



Property Titles in New Zealand

What do I need to know?



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Fee Simple/Freehold

Freehold ownership, which is also known as Fee Simple, is the most common ownership type in New Zealand.

If you have a freehold property, this means you own the land and (generally) anything built on the land, unless there are any registered or unregistered interests.

Interests that might restrict your use of the property include:-

- Easements that give neighbouring property owners or utility providers rights to use part of your land to pass over or connect to certain services;
- Covenants that limit what type of property you can build on the land;
- Restrictions under the Resource Management Act 1991; and
- Whether the land is Māori freehold land.



Cross Lease

In a Cross Lease situation, you own two interests in the property:-

- A share of the freehold Record of Title in common with the other cross leaseholders.
- A leasehold interest in the particular area and building that you occupy. These Leases are usually for 999 years for a nominal rent like 10 cents per annum (which is usually not demanded to be paid).

A Cross Lease Record of Title includes a Flat Plan (showing the footprint of the building you are entitled to occupy), which forms part of the Record of Title for the property and records the areas which are used exclusively by each Flat Owner together with any Common Areas which can be used by all Owners.

Some things to note in Cross Lease ownership

- Any structural alterations and additions to a Flat/Dwelling are usually not allowed without the written consent of the other Flat Owners.
- Any additions or alterations which change the external dimensions of the Flats, adding any new buildings onto the land or changing the "footprint" of the building must be recorded on a new Flat Plan which will need to be prepared by a surveyor. In this case, new Records of Title would be issued.
- Most Cross Lease documentation provides for maintenance of the buildings, restrictions on use and any sub-leasing, quiet enjoyment and payment of outgoings, such as rates and insurance.
- Changes made to the footprint of an area you are entitled to use exclusively (like the building you occupy or your separate garden) or to the shared areas must be agreed upon by all, or a majority of the owners. Depending on the terms, you may need to get the other owners' consent for things like painting the exterior, or making non-structural changes to the building you occupy, building a deck or putting up a fence. There may be restrictions on what you can do with the property under the terms of the Lease registered on your Record of Title.



Unit Title

Unit Title ownership, also referred to as 'Strata Title' or 'Stratum Estate', is most common in a building development, where there are multiple owners.

The Unit Titles Act 1972 allowed for land to be subdivided into two or more "Principal Units" (usually for dwelling Units) and "Accessory Units" (for garages, sheds) and also "Common Property" (for things like carparking areas, driveways).

- A Unit means part of the land consisting of a three-dimensional space defined by a surveyor on a Plan. This space can be on the land, or above or below it. For this reason, the Unit Titles Act is suitable for high rise Units.
- The Unit Plan defines the Units, any Accessory Units and the Common Property. This is completed by a surveyor and is lodged with Land Information New Zealand.
- All Owners have a share in the Common Property in proportion to their Unit entitlement. Owners cannot sell their share of the Common Property separately.
- Each Unit Development has a Body Corporate. This is the Committee which runs the Unit Complex, in a similar way to the way a Board runs a Company. The Body Corporate would usually consist of a number of the Unit Owners.
- The Body Corporate has certain duties and powers to control and manage the Complex and it must act according to these Rules, which are set out in the Unit Titles Act and also in the Body Corporate's own Rules. Some Rules may be able to be changed by a vote of the Unit Owners.
- A Body Corporate's main duties are to insure the Complex and pay premiums and maintain the Common Property, and to establish a Fund to pay certain expenses and outgoings. The Body Corporate sets levies for each Unit Owners and collects the contributions.

As a Unit Owner you own:

- Your particular Apartment or Unit and any Accessory Units, like garages, carparks, private courtyards and storage areas contained in the Record of Title; and
- An undivided share of the ownership of the common property (eg lifts, laundries, lobby areas, driveways and gardens).

What you need to know about Body Corporate membership

- Becoming a Unit Title holder means you automatically become a member of the Body Corporate, which consists of all the Unit owners acting as a group. Most day-to-day decisions of the Body Corporate can be made by a body corporate committee or with the agreement of 50% or more of the Unit Owners. Some decisions will require the agreement of 75% or more of the Unit Owners.
- You will usually pay an annual fee, (which is called a levy) to the Body Corporate, which will go towards budgeted body corporate expenses. This fee will include costs like insurance and management expenses, contributing to a long-term maintenance fund (LTMF) and any services the Body Corporate arranges for its members (for example, rubbish collection and cleaning communal areas).



Leasehold / Stratum in Leasehold

Leasehold ownership is when someone else owns the land. You purchase an exclusive right to possession of the land and the buildings on it for a specific period of time according to the terms of a Lease.

With Leasehold ownership, someone else owns the land, and you pay a certain rent to them. You purchase an exclusive right to possession of the land and the buildings on it for a specific period of time, according to terms set out in a Lease. In some cases, you will own the buildings or other improvements on the land.

Terms of the Lease

The terms of the Lease for leasehold land, will set out:

- the amount of rent to be paid to the freehold owner - this is usually called ground rent;
- how often the ground rent is reviewed by the freehold owner; and
- rates and other expenses relating to your property.

Ground Rent

- Ground rent can change and will usually increase over the term of the Lease. Increased rent and a shortening Lease term can have a serious impact on your ability to sell your leasehold interest at a later date.

What happens at the end of the Lease term?

- At the end of the Lease term, the land and buildings will need to be returned to the freehold owner in the condition specified in the Lease.



Contact Us

Please do not hesitate to contact us on 03 379 3880 to discuss how our commercial and property team may be able to help.

Disclaimer

The information in this booklet is current as at the date of publication and is only intended to provide general comments about the law. Young Hunter accepts no responsibility for reliance by any person or organisation on the content of this booklet. For further information or specific advice please contact our commercial and property team who will be happy to assist.