



Short Guide to Unit Titles

What you need to know



Apartments and townhouses are growing in importance and numbers as a housing option for New Zealanders.

As more people choose this option, it's important to know what's involved.

This booklet is to help people who are considering buying a unit title property, or are already living in one.

It outlines the rights and responsibilities, tells you where to find more information, and how to seek help if things go wrong.

Please note this information is a general guide only, and may not be accurate for all situations. It should not be used as a substitute for legislation or for legal or other expert advice.

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First things first – about unit title properties

What is a unit title?

Unit title owners own a defined part of a building, such as an apartment, and share common areas such as lifts, lobbies or driveways with other owners.

Residential unit title properties are typically apartment blocks and townhouses. Commercial and industrial types include office blocks, industrial or retail complexes, and shopping malls.

This combination of individual and shared ownership of land and buildings means owning a unit title property involves a different set of rights and responsibilities than free-standing house and land ownership.

What is a body corporate?

When you purchase a unit, you automatically become a member of the body corporate. All unit owners in a unit title property make up the body corporate, and they must hold an annual general meeting, or AGM, once a year to discuss body corporate matters.

What is a body corporate committee?

A body corporate committee is a subset of the body corporate and is elected by the body corporate.

The body corporate may delegate some of its duties and powers to a committee, which is required to report back to the body corporate on its activities.

If a unit title property has more than 9 units, the body corporate must form a committee, unless it decides not to by special resolution (which requires 75% agreement).

If it has 9 units or less, it can decide to establish a committee by ordinary resolution (more than 50% agreement).

Who is the body corporate chairperson?

A chairperson must be elected by the body corporate at the AGM. They do not need to be on the committee but usually are (though they will not necessarily also be chair of the committee). The duties of the body corporate chairperson include:

- › chairing meetings, preparing agendas, keeping records of minutes, and administering resolutions
- › keeping financial accounts and records
- › signing documents on behalf of the body corporate
- › maintaining a register of unit owners.



The chairperson's duties can be delegated to the body corporate committee by special resolution and written notice.

The chairperson can be removed by the body corporate through ordinary resolution at an extraordinary general meeting (EGM). Another chairperson must be elected at the same meeting.

There is more information on the role of the chairperson and their duties in the Unit Titles Regulations 2011 (see below).

What is the Unit Titles Act?

This is the law which governs all unit title properties, and sets out the rules and regulations so they can be managed effectively.

The Unit Titles Act is supported by rules and regulations covering:

- › Body corporate meetings, elections, financial management and how sellers disclose information (Unit Titles Regulations 2011)
- › Access to dispute resolution and what it costs (Unit Titles (Unit Title Disputes – Fees) Regulations 2011)
- › Information about how existing rules can be applied in unit title disputes (Residential Tenancies (Unit Title Disputes) Rules 2011)

Tip: The Annual General Meeting, or AGM, is your opportunity to have your say and to vote.

Ownership interest

The ownership interest of your property is your share of the value of the whole property complex.

It is set by a registered valuer when the unit plan is deposited with Land Information New Zealand (LINZ), and can be expressed as a percentage.

Utility interest is used to calculate how much you contribute to the operational costs of the body corporate.

Unless otherwise noted with unit plan documentation, utility interest is the same number as the ownership interest.

It may differ from ownership interest if the body corporate agrees that operational costs should be shared in a different proportion to ownership interest.

Before you buy

Buying a unit title property means sharing common property with other people, and will involve different obligations to other purchases of land. It's important you know what you are committing to.

There are three types of disclosure documents which provide you with the information you need to make an informed decision before you buy.

Pre-contract disclosure statement

A seller is required to provide a pre-contract disclosure statement before entering into an agreement for sale and purchase. It contains general information about unit title ownership, the amount of the levy for the unit, planned maintenance, funds held by the body corporate, and whether the unit or common property has been the subject of a weathertightness claim.

Pre-settlement disclosure statement

You get this from the seller after you enter the agreement for sale and purchase but before settlement of the sale.

It includes the ownership levies required for the unit, whether there are any proceedings pending against the body corporate, and changes to the body corporate operational rules since the last disclosure.

Additional disclosure

After entering into a sale and purchase agreement you can also ask for more information about the body corporate such as:

- › the body corporate's operational rules
- › the long-term maintenance plan, and any regular fees you need to pay
- › the insurance policy for the property
- › clarity about other liabilities attached to the property, such as repair bills or maintenance fees.

You may have to pay a fee for this information.

Tip: Ask your local council for a land information memorandum (LIM) – it holds information about property and land.

Your rights and responsibilities

All unit owners, occupiers and tenants need to follow your body corporate's operational rules, so that the property runs smoothly.

Your rights include:

- › attending body corporate general meetings
- › having a vote on matters affecting your unit or common areas, providing your levy payments are up to date.
- › standing for election as chairperson or committee member
- › having access to and a share in the common property
- › having quiet enjoyment of your unit without interruption by other unit owners or occupiers
- › access to a dispute resolution process

Your responsibilities include:

- › paying levies to set by the body corporate to fund the operation and maintenance of the property
- › complying with body corporate operational rules
- › complying with legal requirements relating to use of your unit

- › maintaining and repairing your privately-owned area so that no damage is caused to other units
- › notifying the body corporate of your intention to carry out additions. If the additions affect any other unit or common property, you will also need the body corporate's consent.

Tip: Make sure you have a copy of the unit plan. This is the official document showing legal boundaries, and you can get this through a title search at Land Information New Zealand (LINZ).



Body corporate responsibilities

The body corporate is responsible for managing finance and administration relating to the common areas, and the property as a whole. These include:

- › maintaining and repairing the common property
- › establishing a long-term maintenance plan
- › taking out insurance that covers the buildings on the property
- › levying owners for contributions to

fund maintenance and the operating expenses of the body corporate

- › setting a budget and managing the body corporate's funds
- › making and enforcing body corporate operational rules.

The body corporate must hold AGMs at least once a year, so that you and the other unit owners can discuss any issues of concern, and vote on decisions affecting the complex.

Body corporate managers

A body corporate can contract professionals to carry out specific management or administrative functions on its behalf.

Companies that provide professional body corporate services can be contracted to:

- › arrange maintenance of common property
- › organise facilities for meetings
- › administer the body corporate's financial activities.

Even if the manager is contracted to perform the tasks of operating the body corporate, responsibility remains with the chairperson or committee.

Appointing a body corporate manager does not in any way affect your rights as a unit owner.

Tip: MBIE has guidance on what specific responsibilities might be carried out by contracted professionals at tenancy.govt.nz/uta.



Operational rules

You can get a copy of these from the body corporate chairperson or through LINZ.

There are default operational rules which apply to all unit title properties, and which apply if a body corporate doesn't have any operational rules. These default rules are that you or anyone occupying your unit must not:

- › damage or deface common property
- › leave rubbish or recycling material on the common property
- › create noise likely to interfere with the use or enjoyment of the unit title development by other owners or occupiers

- › park on the common property unless the body corporate has designated it for car parking, or the body corporate consents
- › interfere with the reasonable use or enjoyment of the common property by other owners or occupiers

These default rules can be changed, removed or added to by an ordinary resolution at an AGM or EGM. They then need to be recorded at LINZ before they take effect.

Insurance

The body corporate is responsible for insuring the unit title property to its full insurable value, and must let the insurer know if any additions or structural alterations are undertaken.

Ask your body corporate chair about the insurance arrangements for your complex and ask for a copy of any insurance documents.

It's a good idea to have contents insurance, as the body corporate insurance does not cover your own belongings.

The body corporate can agree by special resolution that unit owners will separately insure standalone buildings.

Levies and maintenance

The body corporate pays for any maintenance or repairs it carries out through levies on unit owners.

Levies cover all regular costs for common areas such as insurance, cleaning, gardening, fees for any contracted professionals, and ongoing maintenance.

If there are unexpected expenses and insufficient funds available, unit owners will be levied in proportion with their ownership interests.

A budget for the coming year is usually established at the AGM. The body corporate will determine the date on which you must pay your fees and may charge you interest on any unpaid amounts.

Long term maintenance plans

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

A long term maintenance plan identifies the future maintenance needs of the whole unit title property, and estimates the cost, determining your contributions.

Planned maintenance might include major maintenance of lifts, heating, ventilation and air conditioning, repainting the exterior, major roofing or cladding repairs, or resealing common driveways and parking areas.

The long term maintenance plan is funded by the long term maintenance fund (unless the body corporate resolves not to have a long term maintenance fund by special resolution).

Most of the time, all owners share the cost of repairing and maintaining common property through the body corporate levy. However, the body corporate may choose to recover the costs of repairs from you:

- › where the repair or maintenance benefits you substantially more than other unit owners
- › where the repair or maintenance is carried out on property contained in your unit
- › if you caused damage which necessitates the repair or maintenance work.

The body corporate may set up other contingency or capital improvement funds for emergencies and unforeseen expenses, such as weathertightness or earthquake resilience issues.

If things go wrong

How you can find a solution yourself

If you have a disagreement with the body corporate or another unit owner, there are some straightforward things you can do first:

- › Talk to the other parties involved and see if a solution can be found
- › Check the body corporate rules — this will help you understand how the body corporate is meant to operate
- › Ask for an EGM to be held. If more than 25% of owners request this, the body corporate chairperson must call an EGM.

You can also call the MBIE Service Centre for information on 0800 864 884. We can help you understand your legal rights and responsibilities, but we cannot give advice on specific disputes.

Tenancy Tribunal

You can apply to the Tenancy Tribunal for mediation or adjudication if you have a dispute with your unit title property about an amount less than \$50,000.

There are costs associated with applying to the Tenancy Tribunal — \$850 for non-complex cases, and \$3300 for complex cases.

The Tribunal cannot hear disputes relating to the application of insurance money or title of land.

The Courts

The District Court hears disputes relating to insurance money up to \$50,000 and other disputes between \$50,000 and \$350,000, but not disputes relating to the title of land.

The High Court hears disputes relating to the title of land, disputes relating to insurance money over \$50,000, and other disputes over \$350,000.

Applying for an administrator

The body corporate, or anyone with a financial or ownership interest, can apply to the High Court for an administrator to be appointed if they believe that the body corporate is not managing its affairs effectively.

If an administrator is appointed, they take full control of the affairs of the body corporate from unit owners and the body corporate committee.





Visit our website:

www.tenancy.govt.nz/uta

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