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SELLING A UNIT TITLE PROPERTY - UNDERSTANDING YOUR OBLIGATIONS

In New Zealand the typical unit title properties are apartments, townhouse complexes and office buildings. However even some residential properties are unit titles.

Unit title properties are different to freehold or cross lease properties in the following ways:

- (a) They are governed by the Unit Titles Act 2010 (the Act).
- (b) Unit title buildings/complexes are managed and operated by a body corporate. The body corporate consists of the owners of all of the units.
- (c) The body corporate owns the common property. Common property can be for example driveways, foyers, elevators etc.
- (d) Levies are payable by the owner of each unit. These levies cover insurance maintenance, operation cost etc.
- (e) There are disclosure requirements when selling a unit as discussed below.

Disclosure requirements

The Act provides that when selling a unit, the owner must provide certain disclosure documents to the purchaser, as part of the sale process. There are three types:

- (a) **Pre-contract Disclosure Statement** – this is to be provided to any prospective buyers before they enter into a sale and purchase agreement.
- (b) **Pre-settlement Disclosure Statement** – this is to be provided to the purchaser at least five working days prior to settlement of the property.
- (c) **Additional Disclosure Statement** – this only needs to be provided if the purchaser requests it.

There is specific information that is required to be included in each of these statements. For example the amount of levies, period covered by each levy payment, date the levy is due, payment method, planned repairs, legal proceedings etc.

Each of the statements is required to be signed and dated by the owner. The pre-settlement disclosure statement must also include a certification by the body corporate the details contained in the statement are correct.

An owner's obligation to provide these statements cannot be excluded or limited under the sale and purchase agreement. Failure to provide the pre-settlement and/or additional disclosure statements means that the purchaser can delay settlement or cancel the agreement.

Take the example of Stan, he owns 1 Brown Street, which is a unit title property. There is only one other unit in the development, which is 1A Brown Street. The body corporate only consists of Stan and his neighbour, but it is not active and the only charge is yearly insurance premiums, which is split between them. Even though the body corporate is not active, when Stan decides put the property on the market he will need to provide the pre-contract disclosure statement to the real estate agent. If the property is sold, Stan will have to complete a pre-settlement disclosure statement, have it signed by himself as the unit owner and the other owner as the body corporate representative to certify it is correct. Once completed Stan will need to provide the statement to his solicitor. His solicitor will then forward it to the purchaser's solicitor.

If you require any assistance in selling a unit title, please do not hesitate to contact us, we would be more than happy to assist.

20 MINUTE FREE

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THEN call us and take advantage of our 20 Minute Free interview