

In brief from
RAINEY COLLINS
LAWYERS
AGENT CARE

Special Edition

WELCOME TO OUR SPECIAL UNIT TITLES EDITION

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What Agents Need To Know About Disclosure Under The Unit Titles Act 2010...

Nick approached Sandra, an agent, as he was looking to sell his apartment in central Wellington in the next couple of months. He hadn't realised that from 20 June this year he needs to have a whole list of documents ready to show prospective purchasers before they will be able to sign an agreement to buy the apartment. Failure to do so would mean that the sale could not proceed!

As we indicated in our article regarding changes to the Unit Titles Act last year, there are new disclosure requirements under the Unit Titles Act 2010 now in force which mean that vendors need to disclose a significant amount of information to purchasers before they sell unit titled properties.

These requirements came into effect on 20 June 2011. Agents will be heavily involved in at least pre-contract disclosure, and will need to be aware what is required in the other types of disclosure.

Vendors cannot contract out of the requirements. Further, if a Vendor doesn't comply with pre-settlement or additional disclosure below, the purchaser can cancel the agreement!

There are 4 types of disclosure under the new Act:

1. Pre-contract disclosure (before a purchaser signs an offer)
2. Pre-settlement disclosure (after the Agreement for Sale and Purchase is signed but before settlement)
3. Additional disclosure (available on request of the purchaser)
4. Disclosure by the original owner when the control period ends (relating to developers generally).

1. Pre-contract disclosure

Before Nick sells his apartment he will need to give prospective purchasers a statement called a **"pre-contract disclosure statement"**. This will be the most relevant form of disclosure for agents, and it will need to be provided before a purchaser signs an Agreement for Sale and Purchase. Details of what is to be included in this disclosure are on our checklist which can be obtained by emailing us on ccoe@raineycollins.co.nz.

Vendors like Nick will need to plan how they are going to access and provide this information and will likely need guidance from you as agents. Their Body Corporate secretary, their lawyers, real estate agents, and the Council, will all be involved in providing some of the listed information.

2. Pre-settlement disclosure

There is a second type of disclosure which needs to occur before settlement happens, called **"pre-settlement disclosure"**. This will give more detailed information about levies, contracts the Body Corporate has entered into and details of any legal proceedings against the Body Corporate (among other things as detailed in our checklist). This information will need to be provided by the Body Corporate.

3. Additional disclosure

The purchaser can then also request further information in the form of **"additional disclosure"** if they want to.

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CLAIRE COE

UNIT TITLE SEMINARS

If you would like us to come and talk to your office about the new Unit Titles Act 2010 please contact Gillian Scanlon on 04 473 6850.

FIRST HOME BUYERS

We are still holding regular Free First Home Buyers Seminars. If you have any clients you feel would benefit from these obligation free seminars please have them register on our website www.raineycollins.co.nz.

Our Guarantee

When buying or selling residential property we provide a risk free guarantee.

We guarantee that your clients will be absolutely delighted with our service.

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What Agents Need To Know About Disclosure Under The Unit Titles Act 2010... *continued*

Additional disclosure will cover things like insurance details for the building, money owed to the Body Corporate, contact details for the Body Corporate and a summary of the long term maintenance plan (which is a new 10 year plan for maintenance of the complex).

As indicated above, Vendors should be aware that if the information in pre-settlement disclosure and additional disclosure is not provided within 5 working days of settlement then the purchaser can cancel the contract (with 10 days notice). It is therefore very important that Bodies Corporate are ready to have this information available for owners selling their apartments, otherwise you may find that deals are falling through!

4. Turn-over disclosure statement

This is disclosure between the original owner of the development (usually the developer) and the Body Corporate

and is to be provided when that developer ceases to be able to exercise 75% of the votes of the Body Corporate according to ownership interests.

This type of disclosure makes sure the Body Corporate has all the information it needs to carry on without that person/company having majority control over the development. It also ensures consistency when ownership changes. It includes Code Compliance Certificates for the building, recommended maintenance schedules and as-built plans and specifications.

Agents need to inform those who are selling their apartments from now on of the requirements and assist them where possible. Body Corporate committees need to have processes in place to get the documents ready, otherwise purchasers may pull out of sales!

Difficult owners can no longer hold things up! Other aspects of the Act that may be of interest...

Frank and Sally owned an apartment in an inner city apartment block. The building desperately needed repairs to all of its windows. Over the years the Body Corporate committee had not been able to get the windows repaired as a couple of owners always voted against works being completed. This made it difficult for owners to sell their apartments and every time a real estate agent tried to market it, this would be raised as an issue by purchasers.

Changes to the law mean that this type of issue can more easily be resolved due to changes in voting (majority) and clarification of the obligations regarding maintenance. Some of the other changes to the Act which may be of interest to agents include:

- Transitional period
- Voting
- Repairing common property
- Rules
- Chairperson
- Smaller Bodies Corporate
- Long Term Maintenance plans
- Financial reporting

Agents need to be aware of the changes and need to tell their clients to take professional advice if they are unsure about their rights and obligations. For a more detailed article on this topic please see our website www.raineycollins.co.nz.



SARAH BLANEY

Need Help?

We are happy to field calls of a general nature to answer those little queries that come up from time to time, or to accept ideas for an issue you would like covered in our next edition.

We value your feedback and invite you to call us on 0800 RC AGENT (0800 722 4368) and ask for Claire Coe, or email Sarah Blaney on sblaney@raineycollins.co.nz with any questions or ideas you may have.

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