

Submission No. ADR/2
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Law Reform Committee



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To <vplrc@parliament.vic.gov.au>

cc

Subject re Discussion Paper

To the Executive Officer

Dear Sir or Madam:

I have a submission in relation to Question 17 and to some extent Question 47.

The essence of my views is that, having settled upon descriptive definitions of the different forms of ADR, some should be deemed unsuitable for particular disputes.

Let me explain from my own perspective.

For more than 20 years I have been a professional Body Corporate Manager and Alternative Dispute Resolution practitioner specialising in real estate property related disputes. (I am a panel member at the office of the Small Business Commissioner.)

I have had years of experience of fulfilling the roles of mediator, expert determinator, disputant and respondent.

One of the reasons why I recently decided to sell my body corporate business is the imminent arrival of the Owners Corporation Act 2006 and in particular its Part Ten – Dispute Resolution.

This Act effectively mandates attempts at internal dispute resolution by unwilling, untrained body corporate members lacking working knowledge of prescriptive operating constraints. I see nothing short of an absolute potential disaster as a result. In fact, rather than creating harmony I see the potential for great disharmony.

The regime of bodies corporate (soon to be called Owners Corporations) is a growing already large area where facilitated resolution (mediation) should be generally avoided in favor of one of the determinative processes run by people with appropriate knowledge and experience.

Some of the most harrowing, frustrating and wasteful experiences of my life have been created by people from the Dispute Resolution Centre of Victoria "floating" options for consideration by the parties to a dispute that were unlawful. These options have been seized upon as being a likely solution from an authority source and have significantly derailed positive progress.

Expressed another way, the word "mediation" rolls too quickly from people who do not know of other options that will produce a better outcome quicker and without the degree of personal angst usually part of a failed facilitated attempt.

I am available to elaborate or expand on the foregoing if requested to do so.

Yours truly,

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