

Vital steps when buying an apartment

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Legal matters



Are you looking to buy an apartment in a unit title complex? If so, it's vital you include a further term of sale in the Agreement for Sale and Purchase for you and your lawyer to review the body corporate information before the agreement is confirmed.

That is to ensure you, as the prospective buyer, are happy with the way the body corporate works, its financial position and that it is keeping up with its obligations.

Bodies corporate must comply with the Unit Titles Act 2010, legislation that clearly sets out the rules that apply to bodies corporate and unit title properties.

Prospective buyers should be satisfied that the body corporate they are looking to become part of is compliant and not breaching any part of that act.

When buying a unit title property, the vendor must provide you with a pre-contract disclosure statement before the Agreement for Sale and Purchase is signed.

It should be signed by the owner and recently dated (to

ensure the accuracy of the information you should not rely on a disclosure statement that is any more than six weeks old).

The pre-contract disclosure statement should include:

- Details of the body corporate levies in respect of the unit you want to buy, including any outstanding levies, details of the levies payable by the new owner, and any upcoming special levies.
- Brief details of planned maintenance, and how it will be funded. The full details should be set out in the Long Term Maintenance Plan.

Having such a plan in place is a legal requirement and should also be supported by a Long Term Maintenance Fund.

Some smaller bodies corporate may not have a long-term plan because a body corporate can opt out of the requirement by special resolution if the complex has fewer than 10 units.

- The body corporate's bank accounts and balances.

- Whether the complex is or has been subject to any weather tightness claims or proceedings.

Additional disclosure information is also available to prospective buyers, sometimes at an added cost.

Where possible, you should obtain and have your lawyer review additional information about the body corporate, including:

- The body corporate's operational rules, which are sometimes supplied along with the pre-contract disclosure statement.

- Body corporate meeting minutes, particularly from recent annual or special general meetings. I recommend obtaining and reviewing the annual meeting minutes from the previous three years.

- Any resolutions passed by the body corporate committee.

- Other documentation obtained by the body corporate, such as an engineering report, earthquake rating information or building inspections.

- Body corporate insurance details, including any exclusions in the policy.

When buying a unit title property, you should ensure that your Agreement for Sale and Purchase includes a clause about reviewing the body corporate information, and should seek legal advice as to the correct wording of this clause to ensure that your situation is covered.

Your experienced property legal adviser can help you obtain and review this information.

■ Column courtesy of Rahey Collins Lawyers, phone 0800 733 484 or raheycollins.co.nz if you have a legal enquiry you would like discussed in this column email aknowsley@raheycollins.co.nz



There are important considerations to take into account when looking to buy an apartment.