



Advice from Alan

A body corporate administrator

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If a body corporate is dysfunctional, the Unit Titles Act allows an administrator to be appointed by application to the High Court. The body corporate, a creditor, the chief executive of MBIE, or any owner or mortgagee can apply.

The administrator takes over the running of the body corporate, usually to the exclusion of the committee and chairperson (if any). The administrator would often be a professional management company but can sometimes be an individual experienced in unit titles. The period of administration can be indefinite or fixed.

There is a high level of dysfunction required for the High Court to grant an order for an administrator. Considerations include the extent of dysfunctionality in the body corporate between the unit owner members, the duration of such dysfunction, the apparent willingness or otherwise of the parties to cooperate to resolve the dysfunction, previous attempts at resolving the issues in dispute, and the expected likelihood of such resolution occurring in the future.

The High Court will also consider the existence of any previous court or tribunal determinations, and the subsequent compliance or otherwise with the orders made in those determinations, the nature and seriousness of the issues in dispute, any relevant professional evidence, whether the body corporate is in breach of the law, and the extent and duration of any such breach.

Further factors taken into account are others affected by the dysfunction, and the effect and risk posed, the structures currently in place, the extent of dysfunction, and the ability or otherwise of the body corporate to operate, the size of the body corporate, and its ability to meet the costs of an appointed administrator.

When making an application for an administrator, the applicant must confirm who they wish to appoint and must have that person's consent to being an administrator.

An application can require a significant investment, so it is always best to try to agree amongst owners to appoint a body corporate manager if there is no one willing to properly run the body corporate.