

## THREE THINGS TO DO IN RESPONSE TO A VAGUE RECORD COPY REQUEST

Here are two-real life examples:

*"I request copies of all correspondence from any unit owner to the body corporate requesting for the program of works relating to the water penetration into unit [XYZ] be undertaken and responses."*

*"I request a printout of all payments made to any third party in relation to the program of works"*

How can the body corporate comply with those requests within seven days (assuming eligibility, form of request, and payment of fee is satisfied).

### **Must a body corporate comply with every record request?**

The answer is, no.

The trick is knowing which requests fall outside a body corporate's obligation to avoid adverse action being taken by the requester.

Here are some guiding principles to determine whether a body corporate must comply with a copy request:

- the requester must provide a *reasonable degree of specification* of the records being requested;
- a request for a *particular class or type of document* is usually sufficient;
- the requested records must be able to be *readily identified by the body corporate* based on the request;
- a body corporate is required to perform *some search of its records* to fulfil a request;
- a body corporate is *not required to read through every document* to determine whether it has information being requested;
- the *records must actually exist* in order to have an obligation to provide a copy on request.

### **Approach**

In the first example above, it is unlikely that an adjudicator would order the body corporate to provide the requested documents because:

- the document range is limitless;
- the body corporate would be required to read all correspondence from unit owners to determine whether each correspondence was about the topic of water penetration.

In the second example above:

- if a document existed that compiled payments made to third parties, then it is likely an adjudicator would order a body corporate to provide a copy of that document; however
- if the document did not exist, the body corporate would not be required to read the documents and create a summary of payment information contained in those documents.

### Three Things

1. Communicate

Ensure that communication is made to the requester (ie that the request has been received or asking for clarification of the records requested), rather than simply not responding, as we find that tends to escalate matters unnecessarily;

2. Eligibility

Check that the pre-conditions of a copy record request are satisfied (i.e. Is the requester an 'interested person'? Is the request in writing? Has the prescribed fee been paid?);

3. Inspect

If you or your legal representative considers the record request to be non-compliant, contact the requester and direct them to the option of inspecting the records of the body corporate, whether it be themselves or their agent.

*Article Written by Brendan Pitman (27 May 2022)*

Liability limited by a scheme approved under Professional Standards Legislation  
**Disclaimer** – This article is provided for information purposes only and should not be regarded as legal advice.