

CROSS-LEASEHOLD TITLES

Most of the own-your-own or “ownership” flats in Christchurch and elsewhere in New Zealand are held on cross-leasehold titles. Under this type of ownership, the owners of all of the units in the development jointly own the freehold of the land on which the development is built and the unit owners each hold a lease entitling that owner to the exclusive occupation of the unit and exclusive use of the land set aside for use with that unit. All unit owners have the right to use any common property, such as driveways and paths, unless otherwise provided for in the lease.

The leases are usually for a term of 999 years and provide for payment of nominal rental but, in practice, no rental is paid. The leases as well define the rights and obligations of the unit owners and generally will cover such things as:

- a. The exclusive right of the owner of each unit to occupy that unit and have the use of the land with that unit, but in such a way so as not to interfere unreasonably with the exercise by the other unit owners of those similar rights in respect of their unit.
- b. The use of any common areas.
- c. The repair and maintenance of the unit and other improvements serving the unit.
- d. The upkeep of the land reserved for that unit.
- e. The repair and maintenance of the unit of any common land and amenities.
- f. The insurance obligations of the individual unit owners.
- g. The keeping of pets.
- h. The making of structural alterations to the units.
- i. The repainting of the exterior of the unit.

The outline of the buildings in the development, the areas of land set aside for use with each unit and any common areas or amenities are all defined in a plan of survey known as the Flat Plan and the leases of the units are based on details as they appear in this plan. If any new buildings are erected on the land or if any alterations or additions are made to the existing buildings, then this may necessitate the completion of a new Flat Plan and the alteration of the leases. This can be a costly process and an intending purchaser of a property which is held under a cross-leasehold title should be sure to verify that the buildings of the unit being purchase are strictly in accordance with the Flat Plan and lease for the unit. If there is any doubt about this then the solicitor acting for the purchaser should be consulted before any binding contract to purchase is made.