

Order of the Tenancy Tribunal

Unit Titles Act 2010

Office of the Tenancy Tribunal

Tenancy Tribunal at Auckland

Unit Title Address

Apartment 13H, 35 Victoria Street West, Auckland 1010

Applicant

Full Name

Address

Kazufumi Ikeda

Unit Owner McLean Law Limited, Level 2, 3053 Great North Road, New Lynn, Auckland

Respondent

Full Name

Address

Body Corporate 346799

Body Price Baker, Berridge PO Box 21-463, Henderson, Auckland Corporate

Order of the Tribunal

The Tribunal hereby orders:

1. Counsel for the parties are to meet to examine all documentation relating to the vote count for the election of the Body Corporate committee at the Annual General Meeting held on 17 August 2017. The Body Corporate is to provide all documentation including all voting papers, tally sheets, proxies and the attendance register for the Annual General Meeting. The meeting is to take place before Friday 20 April 2018.
2. Counsel for the parties are to file a joint memorandum in respect of the vote to elect the Body Corporate committee at the Annual General Meeting. Where Counsel cannot reach an agreement on the evidence either party may file further submissions to the Tribunal.

Reasons:

1. The applicant Kazufumi Ikeda has brought proceedings challenging the actions of the Body Corporate secretary, Body Corporate Administration Limited, and members of the Body Corporate committee at an Annual General Meeting (AGM) held on 17 August 2017. In particular, the application challenges the validity of the vote at the AGM



Dated at Auckland on Wednesday 28-Mar-2018

B Harvey, Adjudicator

for the election of the new Body Corporate committee ("committee"). Mr Ikeda seeks an order that he be elected as a member of the committee or, in the alternative, that an Extraordinary General Meeting be held to elect a seventh member of the committee.

2. One of the issues raised by the applicant relates to the accuracy of the vote count. The applicant submits there are numerous inaccuracies recorded on the AGM minutes particularly in respect of the attendance list and the list of proxies. The evidence indicates that only 2 of Mr Ikeda's 5 proxies are recorded and, furthermore, Qiming Pan's proxy is also missing from the proxy list on the minutes.
3. After considering all the evidence on the alleged irregularities at the AGM and the inaccuracies recorded in the minutes of the AGM, I am persuaded that the actual physical votes (whether by proxy, unit owner in person or postal vote) together with all handwritten tally sheets, the proxies, the attendance register and all other relevant documentation must be disclosed to the applicant's Counsel. Mr Baker suggests that Counsel meet to examine all the documentation together and, where an agreement is reached, file a joint memorandum. I am satisfied that such a meeting should take place by Friday 20 April 2018. Counsel may nominate another person to take their place at this meeting. Where no agreement can be reached on the evidence, the parties may file submissions and request a further hearing if necessary.



Dated at Auckland on Wednesday 28-Mar-2018


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Please read carefully:

SHOULD YOU REQUIRE ANY HELP OR INFORMATION REGARDING THIS MATTER PLEASE CONTACT YOUR LOCAL "TENANCY SERVICES" OFFICE.

For more information please call 0800 83-62-62

MEHEMEA HE PATAI TAU E PA ANA KI TENEI TAKE, PATAI ATU KI TE TARI "TENANCY SERVICES"

Re-hearings:

You may make an application to the Tenancy Tribunal for a rehearing. Such an application must be made within five working days of the order and must be lodged at the Court where the dispute was heard.

The **only** ground for a rehearing of an application is that substantial wrong or miscarriage of justice has or may have occurred or is likely to occur. **Please note that being unhappy or dissatisfied with the decision is not a ground for a rehearing (see "Right of Appeal" below).**

Right of Appeal:

If you are dissatisfied with the decision of the Tenancy Tribunal, you may appeal to the District Court. You only have **10 working days** to lodge a notice of appeal.

However, you may **not** appeal to the District Court:

1. Against an interim order made by the Tribunal.
2. Against an order; or the failure to make an order, for the payment of money where the amount that would be in dispute on appeal is less than \$1,000;
3. Against a work order, or the failure to make a work order where the value of the work that would be in dispute on appeal is less than \$1,000.

For more information please call: **0800-26-87-87**

Enforcement:

Where the Tribunal made any order and it needs to be enforced then the party seeking enforcement should apply to the Collections Unit of the District Court.

Notice to a party ordered to pay money or vacate premises etc.:

Failure to comply with any order may result in substantial additional costs for enforcement. It may also involve being ordered to appear in the District Court for an examination of your means or seizure of your property.

For more information contact Collections Department on **0800-233-222**