



Department of  
Building and Housing  
*Te Tari Kaupapa Whare*

**essential resources**

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## Unit titles frequently asked questions

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## **What is a unit title?**

Unit owners in a unit title development own a defined part of the building, such as an apartment, and share ownership in common areas such as lifts, lobbies or driveways. Unit titles are created where a property is divided into 2 or more units which can be owned separately – these are typically apartment blocks, townhouses, office blocks and industrial or retail complexes.

Unit title developments allow owners to have flexible living arrangements where a person can privately own an area of land or part of a building, as well as share common property with other unit owners.

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## **What is the Unit Titles Act?**

The Unit Titles Act 1972 is the law that currently governs unit title ownership. Since 1972 there have been major changes in the number, scale and nature of property developments in New Zealand. The 1972 Act has become out-dated and no longer provides a sound basis for the creation and sustainable management of intensive, multi-unit developments.

A new Act, the Unit Titles Act 2010, has been passed and is expected to come into force in mid-2011. This will replace the 1972 Act.

The Unit Titles Act 2010 will provide more clarity and certainty to unit title owners, bodies corporate and intending unit owners. The 2010 Act will also be supported by accompanying regulations.

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## **When was it passed?**

The Unit Titles Act 2010 was passed in April 2010.

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## **When will it be in force?**

Regulations accompanying the Act have now been passed and the Act will come into force on 20 June 2011

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## **Where can I get a copy of the Unit Titles Act 2010?**

A copy of the Unit Titles Act 2010 is available from the [Legislation website](#). It is also available for purchase at Bennett's Government Bookshops.

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## **I am a body corporate secretary/manager/member. What should I do to prepare for the changes?**

- Familiarise yourself with the Act. [A pdf version is available here](#).
- Consider the implication of the new requirement to establish and maintain a long-term maintenance plan on your body corporate.
- Consider whether your body corporate might want to change the calculation of owners' contributions to operating costs.

**Please note any agreed changes to owners contributions can not be applied until the 2010 Act comes into force.**

For more information see the [frequently asked questions on fees](#) »

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## **What is “common property”?**

Common property includes parts of the unit title development that are not contained in a principal or accessory unit. Some examples of common property include access ways (such as lifts and shared driveways) and shared facilities (such as a mailbox area or swimming pool).

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## **Who owns the common property?**

Common property is owned by the body corporate on behalf of the unit owners.

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## **How do I get a copy of the unit plan?**

When a unit title is developed, the developer deposits a unit plan with Land Information New Zealand (LINZ). The unit plan shows the boundaries of the principal units as well as any accessory units and common property in the development. A copy of the unit plan can be ordered through the LINZ website.

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## **What is the register of owners?**

The body corporate must keep and maintain a register of all unit owners in the development. The body corporate chairperson and committee may use the information on the register to inform owners about important body corporate matters, such as meetings.

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## **If I am not on the register of owners, what do I do?**

A unit owner must inform the body corporate of any change to the information held on the register that relates to their unit. If you have recently bought into a unit title development, make sure your name is on the register by informing the body corporate in writing.

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## **What happens to existing body corporate rules after the Unit Titles Act 2010 is enacted?**

Body corporate rules made under the Unit Titles Act 1972 will continue to apply during a 15 month transition period. However, many of the provisions in these existing rules will be overridden by the 2010 Act.

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## **What provisions in existing body corporate rules will be overridden by the Unit Titles Act 2010?**

From the date of commencement, provisions in the 2010 Act will override the corresponding provisions in existing body corporate rules, including the provisions relating to:

- the duties of owners and the body corporate;
- the operation of the committee; and
- meetings and voting.

Bodies corporate should review their existing rules to determine which will apply during the transition period and which have been overridden by the 2010 Act.

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## **Does the transition period apply to any other parts of the Unit Titles Act 2010?**

Under the default body corporate rules in the 1972 Act, a body corporate is responsible for maintaining the common property as well as utilities serving the units.

The 2010 Act expands the maintenance requirements for bodies corporate, but these new requirements will only come into force after the 15 month transition period. On the expiry of the

transition period, bodies corporate will also be required to put in place a long-term maintenance plan and establish a fund for that plan.

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## **What happens when the transition period expires?**

The new default operational rules prescribed by the regulations made under the 2010 Act will apply once the 15 month transition period expires. The expanded maintenance requirements under the 2010 Act will also apply.

An existing body corporate can opt-in to these new requirements at any stage before the transition period expires. A special resolution is required in order opt-in.

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## **Can a body corporate change the default body corporate operational rules under the 2010 Act?**

Bodies corporate will be able to revoke, amend or add to the default body corporate operational rules set out in the regulations under the 2010 Act, and should use the 15 month transition period to prepare any changes to the new rules that they consider necessary.

The Department is developing some key resources to inform bodies corporate how they can tailor operational rules to suit the characteristics of their development, be it residential, commercial, mixed-use, industrial or layered. These should be available by mid-2011.

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## **When is it necessary for a body corporate to form a body corporate committee?**

A body corporate must form a body corporate committee when the unit development contains ten or more principal units unless the body corporate decides not to by special resolution.

A body corporate may form a body corporate committee if the unit development contains nine or less principal units.

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## **What is maximum time between Annual General Meetings (AGM)?**

An AGM must be held once every calendar year and not later than 15 months after the previous AGM.

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## **How many people must attend the Annual General Meeting for it to proceed?**

Before a general meeting of the body corporate can proceed, the members of the body corporate must make a quorum consisting of at least 25% of eligible voters. Unless the development only has one owner, a quorum must always be at least two members of the body corporate. Further provisions relating to quorums will be set out in the regulations.

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## **Can I vote at an Annual General Meeting if my body corporate levies are due and unpaid?**

No. You are not entitled to vote if the body corporate levies for your unit are due and haven't been paid.

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## **Under what circumstances can the body corporate charge an individual unit owner more repairs and maintenance costs than other owners?**

The body corporate can charge an individual unit owner more repairs and maintenance costs than other owners where:

- The repair or maintenance benefits some owners substantially more than other unit owners, or
- Where the repair or maintenance is carried out on property contained in a unit, or
- Where an owner is responsible for damage that necessitates the repair or maintenance work.

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## **What period does a long term maintenance plan need to cover?**

The body corporate must establish and maintain a long-term maintenance plan which covers at least 10 years.

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## **How can I get a copy of the long term maintenance plan?**

Contact the body corporate for a copy of the long-term maintenance plan (through the chairperson or another body corporate contact). The body corporate may charge any reasonable costs incurred in providing a copy of the plan.

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## **Is the body corporate required to have their financial statements audited?**

The body corporate must arrange for the audit of its financial statements at the end of the financial year, unless it decides by special resolution at its annual general meeting that this is not required.

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## **Who is responsible for insuring all buildings and improvements?**

The body corporate is usually responsible for insuring all buildings and improvements in a unit title development.

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## **Under what circumstances may a unit owner be required to insure their individual unit?**

If the development is made up of stand-alone units, the body corporate may decide, by special resolution, that unit owners are responsible for insuring the buildings and improvements within their own unit. The body corporate will remain responsible for insuring the common property.

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## **What is the maximum amount that can be claimed at Tenancy Tribunal?**

The Tenancy Tribunal will be a formal forum for hearing and resolving unit title disputes, up to \$50,000.

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## **What matters cannot be heard in the Tenancy Tribunal?**

The Tenancy Tribunal will not hear disputes relating to the application of insurance money or the title of land.

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## **What information am I required to provide a prospective purchaser of my unit?**

When the Unit Titles Act 2010 comes into force, sellers of unit titles will be required to provide intending buyers with disclosure statements: these will provide potential buyers with information that can help inform their purchase decision.

The Act provides for three types of disclosure:

**Pre-contract disclosure statement** - which the seller provides before entering into an agreement for sale and purchase.

**Pre-settlement disclosure statement** - which the seller provides after entering the agreement for sale and purchase but before settlement of the sale.

**Additional disclosure** - which the seller provides on request of the buyer.

Regulations will prescribe the information that must be provided in each disclosure statement. These regulations are currently being developed.

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