STB and Person entitled to apply

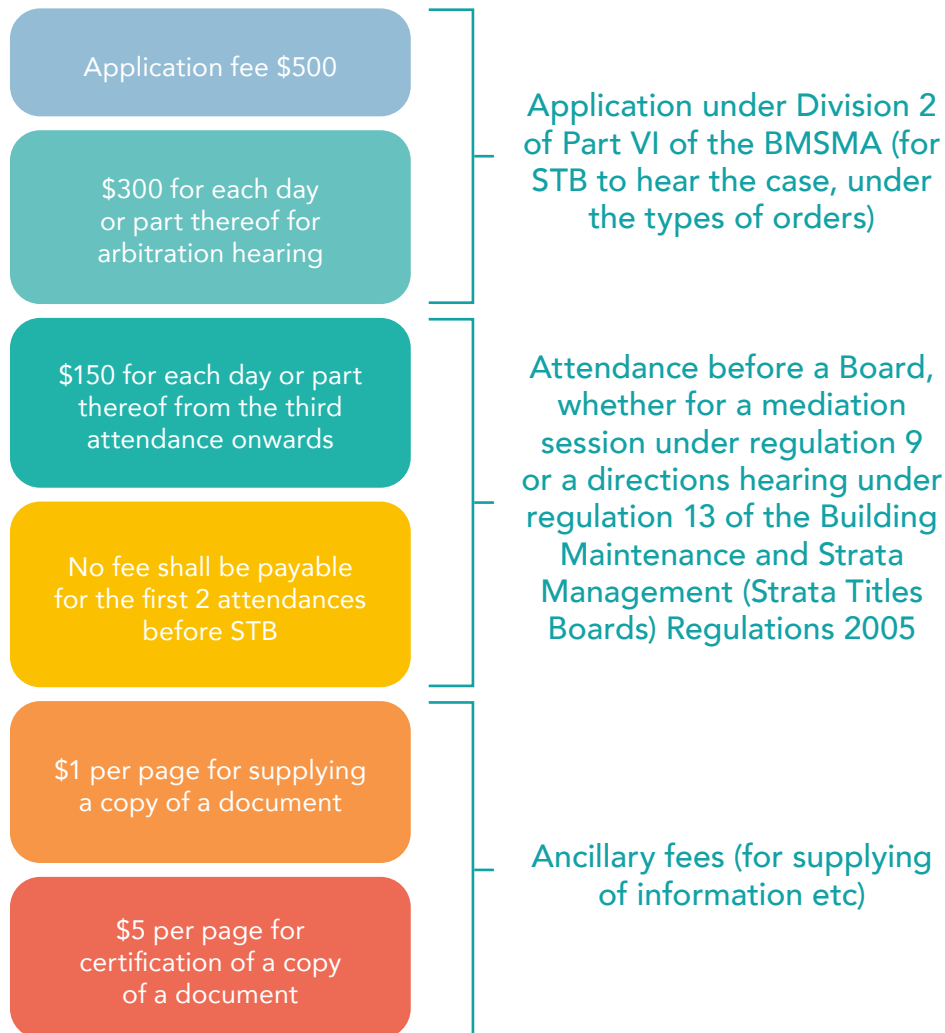
(Sections 101 to 115 of the BMSMA)

| Sections under the BMSMA | Description | Person entitled to apply |
|--------------------------|---|--|
| 101 | Order to settle a dispute or rectify a complaint with respect to defects, etc. | MC*, SP, mortgagee in possession, lessee or occupier |
| 102 | Order to convene meetings | SP or other person entitled to vote at meeting |
| 103 | Order to invalidate a resolution or election | SP or first mortgagee |
| 104 | Order to nullify a resolution where voting rights were denied or due notice of item of business was not given | A person improperly denied to vote or not given due notice of item of business pursuant to which the resolution was passed |
| 105 | Order to revoke amendment or addition of by-law; Order to revive revoked by-law | A person entitled to vote at general meeting (including both first mortgagee and mortgagor) |
| 106 | Order to invalidate purported by-law | A person entitled to vote at meeting (including both first mortgagee and mortgagor) |
| 107 | Order to vary the rate of interest chargeable for late payment of contribution | SP or mortgagee in possession |
| 108 | Order to vary contributions levied or manner of payment thereof | MC, SP or mortgagee in possession |
| 109 | Order to vary insurance amount | SP or mortgagee |
| 110 | Order to make or pursue insurance claim | SP |
| 111 | Order that MCST consents to SP's proposal for alterations to the common property | SP |
| 112 | Order to appoint a MA to exercise or perform certain powers, etc. | SP, mortgagee or judgement creditor of MC |
| 113 | Order to supply information or documents | A person wrongfully refused information or inspection of record or document by MC |
| 114 | Order for entry to lot | MC |
| 115 | Order to resolve dispute between MCs and subsidiary MCs | MC |

* In these Notes, "MCs" includes "subsidiary MCs".

3.3.2 Fees involved

The following chart illustrates the typical fees that an applicant should expect while going through the entire adjudication process with STB.



STB's administrative staff may be able to assist you with your queries on administrative matters, such as how to submit an application, but cannot give legal advice on the merits of your case.

The aggrieved party has to file an application using the appropriate approved form, which can be downloaded from this website <https://www.stratatb.gov.sg/resources-forms.html>

3.4 Filing of application with Court

An aggrieved person can make an application to the States Court/Community Disputes Resolution Tribunal (“**CDRT**”) to hear the following types of disputes:

- a. Causing excessive noise, smell, smoke, light or vibration;
- b. Littering at or in the vicinity of your place of residence;
- c. Obstructing your place of residence;
- d. Interfering with your movable property;
- e. Conducting surveillance on you or your place of residence, where the surveillance is done at or in the vicinity of your place of residence;
- f. Trespassing on your place of residence;
- g. Allowing his animal to trespass on your place of residence, to cause excessive noise or smell, or to defecate or urinate at or in the vicinity of your place of residence.

An aggrieved person can also seek any of the following orders against his neighbour.

| | |
|-----------------------------|--|
| Damages | An order for your neighbour to pay you a sum of money |
| Injunction | An order for your neighbour to stop doing something |
| Specific performance | An order for your neighbour to do something |
| Apology | An order for your neighbour to apologise to you |
| Other order | Any other order to give effect to the above court orders |

At this stage, the dispute has escalated into a litigious process. Please note that the onus is on the applicant to provide the necessary evidence required to establish his case against the respondent.

Please refer to <https://www.judiciary.gov.sg/civil/file-neighbour-dispute-claim> for more information.



References:

BMSMA | BM(SM) Regulations | STB Website | Singapore Courts Website



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