

MODULE 1 – UNIT STANDARD 22311 (V6)

Explain aspects of the Unit Titles Act 2010
for real estate personnel (Level 4, Credits 2)

Learner Guide



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UNIT TITLE OWNERSHIP

The Purpose of the Unit Titles Act 2010

The purpose of this Act is to provide a legal framework for the ownership and management of land and associated buildings and facilities on a socially and economically sustainable basis by communities of individual owners and, in particular -

- a) to allow for the subdivision of land and buildings into unit title developments comprising units that are owned in stratum estate in freehold or stratum estate in leasehold or licence by unit owners, and common property that is owned by the body corporate on behalf of the unit owners; and
- b) to create bodies corporate, which comprise all unit owners in a development, to operate and manage unit title developments; and
- c) to establish a flexible and responsive regime for the governance of unit title developments; and
- d) to protect the integrity of the development as a whole.

Unit title ownership is also referred to as a **stratum estate**. It is a common form of ownership for the following:

- Multi-unit residential properties (such as apartments, townhouses, or units).
- Smaller sized multi-unit industrial/commercial properties (such as workshops, offices and carparks).

A **unit**, in relation to any land, means a part of the land consisting of a space of any shape situated below, on, or above the surface of the land, or partly in one such situation and partly in another or others, all the dimensions of which are limited, and that is designed for separate ownership.

The Unit Title Development

The **unit title development** means the individual units and the common property comprising a stratum estate. It defines the bundle of legal rights associated with a unit.

When a unit title is developed, the developer submits a **unit plan** to Land Information NZ. The unit plan shows the principal units as well as any accessory units and common property in the development. It is a formal record of all of the boundaries of the units and the common property.

The unit plan shows the principal units as well as any accessory units. It shows the boundaries of the units and indicates the common property.

Unit title ownership is a type of tenancy in common. Each co-owner has a distinct share in the rights of ownership, but the land itself is not physically divided. Each unit title owner holds separate title for his or her share.

A definition of an owner of a unit title property is provided in [the Unit Titles Act 2010 Section 5](#).

Unit title legislation and regulations

A unit title development means the individual units and the common property which comprise a stratum estate. **A unit is defined in Section 5 of the Unit Titles Act.**

Unit title developments must meet the requirements of the Unit Titles Act 2010 and the Unit Titles Regulations 2011. Some amendments were made to the regulations in 2017.

Unit Titles Act 2010

Section 5 Interpretation

unit, in relation to land, means a part of the land consisting of a space of any shape situated below, on, or above the surface of the land, or partly in one such situation and partly in another or others, all the dimensions of which are limited, and that is designed for separate ownership.

A unit is a defined part of the building such as an apartment and can be a principal unit or an accessory unit.

Under unit title ownership is where each owner will own a **principal unit** and might own an **accessory unit**. Unit title developments often also include **common property**.

Note: The terms principal unit, accessory unit and common property are explained in the next section.

All unit title developments operate under a **body corporate** – *this is explained later in the book*.

Computer Registers (Certificates of title) for unit title properties

The **computer unit title register (CUTR) for stratum freehold or leasehold interests** in a unit-title development is used for unit title properties.

The CUTR certificate of title will state either **stratum in freehold** (if the development is on freehold land) or **stratum in leasehold** (if the development is on leasehold land). You must consult a lawyer or a licensed conveyancing practitioner if there is any uncertainty about the certificate of title (REINZ, 2010).

Identifying a unit title property

You can tell if a property is a unit title development as the Record (Certificate) of Title will identify:

- the Estate as 'stratum in freehold' or 'stratum in leasehold'
- a reference to a Supplementary Record Sheet
- the Legal Description will refer to a Unit (X) and possibly an Accessory Unit (Y)
- Record of Title Under Land Transfer Act 2017 Unit Title

If there is any doubt, check with your manager and maybe a Lawyer or Licensed conveyancing practitioner.

Click on the following link for the Unit Titles Act Information Sheet

https://reinz.co.nz/Media/Default/pdf/Advisory%20Documents/2015_UnitTitleslicenseereformat.pdf

Principal units, accessory units, and common property

Principal unit

Each unit owner will own a **principal unit**. The meaning of principal unit is defined in the Unit Titles Act 2010.

Unit Titles Act 2010

Section 7 Meaning of principal unit

- (1) In this Act, principal unit means a unit—
 - a. that is designed for use (whether in conjunction with any accessory unit or not) as a place of residence or business or for any other use of any nature, and that is shown on a unit plan as a principal unit; and
 - b. that—
 - i. contains a building or part of a building or is contained in a building (although the unit may or may not be bounded by the physical dimensions of the building); or
 - ii. is 1 or more car parks.
- (2) Unless otherwise specified, a reference to a principal unit in this Act does not include a future development unit.
- (3) A reference to a principal unit that is to be, or has been, subdivided to create a subsidiary unit title development includes a reference to any accessory unit subdivided with the principal unit (as described in [section 20\(2\)](#)).

The principal unit will be shown as a principal unit on the unit plan. It might be denoted as Unit or PU with a corresponding number or letter.

- Residential examples: an apartment or a flat in a residential complex
- Commercial examples: an office in a commercial block, a retail store, a warehouse
- Industrial example: a workshop in an industrial estate.

NOTE: A principal unit could be a car park if the unit title development is a parking building.

Accessory unit

Each unit owner **might** own one, or more **accessory units**. The meaning of accessory unit is defined in the Unit Titles Act 2010.

Unit Titles Act 2010

Section 5 Interpretation

accessory unit means a unit that is designed for use with any principal unit (including, without limitation, a garden, garage, car parking space, storage space, swimming pool, laundry, stairway, or passage) and that is shown on a unit plan as an accessory unit

- An accessory unit will be **shown** as an accessory unit on the **unit plan**.
- Accessory units are intended to be used with a principal unit and can only be owned by the **owner of a principal unit**.
 - Residential example: a **private garden, or storage locker** at a residential complex.
 - Commercial example: a **designated carparking space** in a commercial block.
 - Industrial example: a **storage space** in an industrial complex.

Accessory units may only be sold with the principal unit, or to the owner of another principal unit in the same development.

Common property

Unit title developments often also include **common property**. The meaning of common property is defined in the Unit Titles Act 2010.

Unit Titles Act 2010

Section 5 Interpretation

common property means—

- (a) all the land and associated fixtures that are part of the unit title development but are not contained in a principal unit, accessory unit, or future development unit; and
- (b) in the case of a subsidiary unit title development, means that part of the principal unit subdivided to create the subsidiary unit title development that is not contained in a principal unit, accessory unit, or future development unit

Common property means areas that are within the unit title development that are not identified as a principal unit, accessory unit, or a future development unit. Common property, for example, could be lifts, driveways, common gardens, swimming pools, hallways, or a gym which are shared by the unit owners.

Note: a future development unit means a unit that is proposed to be developed or subdivided into 1 or more principal units at a later stage of the development, and that is shown on a stage unit plan as a future development unit.

Ownership of common property

Under Section 54 of the Unit Titles Act, in a unit title development common property is owned by the body corporate, with everyone who owns a principal unit in development having a share of the common property. The share is proportional to the ownership interest of their respective units.

Note: 'Ownership interest' is explained in the section 'A body corporate'.

Unit Titles Act 2010

Section 54 Ownership of common property

- (1) The common property is owned by the body corporate.
- (2) The owners of all the units are beneficially entitled to the common property as tenants in common in shares proportional to the ownership interest (or proposed ownership interest) in respect of their respective units.
- (3) Nothing in subsection (2) affects the interests among themselves of the owners of an individual unit.

Ownership interest

Ownership interest is the interest assigned to a unit by a registered valuer based on the relative value of the unit in relation to each of the other units. It reflects the value of a unit in a development in comparison to other units in the development.

Ownership interest is established so that it can be used to determine a range of matters, like the unit owner's beneficial interest (share) in the common property of the development and their share of the value of any buildings, fixtures, and other improvements related to leasehold land.

An extract from Section 38 [3] in the Unit Titles Act 2010 that states what the ownership interest is used to determine:

The ownership interest is used to determine a range of matters, including, but not limited to,—

- the beneficial interest of the owner of the principal unit in the common property
- the share of the owner of the principal unit in the value of any buildings, fixtures, and other improvements in relation to leasehold land:
- the voting rights of the owner of the principal unit when a poll is requested under [section 99](#):
- the share of the owner of the principal unit in the underlying fee simple in the land on the cancellation of the unit plan:
- the extent of the obligation of the owner of the principal unit in respect of contributions levied by the body corporate under [section 121](#) in respect of any capital improvement fund:
- the rights of the owner of the principal unit in relation to a distribution of any surplus money of a capital improvement fund under [section 131](#):
- the extent of the obligation of the owner of the principal unit for payment of ground rental (if leasehold) under [section 87](#):
- the extent of the liability of the owner of the principal unit for damages and costs under [section 142](#).

Utility interest

Sections 39 and 40 of the Unit Titles Act apply to utility interest.

The utility interest is determined by the body corporate. It is established to calculate how much each unit owner must contribute to the costs of the body corporate in operating the entire complex/development.

The utility interest is used to determine a range of matters including:

- The extent of the obligation of the owner of a principal unit in respect of contributions levied by the body corporate for the long-term maintenance fund, the optional contingency fund, and the operating account (under section 121)
- The rights of the owner of the principal unit in relation to a distribution of any surplus money in the long-term maintenance fund, the optional contingency fund, or the operating account, or personal property of the body corporate (under section 131).

The utility interest of a unit may be set to be the same as the ownership interest. However, a body corporate can decide to set the utility interest differently if:

- the different utility interest is fair and equitable, in the reasonable view of the registered proprietor or owner.
- the difference is shown on the documents lodged with the unit plan.

For example, a body corporate might decide it is fairer for all unit owners to contribute an equal amount to operational costs, rather than them paying different contributions.

Sections 39 and 40 of the Unit Titles Act apply to utility interest.

Voting rights for owners of principal units

Under section 96 of the Unit Titles Act, each principal unit owner has a right to vote at body corporate meetings.

To be eligible to vote, a voter must be:

- aged 16 years or older.
- be recorded on the body corporate's register as the owner of a principal unit or the owner's authorised representative, or
- the nominee (for a company) or proxy of that registered owner or their representative, or
- a subsidiary body corporate representative.

Note: A person is not entitled to vote at body corporate meetings if the body corporate levies (fees) for their unit are due and have not been paid.

Unit owners' rights and responsibilities

The rights and responsibilities of owners are defined in the Unit Titles Act.

Under section 79, and in circumstances in accordance with the Unit Titles Regulations, an owner of a principal unit has the following rights:

- To have quiet enjoyment of his or her unit without interruption by other unit owners or occupiers, or the body corporate or its agents.
- Has the right to dispute resolution.
- Has the right to enforce the body corporate operational rules.
- Has the right to attend the general meetings of the body corporate.

Under section 80, and circumstances in accordance with the Unit Titles Regulations, an owner of a principal unit has the following responsibilities:

It allows the right of entry, and a tenant must permit the body corporate (or its agents) to enter the unit at any time in **an emergency** and **at all reasonable hours**, and after giving **reasonable notice**, for any of the following purposes:

- to view the condition of the unit for the purpose of ascertaining compliance with the principal unit owners' or occupiers' obligations under this Act:
- to maintain, repair, or renew any infrastructure for services and utilities that serve more than 1 unit and any building elements that affect more than 1 unit or the common property, or both:
 - to maintain, repair, or renew any common property:
 - to ensure the body corporate operational rules are being complied with:
- must do all things necessary to give effect to decisions of the body corporate:
- must consult with his or her mortgagee, if required to do so, before exercising a vote under [section 97](#) or [98](#):
- must comply with all laws and legal requirements relating to the use, occupation, or enjoyment of the unit:
- must carry out, without delay, all work that may be ordered by a territorial authority or public body in respect of the unit to the satisfaction of that authority or body:
- must pay all rates, taxes, charges, body corporate levies, and other outgoings that are from time to time payable in respect of the unit:
- must repair and maintain the unit and keep it in good order to ensure that no damage or harm, whether physical, economic, or otherwise, is, or has the potential to be, caused to the common property, any building element, any infrastructure, or any other unit in the building:
- must notify the body corporate of his or her intention to carry out any additions or structural alterations before the commencement of any work:
 - must not make any additions or structural alterations to the unit that materially affect any other unit or the common property without the written consent of the body corporate:
- must comply with the body corporate operational rules:
- must not do anything that breaches or in any way undermines any policy of insurance in the name of the body corporate.

Note: More rights, responsibilities, and requirements for unit owners in particular circumstances are covered in sections 81, 82 and 83. These sections relate to: responsibilities of an absentee owner of a unit who leases or licenses their unit; requirements relating to consent by subsidiary body corporate to additions or structural alterations.; rights and responsibilities of owners of principal units in subsidiary unit title developments.

A BODY CORPORATE

All unit title developments operate under a body corporate and the body corporate must meet the requirements of the Unit Titles Act.

A body corporate is a legal entity which exists only for the purposes set out in the Unit Titles Act 2010.

A body corporate is automatically created for a unit title development when a unit plan is deposited with LINZ and exists only for the purposes set out in the Unit Titles Act 2010.

A body corporate is made up of a collective of all the unit owners at the property unit title development. Each unit owner is a member of the body corporate.

A body corporate has perpetual succession, which means it has its own identity and continues to exist when changes happen. This means when a unit owner sells their unit, they are no longer a member of the body corporate and the new unit owner automatically becomes a member of the body corporate.

- Each unit owner has a right to vote at body corporate meetings. To be eligible to vote, a voter must be aged 16 years or older and be:
- recorded on the body corporate's register as the owner of a principal unit or the owner's authorised representative, or
- the nominee [for a company] or proxy of that registered owner or their representative, or
- a subsidiary body corporate representative.
- A person will not be entitled to vote if the body corporate levies [fees] for their unit are due and have not been paid.

The role of a body corporate

According to Tenancy Services (2018a), the body corporate is responsible for a range of management, financial and administrative functions relating to the common property and the unit development as a whole.

These functions relate to the things all unit owners have a shared interest in, which is why all unit owners are member of the body corporate

The key functions of the body corporate relate to the issues all unit owners have a shared interest in. For example

- the management, maintenance, and repair of common property, including common building elements and infrastructure that might not be common property.
- establishing and maintaining of a long-term maintenance plan
- insuring the buildings and improvements on the base land.
- holding an annual general meeting [AGM] once every calendar year, and not later than 15 months after the previous AGM.

For more information on this, see the Tenancy Services webpage on body corporate governance at <https://www.tenancy.govt.nz/uta/governance>.

Powers and duties of a body corporate

Section 84 of the Unit Titles Act outlines the powers and duties of a body corporate. These powers and duties are summarised below:

- To keep and maintain a register of all the owners of principal units and accessory units on the plan.
- To have and comply with the body corporate operational rules.
- To establish and maintain a long-term maintenance plan covering at least 10 years.
- To repair and maintain common property, any assets owned by the body corporate, and building elements and infrastructure that affect more than one unit.
- To assign and reassess ownership interests and utility interests.
- To impose levies on the owners of principal units (in line with ownership interests and utility interests).
- To insure the buildings and other improvements on the land to their full insurable value. This is funded through compulsory levies collected from the individual owners.
- To use any money paid by an insurer on reinstatement of the unit title development unless decided otherwise by special resolution (75% of the eligible voters vote in favour of the resolution) at a general meeting.
- To pay ground rental to a lessor if the unit title development is on leasehold land.
- To manage funds relating to the unit title development (including spending, borrowing, and investing of money and the distribution of surplus money).
- To keep accounting records and to submit yearly financial statements to an independent auditor and provide a copy of financial statements for the latest financial year with the notice of the annual general meeting.
- To call general meetings. Section 90 refers to both annual general meetings (AGMs) and extraordinary general meetings (which must be held if requested by not less than 25% of principal unit owners).
- To provide records and documents on request from a unit owner (including operational rules, insurance policy information, long term maintenance plan, meeting minutes, financial statements).
- To sign documents on behalf of an owner in certain circumstances.
- To act as an agent for the unit owners who lease or licence their principal unit and are absent (for the purpose of enforcing the body corporate operational rules).
- To delegate any of its duties or powers, either generally or specifically, to the body corporate committee by special resolution and written notice.

Special resolutions

Some of the powers and duties listed above refer to a special resolution. The situations where a special resolution is required are where decisions made by the body corporate that could have significant consequences for the unit owners. Under section 98(4) 75% of the eligible voters who vote on the resolution must vote in favour of the resolution for it to pass (Tenancy Services 2018b).

Body corporate operational rules

The purpose of body corporate operational rules is to help to run the unit title development. They generally provide for the peaceful enjoyment of the property by all the owners. They define what an owner or occupier must and must not do and include how common property is to be treated (e.g., how rubbish is to be disposed of, whether parking on common property is permitted and where).

All body corporates must have **operational rules** that the body corporate, tenants, owners of principal units, occupiers of principal units, and mortgagees in possession, must follow.

There are six minimum body corporate operational rules set out in **Schedule 1** of the **Unit Titles Regulations 2011**. These six rules must be followed by all unit owners.

A body corporate can revoke, amend, or add to the Schedule 1 rules to ***suit the individual characteristics of their development***.

Unit title Regulations 2011

Schedule 1

Body Corporate Operational Rules

1. An owner or occupier of a unit must not—
 - (a) damage or deface the common property:
 - (b) leave rubbish or recycling material on the common property:
 - (c) create noise likely to interfere with the use or enjoyment of the unit title development by other owners or occupiers:
 - (d) park on the common property unless the body corporate has designated it for car parking, or the body corporate consents:
 - (e) interfere with the reasonable use or enjoyment of the common property by other owners or occupiers.
2. An owner or occupier of a unit must dispose of rubbish hygienically and tidily.

Unit title owners, and parties interested in purchasing a unit title property should make sure they have the most up-to-date copy of the operational rules that apply to their development.

Proviso: No powers or duties may be conferred or imposed by rules of the Body Corporate which are not incidental to the performance of the duties or powers imposed by the Unit Titles Act.

Failure of unit owner to comply with operational rules and duties to body corporate.

A body corporate has powers to take remedial action to ensure compliance by unit owners, including:

- entry into a unit to carry out necessary work [see section 80 [1] [a] of the UTA 2010], and
- charging the owner for any costs incurred in doing any work which was the responsibility of a unit owner [see section 127 of the UTA 2010].
- If a unit owner does not pay their levies or contributions, any unpaid levy together with reasonable costs is recoverable as a debt by the body corporate against the unit owner.
- A unit owner loses their voting rights in any body corporate meetings and motions if they have any unpaid body corporate levies.

Powers and duties of a body corporate in relation to repair and maintenance.

Under the Unit Titles Act, Section 138 a body corporate's responsibility for repair and maintenance covers:

- the common property (and anything else owned by the body corporate) at the unit title development site.
- all building elements and infrastructure which affect more than one unit.

And allows for:

- access any unit, **at all reasonable hours**, to enable it to carry out repairs and maintenance.
- recover any costs incurred by the body corporate that relate to repairs to or maintenance of building elements and infrastructure contained in a principal unit from the owner of that unit.

A body corporate must also establish and maintain a **long-term maintenance plan** (section 116) that must cover a period of at least 10 years from the date of the plan or the last review of the plan.

The body corporate must also set up and manage a fund for that plan (sections 115 and 117 to 120). This account must be kept separate from other body corporate accounts. (section 120)

Section 116 confirms that the purpose of a long-term maintenance plan is to:

- identify future maintenance requirements and estimate the costs involved.
- support the establishment and management of the funds.
- provide a basis for the levying of owners of principal units.
- provide ongoing guidance to the body corporate to assist it in making its annual maintenance decisions.

A body corporate can contract with a body corporate manager to perform some of the services and administrative responsibilities. A body corporate manager or building manager typically provides the following services:

- Arranging maintenance of common property
- Organising facilities for meetings
- Administering the body corporate's financial activities
- Appointing a body corporate manager does not affect either the individual or collective property rights of a unit owner.

Body corporate meetings

- All body corporates must hold annual general meetings [AGMs] once every calendar year and not more than 15 months after the previous meeting.
- The quorum for general meetings is 25% of owners of principal units, or their representatives, as provided for under the Act and Regulations.
- Unanimous resolutions [i.e., 100% in favour] are not required for passing motions at body corporate meetings. Motions can be passed as ordinary or special resolutions depending on the nature of the resolution and the relevant rules.
- An ordinary resolution is achieved when a majority of eligible votes [i.e., 50% or more] are in favour of a motion.
- A special resolution is achieved when 75% or more eligible votes are in favour of a motion.
- A body corporate can also hold an extraordinary general meeting [EGM]. An EGM can be held at any time of the year to discuss any matter relating to the unit title development. For example, the body corporate committee needs to get agreement from the body corporate to carry out urgent repairs on common property.

NOTE: Section 90 [2] [a] 141, 171 and 173 of the Unit Titles Act 2010 for who may call meetings and handle disputes.

Failure of body corporate and handling disputes

The body corporate is made up of representatives of all the owners of the principal units in the unit title development. Meetings are to be held to manage the body corporate's responsibilities or, where appropriate, to appoint a body corporate committee to manage the responsibilities on behalf of the body corporate.

- If a body corporate fails to perform its responsibilities, 25% or more of the unit owners can call for an extraordinary general meeting to discuss the lack of performance.
- The body corporate, a creditor of the body corporate, or any person having a registered interest in a unit, may apply to the High Court for the appointment of an administrator. The High Court may appoint an administrator for a period on such terms and conditions as it thinks fit.
- The administrator takes over the powers of the body corporate and the committee and must carry out the duties of the body corporate and the committee, or those powers and duties that the High Court orders. The administrator can exclude the body corporate and body corporate committee from all powers and duties.
- Disputes between unit owners, the body corporate, an administrator, a registered valuer, an occupier, contractor, prospective buyer, owner, lessor, or the Chief Executive of the government department responsible for the Unit Titles Act 2010 can be referred to the Tenancy Tribunal, District Court or High Court depending on the nature and value of the dispute.

A body corporate committee

A body corporate committee is a committee established by a body corporate under section 112 of the Unit Titles Act. The committee is effectively a subset of the body corporate.

It is elected by the body corporate, which may delegate some of its duties and powers to the committee, particularly duties that relate to the administration and management of the development.

Under section 112:

- a body corporate of a unit title development of 9 or fewer principal units may form a body corporate committee.
- a body corporate of a unit title development of 10 or more principal units must form a body corporate committee unless the body corporate, by special resolution, decides not to form a body corporate committee.

The Unit Titles Regulations 2011 provide for the setting up and operation of body corporate committees, as does sections 112 to 114 in the Unit Titles Act 2010.

<https://www.tenancy.govt.nz/assets/Uploads/Tenancy/short-guide-to-unit-titles.pdf>

There are regulations relating to a Body Corp Committee that include:

- Delegation to a body corporate committee by a body corporate.
- Revocation of delegation to body corporate committee.
- Election of a body corporate committee.
- Removal or resignation of body corporate committee members.
- Appointment of a body corporate committee chairperson.
- Body corporate committee business
- Body corporate committee reports.

Powers and duties of a body corporate committee

Section 108 outlines which duties and powers the body corporate can delegate to a body corporate committee, and which duties and powers cannot be delegated.

Unit Titles Act 2010

Section 108 Delegation of duties and powers

- (1) Except as provided in subsection (2), a body corporate may delegate any of its duties or powers, either generally or specifically, to the body corporate committee by special resolution and written notice.
- (2) The body corporate must not delegate any of the powers or duties set out in –
 - (a) subsection (1) (which is the general power of delegation):
 - (b) section 41 (which provides for the reassessment of ownership interests and utility interests):
 - (c) section 105(4) (which requires the body corporate to comply with the body corporate operational rules):
 - (d) section 136(4) (which relates to the application of insurance monies in or towards reinstatement of the development).

Section 113 of the Unit Titles Act relates to decision-making of body corporate committees.

It says:

- Requires body corporate committees to report to the body corporate in accordance with the Unit Titles Regulations 2011 (Regulation 28).
- Any matters at a meeting of a body corporate committee must be decided by a simple majority of votes.

Unit Titles Regulations 2011

Section 28 Body corporate committee reports

1. A body corporate committee must report to the body corporate at each annual general meeting of the body corporate.
2. A body corporate committee must report to the body corporate at such other times and in such manner as the body corporate decides by ordinary resolution.
3. A body corporate committee report must include the following information.
 - (a) a description of the duties or powers that have been delegated to the body corporate committee during the period covered by the report; and
 - (b) an update on the fulfilment of those duties or the exercise of those powers by the committee.

Levies or contributions

The body corporate has power to levy [charge] unit owners for financial contributions to its funds. These funds help the body corporate to operate and meet long-term maintenance needs. The body corporate may also need a contingency fund to provide for unbudgeted expenses on the common property.

Under the Unit Titles Act 1972, levies were charged based on a **unit entitlement**. Under the 2010 Act, the term 'unit entitlement' is removed.

Now, under the Unit Titles Act 2010, unit owners will contribute to body corporate operational expenses [funds] based on **ownership interests** and **utility interests**. Section 121 outlines this:

Section 121 Contributions to be levied on unit owners.

- [1] A body corporate may determine from time to time the amounts to be raised for each fund and impose levies on the owners of principal units to establish and maintain each fund.
- [2] The levies must be calculated as follows:
 - [a] in the case of the operating account, long-term maintenance fund, and any contingency fund, in proportion to each unit owner's utility interest; and
 - [b] in the case of any capital improvement fund, in proportion to each unit owner's ownership interest.
- [3] The owner of a future development unit is liable to pay contributions levied by the body corporate under this section from the date that the future development unit is first in use as a place of residence or business or otherwise and from that date that future development unit is to be treated as a principal unit for the purposes of this section.
- [4] Any levies imposed by a subsidiary body corporate must be sufficient to pay any levies raised under subsection [1] by the head body corporate, its parent body corporate, or any other parent body corporate located between the subsidiary body corporate and its head body corporate.

Non-compliance

If a unit owner (body corporate member), body corporate management or body corporate committee fails to meet their legal duties under law, regulations, or rules, this would be a situation of non-compliance.

Non-compliance by body corporate management

A body corporate can contract with a body corporate manager to perform some of the services and administrative responsibilities. A body corporate manager or building manager typically provides the following services:

- arranging maintenance of common property
- organising facilities for meetings
- administering the body corporate's financial activities

Appointing a body corporate manager does not affect either the individual or collective property rights of a unit owner.

A service contract is entered into between the body corporate and a manager or management company. This contract should include clauses relating to performance criteria and termination. Then, if the management is found to be non-compliant, the body corporate should be able to terminate the service contract providing they follow the process outlined in it. Because this can be a complex process, the body corporate would likely require professional advice from a lawyer before such action was taken.

Non-compliance of the body corporate chairperson

If the chairperson of the body corporate is deemed to be non-compliant, under Clause 12(1) of the Unit Titles Regulations 2011, an extraordinary general meeting can be called, and the chairperson can be removed from office by ordinary resolution of the body corporate at this meeting. The body corporate must then elect a new chairman by ordinary resolution at the same extraordinary general meeting. A chairperson who is removed from office is not eligible for re-election at the general meeting at which the new chairperson is to be elected.

The chairperson may give notice in writing to the body corporate at any time of his or her intention to resign. (Unit Titles Regulations 2011 s12(3)).

However, the chairperson must give notice in writing to the body corporate of his or her intention to resign if.

- an agreement for the sale and purchase of the chairperson's unit has become unconditional; and
- as a result of the sale and purchase of the unit, the chairperson will no longer be the owner of a principal unit in the unit title development. (Unit Titles Regulations 2011 s12(4))

Non-compliance of a body corporate

If a body corporate fails to perform its duties, the Unit Titles Act provides avenues for resolution.

For example, if a notice signed by 25% or more of the unit owners is received, the body corporate chairperson must call for an extraordinary general meeting (Section 89A) to discuss the lack of performance.

Under section 141 of the Unit Titles Act, the body corporate, a creditor of the body corporate, or any person having a registered interest in a unit, may apply to the High Court for the appointment of an administrator. The High Court may appoint an administrator for a period on such terms and conditions as it thinks fit.

Such an appointment would be made for more serious situation and might be brought about for several reasons.

Examples:

- the body corporate is deemed dysfunctional, or
- deadlock exists between owners, or
- the decisions of the body corporate are considered undemocratic or outside their legal authority.

If appointed, the administrator takes over and carries out the powers of the body corporate and the committee, or those powers and duties that the High Court orders. The administrator can exclude the body corporate and body corporate committee from all powers and duties.

Non-compliance of a body corporate committee

If a body corporate committee fails to comply with the legislative powers and duties delegated to it, the body corporate can revoke (cancel) the powers and duties it has delegated to the body corporate committee.

- by special resolution, and
- written notice given to the body corporate committee that these powers are to be revoked.

Unit Titles Act 2010

Section 111 Revocation of delegation

A delegation under section 108(1) may be revoked by special resolution and written notice to the body corporate committee.

Section 109 outlines which duties and powers the body corporate cannot delegate and **Section 110** outlines how the delegation must not affect the performance of any duty or responsibility of the body corporate including the actions of the body corporate committee acting under the delegation.

Non-compliance of unit owner (body corporate member)

Under the Unit Titles Act, a body corporate has powers to take remedial action in the event of non-compliance, for example, when a unit owner does not pay money due.

Remedies for non-payment of money due

This includes, recovering as a debt, along with any interest owed, and reasonable costs:

- unpaid levies or contributions (section 124).
- recovery of (the allocated proportion of) money spent on repairs and other work that was substantially for the benefit of 1 unit only; substantially for the benefit of some of the units only; or benefits 1 or more of the units substantially more than it benefits the others (section 126).
- any costs incurred in doing any repair work caused by a wilful or negligent act or omission by a unit owner which should have been the responsibility of that unit owner (section 127).
- Any costs for an amenity or service are supplied to the unit title development and the body corporate installs and maintains a meter recording the use of that amenity or service by any principal unit, the body corporate may charge the owner of that unit the cost of the usage as indicated on the meter or any charge is recoverable from the owner of the principal unit as if it were a levy. The cost of the usage charged by the body corporate to the principal unit owner must be the same as that charged by the provider of the amenity or service. (section 125).

Another important point is that the recoverable debt due in these circumstances applies to the unit owner at the time the expense became payable **or** to the person who is the unit owner at the time proceedings are started.

When a unit owner or body corporate fails to meet their legal duties under law, regulations, and rules, this is known as **non-compliance**.

Handling disputes

Under sections 171-173 of the Unit Titles Act, disputes can be dealt with by the Tenancy Tribunal, a District Court, and the High Court depending on the nature and value of the dispute.

Disputes may arise in relation to disagreement between the following parties:

- the owner of a principal unit or a former owner of a principal unit:
- a body corporate.
- a future development unit owner.
- an occupier of a future development unit.
- an administrator.
- a registered valuer.
- an occupier of a principal unit.
- a service contractor.
- a prospective buyer of a principal unit.
- an original owner.
- a lessor of base land.
- the chief executive.

Role of the Tenancy Tribunal

Under Section 171 of the Unit Titles Act the Tenancy Tribunal may take a role in addressing non-compliance by unit owners. If the body corporate and the owner (or former owner) of a principal unit are in dispute over non-compliance of the other party, and they have not been able to resolve the problem, the Tenancy Tribunal has jurisdiction to make orders following mediation or adjudication.

For example, the Tenancy Tribunal may

- order one of the parties to do something (or refrain from doing something) to remedy a breach of the operational rules (Section 171(3))
- require payment or work to the value of up to \$50,000 (Section 171(4))

For more serious matters, the Tenancy Tribunal would likely refer the matter to a hearing.

The Tenancy Tribunal deals with unit title disputes involving less than \$50,000 where the parties are unable to reach an agreement. The parties can apply for an order of the Tenancy Tribunal. The Tribunal will review the application and decide whether the dispute should go to mediation or adjudication. The Tribunal will resolve the disputes through mediation, if possible, and adjudicate disputes, where necessary.

Disputes that are beyond the Tenancy Tribunal's jurisdiction are dealt with by the appropriate court.

The District Court hears and determines disputes.

- where the order sought requires any person or body to pay any sum, or do any work, or otherwise incur expenditure valued over \$50,000, but not more than \$350,000.
- relating to the application of insurance money up to and including \$50,000 The District Court does not hear disputes concerning the title of land. (Unit Titles Act 2010, s172)

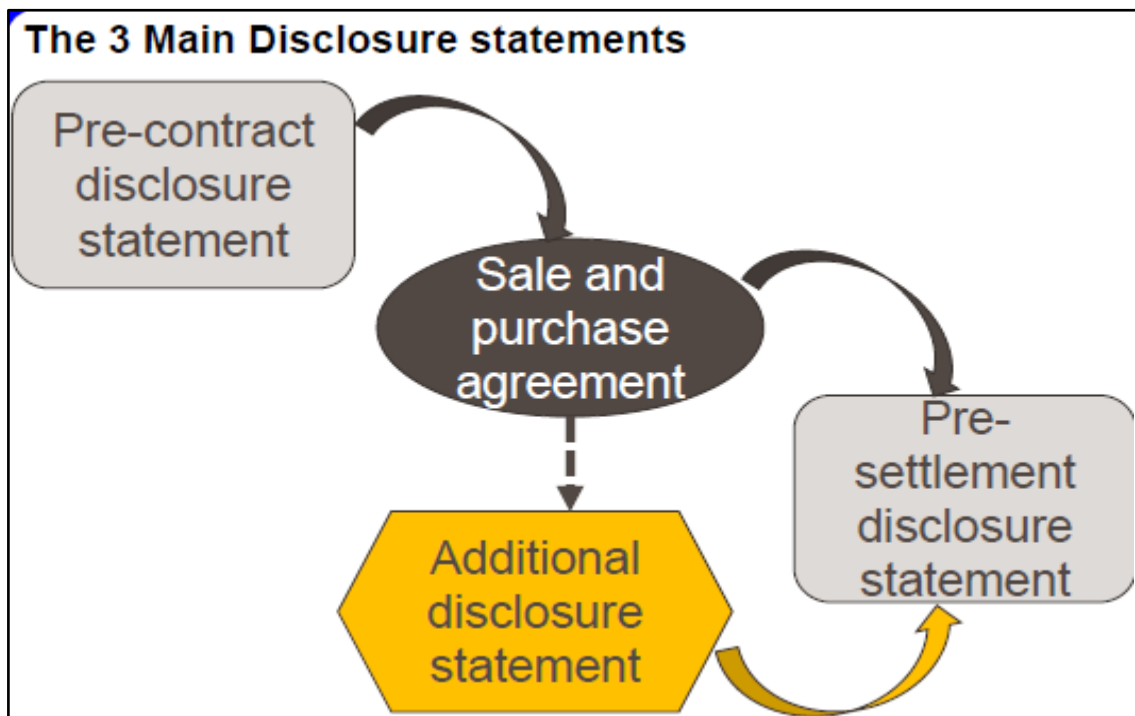
127 Recovery of money expended where person at fault.

[1] This section applies if the body corporate does any repair, work, or act that it is required or authorised to do, by or under this Act, or by or under any other Act, and the repair, work, or act was rendered necessary by reason of any wilful or negligent act or omission on the part of, or any breach of the Act, the body corporate rules, or any regulations by, any unit owner or his or her tenant, lessee, licensee, or invitee.

[2] Any expense incurred by the body corporate in doing the repair, work, or act, together with any reasonable costs incurred in collecting the expense, is recoverable as a debt due to the body corporate [less any amount already paid] by the person who was the unit owner at the time the expense became payable or by the person who is the unit owner at the time proceedings are instituted.

Example: If the owner of a unit makes alterations to their unit which causes damage to another unit or they do not maintain their exclusive use area and breach the body corporate rules then the Body Corporate can authorise the repairs or maintenance and collect the money from the unit owner.

DISCLOSURE REQUIREMENTS WHEN SELLING A UNIT TITLE



The Unit Titles Act 2010 specifies some disclosure requirements that apply to unit title property transactions. These requirements are compulsory and cannot be contracted out (Unit Titles Act 2010, s145)

Pre-contract disclosure

A potential buyer must be given a pre-contract disclosure statement by the seller before they enter into a sale and purchase agreement (section 146(1)).

The pre-contract disclosure statement involves giving some specific information about the development and its body corporate. This includes confirmation of whether the unit title development has been subject to any weathertightness claims, insurance details, body corporate levies, and maintenance plans for the upcoming year.

This statement must be in the prescribed form (Form 18 of the Unit Titles Regulations 2011) and involves making some specific declarations. Tenancy Services / Ministry of Business, Innovation and Employment has created a more user-friendly form which is downloadable from its website <https://www.mbie.govt.nz/>

A copy of this form is shown in the Portal.

While the pre-contract disclosure statement is the seller's responsibility to provide, it will probably be prepared by the body corporate manager, if there is one, at a cost to the seller.

Unit Title Regulations 2011

33 Pre-contract disclosure statement

The following information is prescribed for the purposes of section 146(2) of the Act (which requires a pre-contract disclosure statement to be in the prescribed form and to contain the prescribed information):

- (a) the amount of the contribution levied by the body corporate under section 121 of the Act in respect of the unit being sold; and
- (b) the period covered by such contribution; and
- (c) details of maintenance that the body corporate proposes to carry out on the unit title development in the year following the date of the disclosure statement, and how the body corporate proposes to meet the cost of that maintenance; and
- (d) the balance of every fund or bank account held or operated by the body corporate at the date of the last financial statement; and
- (e) whether the unit or the common property is, or has been, the subject of a claim under the Weathertight Homes Resolution Services Act 2006 or any other civil proceedings relating to water penetration of the buildings in the unit title development; and
- (f) an explanation of the following:
- (g) unit title property ownership; and **unit plans; and ownership and utility interests; and body corporate operational rules; and** the information required to be contained in a pre-settlement disclosure statement; and the information required to be contained in an additional disclosure statement; and records of title; and the land information memorandum issued under section 44A of the Local Government Official Information and Meetings Act 1987; and easements and covenants; and how to obtain further information about the matters referred to in paragraph (f); and an estimate of the cost of providing an additional disclosure statement.

Failure to provide a proper statement may result in the sale being **unenforceable**.

Information in the Pre-contract disclosure will include:

- Payment of Levy
- Date that the Levy is due.
- Body Corporate Number

Unit Title Regulations 2011

36 Pre-settlement disclosure

Under section 147(1), once the buyer and seller have entered into a sale and purchase agreement, the seller must give the buyer a pre-settlement disclosure statement before the sale is settled (REINZ 2015).

The buyer must receive this pre-settlement disclosure statement no later than the end of the 5th working day before the date of settlement (section 147(2)).

If the buyer has not been provided with the pre-settlement disclosure statement within this timeframe, they can:

- postpone settlement until the 5th working day after it is provided (section 149).
- Alternatively, they can give 10 days' notice that they are cancelling the sale and purchase agreement (section 151).

See section 148 of the Unit Titles Act 2010, and section 35 of the Unit Titles Regulations 2011.

Pre-settlement disclosure statements are not supplied on a prescribed form. However, the document must contain the information prescribed in section 34 of the Regulations. The seller should seek help from their lawyer or licensed conveyancing practitioner to prepare this statement.

It is also necessary to obtain a certificate supplied by the Body Corporate which confirms that the information in the statement is accurate. This certificate must be supplied together with the pre-settlement disclosure statement.

The following information is prescribed for the purposes of section 147(3)(a) of the Act (which requires a pre-settlement disclosure statement to contain the prescribed information):

- (a) the unit number; and
- (b) the body corporate number; and
- (c) the amount of the contribution levied by the body corporate under section 121 of the Act in respect of the unit being sold; and
- (d) the period covered by such contribution; and
- (e) the manner of payment of the levy; and
- (f) the date on or before which payment of the levy is due; and
- (g) where a levy, or part of a levy, due to the body corporate is unpaid and, if so, the amount of the unpaid levy; and
- (h) whether legal proceedings have been instituted in relation to any unpaid levy; and
- (i) whether any metered charges due to the body corporate are unpaid and, if so, the amount of unpaid metered charges; and
- (j) whether any costs relating to repairs to building elements or infrastructure contained in the unit are unpaid and, if so, the amount of unpaid costs; and
- (k) the rate at which interest is accruing on any money owing to the body corporate by the seller; and
- (l) whether there are any proceedings pending against the body corporate in any court or tribunal; and
- (m) whether there have been any changes to the body corporate operational rules since_
 - (i) the additional disclosure statement if one has been provided; or
 - (ii) the pre-contract disclosure statement.

For more on pre-settlement disclosure, see REINZ's Unit Titles Act 2010 Information Sheet at <https://www.tenancy.govt.nz/uta/meetings>.

Unconditional Sale and Release of deposit

When a sale involves a unit title property before a deposit can be released the vendor has to supply the Pre-Settlement Disclosure statement to make sure there have been no changes to the initial disclosure document. This needs to happen by the end of the 5th working day before settlement. It is at this time the sale goes unconditional.

You will need to obtain authorisation from both solicitors before releasing the deposit.

Important Note:

Unit Title properties sold at auction ca is not deemed to be unconditional until the Pre-Settlement Disclosure Statement has been supplied to the purchaser.

Unit title clauses in a standard sale and purchase agreement

The ADLS/REINZ Agreement for Sale and Purchase includes compulsory provisions of the Unit Titles Act 2010 relating to unit title properties.

Additional disclosure

The seller must also provide additional disclosure statements if the buyer requests one.

Under section 148, the buyer must make this request by the end of the 5th working day after the date of the sale and purchase agreement or the end of the 10th working day before the date of settlement (whichever is earlier).

The seller must supply the buyer with the additional disclosure statement by the end of the 5th working day after it was requested (section 148 (3)).

- A buyer of a unit title may request additional disclosure at any time before the first of:
 - the close of the 5th working day after the date the agreement was entered into; or
 - the close of the 10th working day before settlement date.
- The seller must provide the additional disclosure no later than the 5th working day after the request is made.
- If the buyer has not been provided with the additional disclosure statement(s) within this timeframe, they can postpone settlement until the 5th working day after the seller provides it (section 149). Alternatively, the buyer can give 10 days' notice that they are cancelling the sale and purchase agreement (section 151).
- There is no prescribed form for additional disclosure statements. However, under section 35 of the Regulations, there is prescribed information a statement must contain. The seller should seek assistance from their lawyer or licensed conveyancing practitioner to prepare the statement.
- The buyer is responsible for paying any reasonable costs that the seller has incurred in order to prepare the additional disclosure statement (Section 148(5)).

Unit Title Regulations 2011

35 Additional disclosure statement

- The following information is prescribed for the purposes of section 148(4) of the Act (which requires an additional disclosure statement to contain the prescribed information):
 - the contact details for the body corporate and body corporate committee (if any); and
 - the balance of every fund or bank account held or operated by the body corporate at the date of the last financial statement; and
 - amounts due under invoices to be paid by the body corporate at the date the additional disclosure statement is requested; and
 - details of regular expenses that are incurred at least once a year; and
 - amounts owed to the body corporate at the date the additional disclosure statement is requested; and
- the following details of every current insurance policy held by the body corporate:
- the name of the insurer; and
 - the type of policy; and
 - the amount of the current premium; and
 - the amount of any excess payable under the policy; and
- the following details of every current contract entered into by the body corporate:
- the names of the parties; and
 - the goods or services to be provided under the contract; and
 - the price at which the goods or services are to be provided; and
 - the term of the contract; and
- information about every lease to which the base land is subject; and
 - the text of motions voted on at the last general meeting and whether each motion was passed or not; and
 - whether the body corporate's operational rules are different from the prescribed body corporate operational rules, and if so, what the differences are; and
- a summary of the long-term maintenance plan, including-
- details of maintenance to be carried out; and
 - details of maintenance carried out in the last year; and
 - whether there is a long-term maintenance fund; and
 - if there is a long-term maintenance fund, -
- the amount determined by the body corporate that has been, or will be, levied during the term of the long-term maintenance plan to maintain the fund; and
 - Whether the current balance of the fund is projected to be sufficient to meet the body corporate's obligations under the plan.

Note: Forms that can be used for unit title disclosure statements are available from the Tenancy Services/Ministry of Business, Innovation and Employment website: www.tenancy.govt.nz/uta/

Unit Title Regulations 2011

36 Turn-over disclosure statement

The following information is prescribed for the purposes of section 156(2) of the Act (which requires a turn-over disclosure statement to be in the prescribed form and to contain the prescribed information):

- the date on which the control period ended; and
- details of any as-built plans and specifications of the unit title development; and
- the assets and liabilities of the body corporate at the date of the meeting required by section 155 of the Act; and
- (d) the rent, term, and rights of renewal of any lease or licence granted over the common property; and
- details of any code compliance certificate that have been issued under the Building Act 2004 in relation to the unit title development; and
- details of any recommended maintenance schedules for construction materials and infrastructure in relation to the unit title development; and
- details of any resource consent or heritage obligations relating to the unit title development; and
- details of any warranties and guarantees for products used in the construction of the unit title development; and
- details of any fire evacuation plans and fire protection systems for the unit title development; and
- (j) details of any building warrant of fitness that has been supplied under section 108 of the Building Act 2004 for the unit title development; and
- (k) details of any compliance schedule issued under section 102 of the Building Act 2004 in relation to the unit title development; and
- (l) details of existing and proposed maintenance and service contracts for the unit title development, including contractors' contact details.

Unit Titles Act 2010 – Your responsibilities and Important points for licensees relating to unit title transactions.

Licensees must obtain and familiarise themselves with the record (certificate) of title (and accompanying documents) for any properties they market, whether for sale or lease.

When working on a unit title transaction, it is important for licensees to make sure that the seller understands their disclosure responsibilities and potential buyers have all the information they need so they can make an informed decision about whether to buy the property.

All parties should be encouraged to seek their own independent legal/technical advice.

Talk to your client about the need to provide a pre-contract disclosure statement as early as possible and before the marketing of the property starts.

Unit titles are often complex transactions.

A professionally competent and ethical licensee should be able to explain the following key points when listing a property.

- Disclosure obligations relating to commercial / industrial properties on unit titles.
- How this information will be provided/obtained
- Legislative and council issues affecting commercial / industrial properties.
- The associated additional rights, restrictions, and responsibilities
- The unique on-going financial commitments and costs involved.

Other Disclosures during and after the marketing period

- Principal units (PU)
- Accessory units (AU)
- Common areas
- Body corporate -
 - Rules
 - Long-term maintenance plan
 - Budget
 - Levy on all owners

Part of a licensee's duty of due diligence before marketing a property, where that property is a unit title, includes understanding the key aspects of the body corporate rules and other documentation that will be provided as part of the required disclosure, to ensure that the marketing of the property, and any representation about the property made to a customer, is accurate.

- Licensees are not expected to be lawyers so the input of the vendor client's lawyer may be necessary at this stage.
- Show your client the recommended pre-contract disclosure statement (Form 18 of the Unit Titles Regulations 2011) and discuss with them how the information can be collected to meet its requirements.
- Encourage your client to consider providing genuinely interested prospective purchasers with as much relevant information about the Body Corporate as they can get from other owners or the Body Corporate so prospective purchasers can make a more informed decision about their purchase.
- Explain to your client that until a completed and signed pre-contract disclosure statement is provided, you may need to postpone any active marketing of the property.

Once obtained, provide the complete, signed and dated pre-contract disclosure statement to all potential purchasers as soon as you can, for example, at open homes. At the very latest it must be provided to the purchaser before the purchaser enters into a sale and purchase agreement.

Receipt of the pre-contract disclosure statement should be acknowledged.

Processes to help with working on a unit title transaction.

- Under the direction and control of your supervising branch manager/agent, before marketing begins, all relevant documents must be obtained and reviewed.
- The unit plan will need to be checked – bear in mind that the boundary between a unit and common property is important because it defines the legal ownership and most responsibilities of the unit owner and the body corporate.
- It is important to obtain a copy of the rules of the body corporate and a pre-contract disclosure statement, as these help to identify the issues that must be disclosed to prospective customers.
- Before marketing begins, make sure the seller knows about the need to provide a pre-contract disclosure statement as soon as possible.
- Explain to the client that, as the owner, they must sign the pre-contract disclosure statement and that they should get legal advice, as necessary.
- Inform the client that marketing may need to be postponed until they supply a completed, signed pre-contract disclosure statement.
- The complete, signed and dated pre-contract disclosure statement will need to be provided to all potential purchasers as soon as possible, and at the very latest it must be provided to the purchaser before the purchaser enters into a sale and purchase agreement.
- Get potential buyers to confirm in writing that they have been given a copy of the pre-contract disclosure statement.

The Unit Titles Act 2010 can be found at:

<http://legislation.govt.nz/act/public/2010/0022/52.0/DLM1160440.html#DLM1160765>

The Unit Titles Regulations 2011 can be found at:

<http://www.legislation.govt.nz/regulation/public/2011/0122/latest/DLM3695701.html>



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
UNIT TITLE
Search Copy**



R. W. Muir
Registrar-General
of Land

Identifier **NA53B/711**
Land Registration District **North Auckland**
Date Issued 01 November 1982

Prior References
NA497/39

Supplementary Record Sheet
NA53B/714

Estate Stratum in Freehold
Legal Description Unit A Deposited Plan 97807

Registered Owners
Joan Lydia Beck, John Patrick Beck and Susan Rose Gemmell

The above estates are subject to the reservations, restrictions, encumbrances, liens and interests noted below and on the relevant unit plan and supplementary record sheet

Transaction Id 59060670
Client Reference roatham001

Search Copy Dated 22/11/19 3:05 pm, Page 1 of 2
Register Only

Identifier

NA53B/711



**SUPPLEMENTARY RECORD SHEET
UNDER UNIT TITLES ACT 1972**

Search Copy

Identifier NA53B/714
Land Registration District North Auckland
Date Issued 01 November 1982
Plan Number DP 97807
Subdivision of
 Lot 1 Deposited Plan 20406
Unit Titles Issued
 NA53B/711 NA53B/712 NA53B/713

Interests

OWNERSHIP OF COMMON PROPERTY

Pursuant to Section 47 Unit Titles Act 2010 -

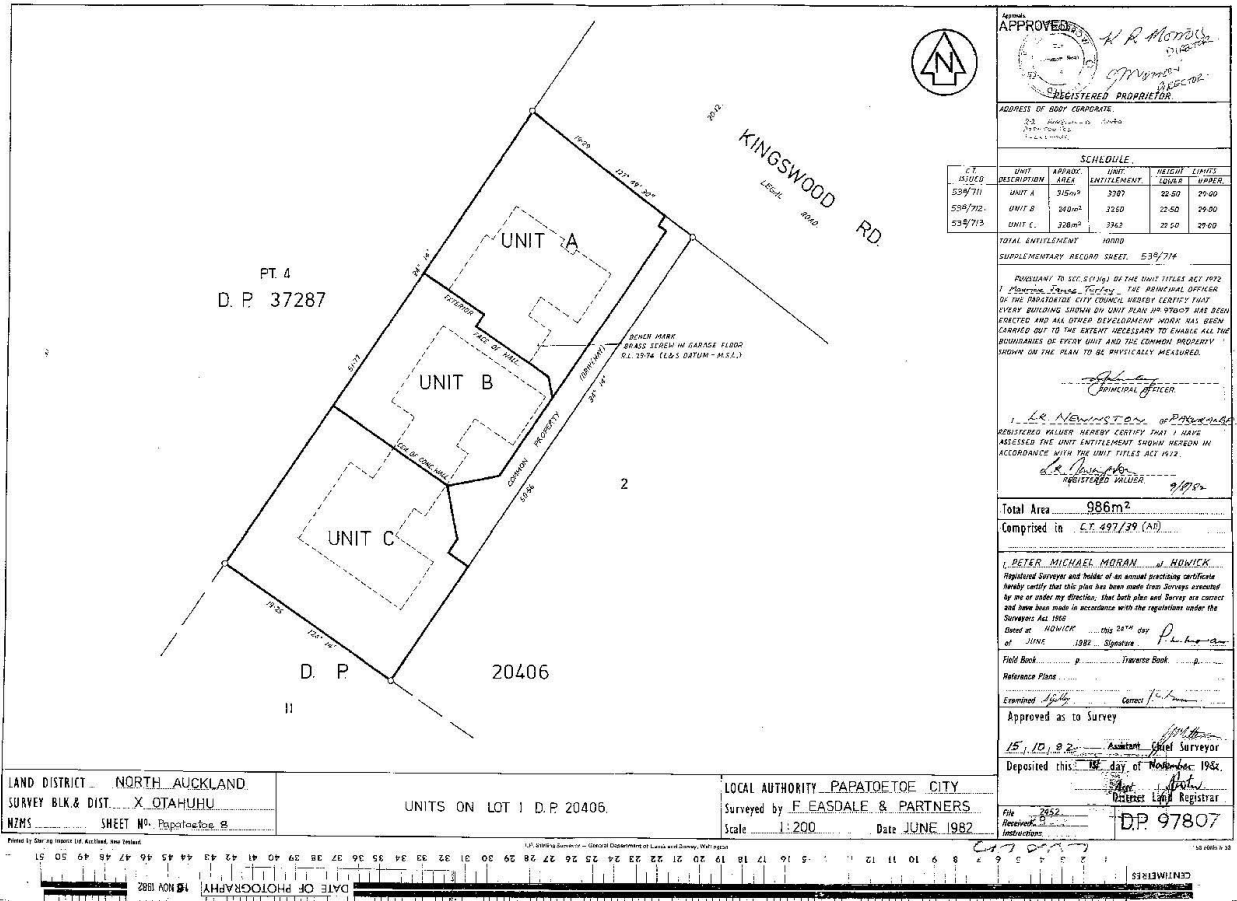
(a) the body corporate owns the common property and

(b) the owners of all the units are beneficially entitled to the common property as tenants in common in shares proportional to the ownership interest (or proposed ownership interest) in respect of their respective units.

The above memorial has been added to Supplementary Record Sheets issued under the Unit Titles Act 1972 to give effect to Section 47 of the Unit Titles Act 2010.
Fencing Agreement in Transfer 232969

Transaction id 59060670
Client Reference roatham001

Search Copy Dated 22/11/19 3:05 pm, Page 2 of 2
Register Only



Form 18**Pre-contract disclosure statement***section 146, Unit Titles Act 2010***Unit plan:** [reference number]**Body Corporate
Number:** [number]**Unit Number:** [number]**Pre-contract disclosure statement**

- 1 This pre-contract disclosure statement is provided to prospective buyers of the property in accordance with section 146(1) of the Unit Titles Act 2010.

General information

- 2 *The following section contains a brief explanation of important matters relevant to the purchase of a unit in a unit title development. You should read and understand the information contained in this section and this statement before signing a contract to buy a unit in a unit title development.*

Further information on buying, selling a unit, and living in a unit title development can be obtained by:

- *reading the publication "Short guide to unit titles", which is available on the Unit Title Services website: www.unittitles.govt.nz.*
- *contacting the Ministry of Business, Innovation and Employment contact centre can answer questions on unit titles: 0800 UNIT TITLES*

You are strongly advised to obtain independent legal advice regarding any questions or concerns you have about purchasing a unit or your prospective rights and obligations as a member of a body corporate.

Unit title property ownership. Unit titles are a common form of multi-unit property ownership. They allow owners to privately own an area of land or part of a building and share common property with other unit owners. Unit title developments may also be structured in varied ways including staged unit title developments and layered unit title developments.

This combination of individual and shared ownership of land and buildings, often in an intensive built environment, means owning a unit title involves a different set of rights and responsibilities than traditional house and land ownership.

Unit title developments have a body corporate management structure to ensure decisions affecting the development can be made jointly by the unit owners. The creation and management of unit title developments is governed by the Unit Titles Act 2010 and supporting regulations.

Unit plan. Every unit title development has a unit plan, which shows the location of the principal units as well as any accessory units and common property in the development.

The unit plan is the formal record of all of the boundaries of the units, and the common property.

Ownership and utility interests. Each unit is allocated an ownership interest and a utility interest, and such interests are relevant to the determination of many of the unit owner's rights and responsibilities under the Unit Titles Act 2010.

Ownership interest is a number that reflects the relative value of each unit to the other units in the development and is used to determine a range of matters including the unit owners' beneficial share in the common property and share in the underlying land if the unit plan is cancelled.

By default, the utility interest of a unit is the same as the ownership interest (unless it is otherwise specified on the deposit of the unit plan or subsequently changed) and is used to calculate how much each owner contributes to the operational costs of the body corporate.

Body corporate operational rules. The body corporate for a unit title development can make its own operational rules on the use of the development, and governance of the body corporate. These operational rules are subject to the provisions of the Unit Titles Act 2010 and regulations made under that Act.

All unit owners, occupiers, tenants, and the body corporate must follow the body corporate operational rules that apply to their unit title development.

Transitional provisions for unit title developments created before the Unit Titles Act 2010 came into effect on 20 June 2011 apply to the body corporate rules in place at that time.

Pre-settlement disclosure statement.

Before settlement of the sale of a unit, the seller must provide a pre-settlement disclosure statement to the purchaser, which includes information on:

- the unit number and body corporate number
- the amount of the contribution levied by the body corporate for that unit.
- the period covered by the contribution.
- how the levy is to be paid
- the date on or before which the levy must be paid.
- whether any amount of the levy is currently unpaid and, if so, how much
- whether legal proceedings have commenced in respect of any unpaid levy
- whether any metered charges (eg, for water) are unpaid and, if so, how much
- whether any costs relating to repairs to building elements or infrastructure contained in the unit are unpaid and, if so, how much
- the rate of interest accruing on any unpaid amounts.
- whether there are any legal proceedings pending against the body corporate
- whether there have been any changes to the body corporate rules.

There are legal consequences on the seller for failing to provide the pre-settlement disclosure in the timeframes required by the Unit Titles Act 2010 including delay of settlement and cancellation of the contract.

Additional disclosure statement. The buyer of a unit can request an additional disclosure statement or may request some, but not all of the information required to be in an additional disclosure statement (specific prescribed information) at any time before whichever of these dates occurs first:

- the close of the fifth working day after they enter into the sale and purchase agreement.
- the close of the tenth working day before settlement of the unit.

The seller has five working days to provide the additional disclosure statement.

The additional disclosure statement contains more information about the unit title development and the operation of the body corporate. It must include:

- contact details of the body corporate and committee (if there is one)
- the balance of every fund or bank account held by the body corporate at the date of the last financial statement.
- amounts due to be paid by the body corporate
- details of regular expenses that are incurred once a year.
- amounts owed to the body corporate
- details of every current insurance policy held by the body corporate
- details of every current contract entered into by the body corporate
- information about any lease of the underlying land (if the development is leasehold)
- the text of motions voted on at the last general meeting, and whether those motions were passed
- any changes to the default body corporate operational rules
- a summary of the long-term maintenance plan.

The seller may require the buyer to meet the reasonable cost of providing the additional disclosure statement. An estimate of that cost is set out in paragraph 9 below.

There are legal consequences on the seller for failing to provide the additional disclosure in the timeframes required by the Unit Titles Act 2010 including delay of settlement and cancellation of the contract.

Record of title. Previously known as a computer register or certificate of title, for a unit title development this document records the ownership of a unit, contains a legal description of the unit boundaries, and records any legal interest which is registered against the title to the unit (for example a mortgage or easement). A copy of the record of title for a unit should come with:

- the unit plan attached. Unit title plans were discussed earlier in this section.
- a supplementary record sheet attached. A supplementary record sheet records the ownership of the common property, any legal interests registered against the common property or base land, and other information such as the address for service of the body corporate and the body corporate operational rules.

The common property in a unit title development does not have a record of title.

Land Information Memorandum. A land information memorandum (LIM) is a report which provides information held by the local council about a particular property. You must order and pay for a LIM from the applicable local council. Delivery times vary between councils. The information contained in a LIM will vary between councils, but is likely to include details on:

- rates information
- information on private and public stormwater and sewerage drains
- any consents, notices, orders, or requisitions affecting the land or buildings.
- District Plan classifications that relate to the land or buildings
- any special feature of the land the local council knows about including the downhill movement, gradual sinking or wearing away of any land, the falling of rock or earth, flooding of any type and possible contamination or hazardous substances.
- any other information the local council deems relevant.

Full details of what a local council is obliged to provide in a LIM is contained in section 44A of the **Local Government Official Information and Meetings Act 1987.**

Easements and covenants. An easement is a right given to a landowner over another person's property (for example, a right of way, or right to drain water). A land covenant is an obligation contained in a deed between two parties, usually relating to the use of one or both properties (for example a covenant to restrict one party using their property in a certain way).

Easements or covenants may apply to:

- a unit and are usually recorded on the computer register for that unit.
- common property and will be recorded on the supplementary record sheet for the unit title development.

3 Further information about the matters set out above can be obtained from:

Unit title property ownership	Ministry of Business, Innovation and Employment www.unittitles.govt.nz 0800 UNIT TITLES (0800 864 884)
Unit plan Ownership and utility interests Computer registers. Easements and covenants	Land Information New Zealand www.linz.govt.nz 0800 ONLINE (0800 665 463)
Body corporate operational rules Pre-settlement disclosure statement Additional disclosure statement	The body corporate of the unit title development
Land Information Memorandum	Your local council

For detailed information on any of the above matters relating to your specific circumstances, the Ministry of Business, Innovation and Employment recommends you obtain independent legal advice from your lawyer.

Information about the unit

- 4 The amount of the contribution levied by the body corporate under section 121 of the Unit Titles Act 2010 in respect of the unit is \$[*amount*]
- 5 The period covered by the contribution in paragraph 4 is [*period*]
- 6 The body corporate proposes to levy \$[*amount*] under section 121 of the Act in the next 12 months.
- 7 The body corporate proposes to carry out the following maintenance on the unit title development in the next 12 months:

[set out details of proposed maintenance and how the cost of that maintenance will be met- attach an extra sheet if required]

- 8 The body corporate has the following accounts:

[set out details of every account held by the body corporate, including the details of every fund or bank account held or operated together with the balance of every fund or bank account as at the last financial statement- attach an extra sheet if required]

- 9 Under section 148 of the Unit Titles Act 2010, a buyer may request an additional disclosure statement before the settlement of an agreement for sale and purchase of a unit. The buyer must pay to the seller all reasonable costs incurred by the seller in providing the additional disclosure statement. The estimated cost of providing an additional disclosure statement is \$[*amount*]
- 10 *Select the statement that applies:*

The unit or the common property is, or has been, the subject of a claim under the Weathertight Homes Resolution Services Act 2006 or other civil proceedings relating to water penetration of the buildings in the unit title development.

or

The unit or the common property is not currently, and has never been, the subject of a claim under the Weathertight Homes Resolution Services Act 2006 or any other civil proceedings relating to water penetration of the buildings in the unit title development.

Date: [*day, month, year*]

Signed: _____

This form has been created by the Ministry of Business, Innovation and Employment as an example of Form 18 of the Unit Titles Regulations 2011 (Pre-contract disclosure statement). The information contained in paragraphs 2 and 3 of the form is intended as an example of how these sections may be completed, and the specific wording used is not a requirement of the Unit Titles Regulations 2011.

Resources

REINZ, HOBANZ, & Real Estate Agents Authority. (2015). *Unit Titles Act 2010: Information sheet*.

https://reinz.co.nz/Media/Default/pdf/Advisory%20Documents/2015_UnitTitleslicenseereformat.pdf

Tenancy Services. (2018a). *Body corporate governance*.

<https://www.tenancy.govt.nz/uta/governance>

Tenancy Services (2018b). *Body corporate meetings*.

<https://www.tenancy.govt.nz/uta/meetings>

Unit Titles Act, No. 22. (2010).

<http://www.legislation.govt.nz/act/public/2010/0022/latest/DLM1160440.html>

Unit Titles Regulations. (2011).

<http://www.legislation.govt.nz/regulation/public/2011/0122/latest/DLM3695701.html>