

A modern multi-story apartment building with balconies and large windows. The building is light-colored with dark accents. The balconies have glass railings. The sky is blue.

The mysteries of bodies corporate

A guide to the rights and
responsibilities of apartment ownership



Auckland
Regional Council
TE RAUHITANGA TAIAO

Sharing responsibilities through the

body corporate

Moving into an apartment, terraced house or some other higher density form of housing can be a major change after a traditional house. But living in an apartment is appealing to an increasingly wide section of the community for a variety of reasons.

Apartment living may appeal for its convenience, extra safety and security, modern design and proximity to shops, services, parks, cafes, work, education and public transport. An apartment might be chosen for its affordability and, for many, low maintenance including little or no gardening.

Although the individual owner might avoid direct responsibility for maintenance (except within an individual apartment), the property as a whole still has to be looked after if it is to keep its value and appeal. Someone has to do it and someone has to organise it. That is part of the responsibility of a body corporate, the group that every unit owner belongs to.

This booklet explains the basics of bodies corporate and how to handle them. We point out some of the pitfalls to be avoided and how problems might be solved in order to get maximum enjoyment from your unit title dwelling.

A companion booklet, 'What to look for when buying a terraced house or apartment', will help you if you are looking to buy. Obtain your copy from the Auckland Regional Council or your local council. (See contact details, inside back page.)

Please Note: Information contained in this manual is intended as a general guide only and might not apply in all situations. In some circumstances professional advice should be obtained.

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You are the body corporate

A body corporate comprises all the owners of a unit-titled property. It isn't something you can opt out of. If you own a unit or apartment in a unit-titled property, you are a member of the body corporate.*

Many types of buildings or developments are owned as unit titles including clusters of town houses, terraced housing, low- and high-rise apartment blocks, and buildings which may have both residential units and commercial areas such as retail shops or other business premises. All owners, if their property is on a unit title, belong to a body corporate.

* For the purposes of this manual we refer to all unit title dwellings as apartments or units.

Bodies corporate are governed by the provisions of the Unit Titles Act 1972 (with amendments in 1979)*. The Act provides for the subdivision of land into units that are owned by individual proprietors [owners] and common property that is owned jointly by all the unit proprietors.

The Act sets out rules for the use and management of the units and common property. If the land involved is freehold, each unit title is known as 'a stratum estate in fee simple'.

(Unit titles are sometimes known as strata titles.) The creation of a stratum estate allows for the process of transferring ownership or raising a mortgage.

The body corporate is established when the developer deposits a unit plan for the development with the District Land Registrar at the local office of Land Information New Zealand. At this point the body corporate might consist only of the developer. New owners automatically become part of the body corporate on settlement date for their unit.

By the time the developer deposits his/her plan, body corporate rules will have been set out and a body corporate secretary (usually a professional firm) has often been appointed to administer the body corporate. A valuer will have set each unit's individual "entitlement" which represents how big a share each owner has to pay of ongoing expenses for the development as a whole. See 'Unit entitlement' page 5.

In buying an apartment it is important to know what proportion you will pay of the body corporate's expenses in looking after areas of the development which are open to all (common areas). You will also need to budget for the expense, yours alone, of maintaining the interior of your own apartment, i.e. not common property.

You will generally have to pay, individually, the local authority rates for your particular unit. When the development is on leasehold land the body corporate usually pays for ground rent.

A developer could retain ownership of a unit or units in a development and would thus continue to be a member of the body corporate. If the developer retained sufficient units to have a majority of unit entitlements then he or she would have a majority vote at any meeting with other owners.

* [The Unit Titles Act is currently being reviewed to bring it more into line with current needs and practice. This may eventually result in changes to the legislation which may affect some of the information in this booklet.](#)



Principal/accessory units and common property

A body corporate is allocated its own legal number and each unit a unique number and/or letter within that body corporate. Each unit has its own legal title which means it can be transferred upon sale and mortgages raised on it.

Your unit will be legally described as a principal unit (PU) and accessory units (AUs). The PU is your dwelling and 'AUs 1 and 2' may be a garage and car park allocated to your dwelling and 'AU 3' your garden or a storage area.

External space in a development such as landscaping and driveways is common property, owned by all owners collectively. Internal space such as hallways and stairs is also normally common property, as is the exterior 'skin' of the building.

If residents damage common property they are likely to be liable for repair costs. Damage to an individual unit caused by deficiencies in the common property e.g. stormwater flooding into a garage is likely to be a responsibility of the body corporate.

Cross-lease and company ownership

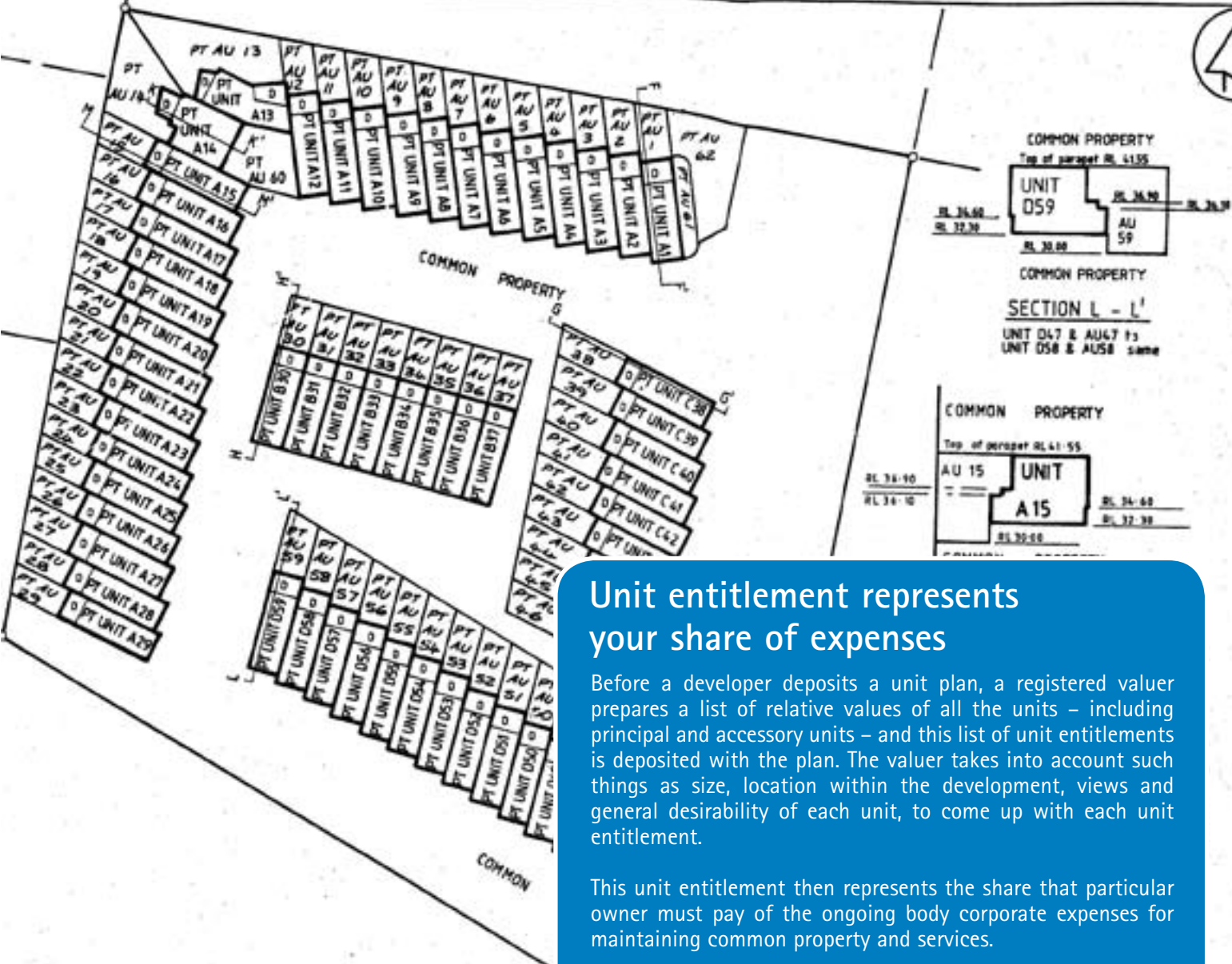
Many older and a small proportion of new apartments, town houses and the like may still be set up on a cross lease or on a company ownership basis – usually where there are five or fewer dwellings. They are not unit-titled properties and lack some of the protections provided under the Unit Titles Act.

Essentially, cross leases provide for joint ownership of a multi-unit property with the owners granting themselves exclusive use of certain parts of the property and common use rights where appropriate. There are no obligations as to how such developments are managed jointly, e.g. no requirement for joint insurance.

Another setup sometimes used for jointly-owned property is the company structure (under the Companies Act) where individuals hold shares in a company which is the legal owner of the property. The company provides individual licenses to occupy the different dwellings on the site.

Day-to-day issues for both cross-leased and company owned developments (such as rubbish and parking) are likely to be similar to those held under unit titles.





Unit entitlement represents your share of expenses

Before a developer deposits a unit plan, a registered valuer prepares a list of relative values of all the units – including principal and accessory units – and this list of unit entitlements is deposited with the plan. The valuer takes into account such things as size, location within the development, views and general desirability of each unit, to come up with each unit entitlement.

This unit entitlement then represents the share that particular owner must pay of the ongoing body corporate expenses for maintaining common property and services.

Problems can subsequently arise when, for instance, a view is built out, a unit changes from residential to commercial use, or the owner of a ground floor apartment queries their share, say, of the cost of lift maintenance. But, once set, it is difficult to change one's unit entitlement. Change would require an official 'redevelopment' involving considerable time and money.

Make sure you know what your unit entitlement is.

SHEET 3 OF 4
 North Auckland
 IV Tifirangi
 Record Map No. COMPLETE UNIT PLAN ON LOT

What is an owners' committee?

If there are more than three owners in a unit-titled development the Act says they must elect a committee. At least three owners must be members of the committee. A quorum (minimum number of members) is necessary for the committee to make decisions. The quorum is at least two if there are no more than six committee members and three if there are more than six committee members.

A committee of five to seven people is considered best. It is recommended that the committee have a fair representation of both resident owners and also investors who have let their unit(s) to tenants. Until the first annual general meeting (AGM) of the body corporate, all the owners constitute the committee.

The role of the owners' committee depends on the body corporate and the contracts it has with the body corporate secretary and the building manager (if there is one). Sometimes the owners' committee will be hands on, sharing jobs around the development like meeting trades people and cleaning common areas.

They may monitor compliance with rules – for instance visitor parking – arrange working bees and organise social activities for residents to get to know each other. They may produce friendly newsletters to keep residents informed of their responsibilities.

Active owners' committees with a range of professional skills may take a lead role in all activities including tendering and managing contracts for maintenance, gardening, on-site management, administration and security. In practice, many developments will need to rely more heavily on the professional advice and input of a body corporate secretary and/or on-site manager employed by the body corporate.

A development is likely to run smoothly if it has an active and capable owners' committee and/or a good body corporate secretary and building manager.

Every situation and unit-titled development is different, the mix of owners and personalities adding to the character of each body corporate.

AGM...your major opportunity

The body corporate is required to hold an annual general meeting (AGM) at least once in every calendar year. The first has to be within three months of the unit plan being deposited or the first unit being sold, whichever is later.

The AGM is the major opportunity for owners to have their views taken into account. Owners should be sure to attend or send a proxy, particularly when there are contentious issues on the agenda. (And the size of your levy for the next year is almost certain to rouse plenty of interest!)

The AGM is the time to set budgets for the coming year and seek changes to rules, if desired. The appointment of the body corporate secretary and, where appropriate, the building manager, is confirmed at the AGM.

The AGM of the body corporate is also the time to discuss major common area maintenance and contributions towards it while owners can air general concerns that are troubling them.

It is often worthwhile to do some homework on issues. Advise the secretary in time to include your concerns on the agenda. Put forward options, assessments, a range of quotes for work required or new activity so that owners have enough information to make big decisions.

Ideally, owners will discuss and review the performance of any contractors (e.g. gardening, security, maintenance, building management, administration) and confirm appointments or seek new tenders. A quorum is necessary at the AGM and this is usually defined as no fewer than a third of the proprietors (owners) entitled to vote, i.e. those who have paid all of their levy for the preceding year. Each unit has one vote.



Understand the body corporate rules

The Act sets out standard rules (Section 37) governing bodies corporate. Some of these rules can be changed by the developer, often in consultation with a professional body corporate secretary, before depositing the unit plan.

It pays to know what these rules are when buying an apartment because most rules are difficult to change subsequently.

Second Schedule rules require unanimous agreement of the members of the body corporate. They usually cover formal matters such as the duties of proprietors (owners) and the powers and duties of the body corporate, the role of a secretary, the setup of the owners committee and procedures for general meetings.

Examples include:

A proprietor (owner) must:

- Comply with all Acts, bylaws and regulations relating to the 'use, occupation and enjoyment of his unit'
- Pay all rates, taxes, charges and other outgoings on time to any local authority or other public body and pay any 'properly levied' sums due to the body corporate
- Make no additions or structural alterations to his or her unit without the consent of the body corporate

The body corporate is required to repair and maintain all chattels, fixtures and fittings (including stairs, lifts, elevators and fire escapes) used as common property.

Rules can be changed, added to or repealed by a unanimous vote as long as any change doesn't destroy or modify any right implied or created in the Act.

Third Schedule rules, which can be changed by a simple majority, usually include more everyday things like noise,

pets, use and enjoyment of common property, safe and legal use of units and prevention of disturbance or nuisance to other occupiers.

Examples include:

An owner or occupier shall not:

- Use or permit their unit to be used for an illegal purpose or one which 'may be injurious to the reputation of the building'
- Make undue noise in or about the unit or common property



- Keep any animal in the unit or on common property without consent of the body corporate committee
- Use the common property so as to interfere unreasonably with its use and enjoyment by other owners
- Use or permit a unit to be used in a way which causes a nuisance to another occupier



Common rules that are inserted or changed by bodies corporate include:

- Changes to the provisions regarding pets
- Limits on where satellite dishes and TV aerials can be placed (many developments have common aerials etc)
- Limits on changes to the external appearance of units, including restrictions on exterior colour and window dressings
- Rules regarding window boxes, the general appearance of balconies and gardens and drying of washing in publicly visible areas

There are general restrictions on structural additions and even internal alterations to units. Specific rules might forbid accommodating people in garages or place restrictions on the use of auxiliary units such as requiring a car park to be used only for parking and not for storage or some other use.

It is very important that you have a copy of the rules for your development (they do vary) and give a copy to any tenant as they must also observe the rules applying to all residents.

Insurance is mandatory

One of the most important functions of the body corporate secretary, on behalf of the body corporate, is to ensure that the complex is fully insured at all times. Some secretaries insist that the body corporate also insures for statutory and public liability.

Insurance is one of the biggest costs for the body corporate. The Unit Titles Act states that an insurer must reinstate damage, no matter what the cost, so full reinstatement insurance is obligatory.

Individuals do not insure their own unit – except for contents. The complex as a whole, from gates and letterboxes to swimming pools, retaining walls and the buildings themselves, must be insured by the body corporate.

The body corporate, usually through the secretary, organises an annual valuation of the complex for total reinstatement including demolition and clearing the site, if required. That said, many insurers will now not cover water damage from leaks or have set higher excesses and premiums.*

**See 'Help with leaky buildings', page 18*

Do you need a body corporate secretary?

Do you need a body corporate secretary?

The body corporate at its first AGM must appoint a secretary, who may be one of the owners or (in most cases) a professional firm, to handle administration. In practice, the developer as, initially, the sole member of the body corporate, has often already appointed the body corporate secretary and set remuneration, the term of appointment and conditions.

A professional secretary should have knowledge of the Unit Titles Act and have skills in administration, property management and keeping accounts.

The body corporate secretary is an employee of the body corporate, does not have voting rights and should not normally chair body corporate meetings. Be wary of the practice by some secretaries of gathering proxies from absent owners to support their proposals.

The functions of the secretary, as laid down in the Act, are to keep the accounts of the body corporate and carry out any other functions delegated by the body corporate. In practice a secretary is usually responsible for much more than just the accounts. Likely to be included are:

- Convening meetings of the body corporate and preparing minutes

- Ensuring the development is fully insured at all time
- Preparing budgets for the body corporate and maintaining a fund for all its expenses
- Collecting levies from the owners and paying accounts
- Reporting regularly to the body corporate – at least quarterly and preferably monthly
- Organising the annual building warrant of fitness if required
- Maintaining a register of proprietors (owners) as required by the Act
- Supplying "Section 36" certificates* when a unit is sold or mortgaged
- Arranging maintenance of common property (sometimes through the appointment of a building manager)
- Setting up a sinking fund for future major common area maintenance

See 'Before buying an apartment', page 17 and 'What makes a good secretary', page 11

How much the body corporate secretary does is up to the body corporate itself. Some owners and the owners' committee prefer to take a more active role and limit the professional secretary's role to administration.

See 'What is an owners' committee?', page 6

Appointing a secretary

Schedule 2 of the Unit Titles Act states that:

- The secretary's duties include completing "full, true and complete accounts of the affairs and transactions of the body corporate"
- The secretary has to send a copy of the body corporate's balance sheet, showing financial dealings, to every owner within six months of each annual general meeting



Body corporate secretaries usually charge a fee per unit for their services. Annual fees may range from less than \$100 to \$200 or more – plus GST – per unit. You get what you pay for and should be wary of fees set lower than average. A \$200 fee is still rather less than the cost of a daily newspaper; little enough to help protect your home or investment and ensure the development is well run.

How do you get rid of a poor secretary?

The body corporate can remove the secretary at an annual or extraordinary general meeting, as long as the process in the Act is followed. The meeting must be called for that purpose and the secretary has the right to attend and be heard.

It isn't always easy. Sometimes where the developer has installed the secretary for a specific term (some secretaries have been installed for as long as 10 years), removal can prove difficult. You would be likely to have to prove breach of contract to remove them if they have a contract. Obtain professional advice from a lawyer in this situation.

Ideally a contract with a body corporate secretary will include performance criteria and termination clauses.

What makes a good secretary?

A good body corporate secretary

- Maintains frequent and open contact with the body corporate committee and reports fully and regularly
- Keeps accounts and budgets up to date
- Ensures AGMs are held at the appropriate time, agendas are circulated in good time beforehand and minutes are accurate and properly disseminated
- Monitors contracts closely
- Sorts out issues promptly and efficiently
- Responds promptly to inquiries and has copies of paperwork such as accounts, budgets, rules, minutes, details of levies and Section 36 certificates available on request
- Sets up a sinking fund for future major common area maintenance and invests the fund wisely and according to the instructions of the body corporate committee



Should you have a building manager?

A building manager, on-site or part time, often handles day-to-day running of the complex. If there are more than a few units it is a good idea to have a building manager to handle all those fiddly bits of everyday tidying and maintenance.

A professional body corporate secretary will often choose a building manager on behalf of the owners. The building manager might look after more than one small development and live off site or, where the development is larger, may be provided with an apartment on site.

The building manager is likely to be contracted to:

- Generally keep the development clean and tidy and in good repair including grounds, lawns, driveways, foyers, lifts, stairways, utility rooms, rubbish areas, common area pot plants, lighting etc
- Ensure rubbish and recycling are placed in a designated area
- Carry out, or organise, ongoing maintenance of things like security systems, fire alarms, lifts, ventilation and air conditioning equipment, swimming pools, gardens and lawns, cleaning of common areas and windows, and general building maintenance such as plumbing and electrical work.
- Account to the body corporate for spending on contractors/tradesmen etc.



- Report promptly to the body corporate on all repairs etc required and action taken.

In addition, the building manager is likely to be required to:

- Ensure adherence to fire safety and Building Act requirements
- Maintain a register of residents and owners and ensure protection of lifts, etc, when residents are moving their furniture in or out
- Keep master keys for plant rooms and the like and for individual units
- Ensure security of keys and the development as a whole and help promote quiet enjoyment of the development by residents
- Provide a monthly report to the body corporate

Building managers are sometimes also engaged as letting agents for absentee owners. This is often the case with serviced apartments and motel units with unit titles.

Where a developer has appointed a building manager who also acts as an exclusive letting agent, the owners may have no say in choice of tenant. Sometimes there can be difficulties not only with who occupies your property but also with periods of vacancy. Find out if this might be a problem for your development.

What makes a good building manager?

A good building manager:

- Is identified by the cleanliness and tidiness of the areas for which he or she has responsibility
- Is available at times stated in their contract, at least by mobile phone
- Responds to problems promptly
- Is often a handy person capable of fixing minor maintenance problems
- Keeps a watch on the performance of trades people such as window cleaners, lawn and garden contractors, electricians and plumbers
- Ensures trades people's bills are accurate and paid promptly
- Reports clearly and regularly to the owners' committee and/or secretary
- Maintains a current register of owners and tenants
- Can discreetly quieten noisy occupiers and their visitors
- Ensures fair use of the visitor parking

Also see 'Before buying an apartment' page 17

The building manager tends to be the handyman on-site who can fix minor problems in common areas, knock on the door of noisy owners or their tenants and let the plumber in to a unit when the sink is blocked and the owner has to go to work.



Setting levies

Living in an apartment is often cheaper in terms of ongoing maintenance than living in a traditional house. As mentioned earlier, each owner pays a share of the complex's expenses based on the individual unit entitlement.

Budgets are set at the annual general meeting of the body corporate. Be sure to attend or send someone in your place with proxy voting rights.

The budget for the coming year will cover all the recurring costs – insurance, ongoing maintenance, secretary's fee, gardening, cleaning, the cost of a building manager if there is one etc. The annual budget sometimes also covers capital upgrades. The owners' committee will be authorised to approve spending of up to a certain amount without further reference to the body corporate. A reserve might be set aside for emergencies such as a broken sewer line.

Some of the annual budget will be paid as a contract payment to the building manager, if any, who will also have authority to spend up to a certain level on day-to-day maintenance, contractors and the like.

Levies are often asked for on an annual basis, but there is usually room for some flexibility. If you are having difficulty paying, try to make a special arrangement with the body corporate secretary to stage your payments, perhaps quarterly or six-monthly.

Get in touch early before your debt gets out of hand.

Typical levies might be \$1200 to \$1400 for a terraced apartment or, perhaps, \$2000 to \$5000 for an inner-city apartment with extra facilities and an on-site building manager. Owners

of large, expensive apartments in fashionable locations might pay many thousands more.

Insurance is likely to be a major part of the levy and water can also be a major cost if it is not separately metered.



Recovering levies from slow payers

Body corporate rules usually specify a 10% surcharge for late payment of levies. Interest on late payments, the costs of debt collection and any legal costs might also be added. Some rules offer a discount for early payment of levies.

Late levy payments can be a major problem because the cost of collection can sometimes be prohibitive. But late payers should understand that the levy doesn't go away; it remains a debt of the unit concerned and if necessary will be recovered when the unit is sold, sometimes through the mortgagee.

See 'Section 36 certificate' page 18

Maintenance plans and sinking funds

A building professional should be engaged to prepare an asset management plan which includes annual and long-term maintenance. The annual plan will cover the day-to-day items including contracts for cleaning, window washing and such things as regular lift maintenance. Electrical, plumbing and drainage work will usually be in this category.

A long-term maintenance plan should be prepared to cover occasional, expensive items such as major maintenance of lifts, heating, ventilation and air conditioning, if any, repainting the exterior, major roofing or external cladding repairs, resealing of driveways and parking areas, rebuilding fences etc.

A prudent body corporate will set aside a sinking fund for these items. Your share of the sinking fund is not paid to you when you sell your unit but stays with the property and can be a good selling point.

Many developments collect funds but do not know how much they need. Remember, a sinking fund is not a rainy day fund, it is for planned major long-term maintenance or capital works, and should be managed wisely.

The Building Research Association of New Zealand says a rule of thumb is that 0.5% of the value of a building (under 30 years old) should be spent on maintenance each year.

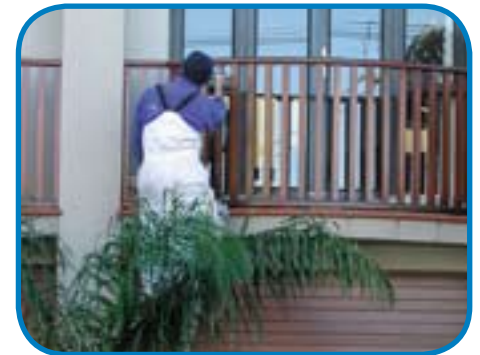
Cosmetic changes such as freshening up bathrooms and kitchens would be additional. These costs, which are for work inside apartments rather than in common areas, are a matter for the individual owner.

Average actual expenditure by owners of conventional houses at the time of the New Zealand House Condition Survey (published 2005) was \$1300 per annum – but that was not enough. It was estimated that an average of \$3700 per house was needed as catchup to repair serious defects that hadn't been taken care of.

If little attention has been paid to maintenance, a good process is to:

- Undertake a building condition survey
- Develop priorities for deferred maintenance
- Develop a comprehensive, on-going maintenance plan with assistance from a certified building professional

Be prepared to spend realistic amounts on maintenance to protect your investment and add value to your ongoing enjoyment of your property.



Ten reasons for a maintenance plan

BRANZ sets out, in its publication 'Protecting Your Investment' (November 1999), 10 good reasons for having a maintenance plan. Although a guide to maintaining commercial buildings, the 250 page book is also a valuable reference for residential developments.

'Ten good reasons', says BRANZ, for carefully analysing a building's condition and putting in place a maintenance plan to keep it in good condition:

See: www.branz.co.nz

1. Allows sound decision-making
2. Safeguards occupant health and safety
3. Reduces the risk of over-investment
4. Remedies deterioration
5. Allows expenditure to be planned
6. Optimises the maintenance process
7. Reduces plant and equipment downtime
8. Lowers life-cycle costs and enhances the building image
9. Provides a better service to occupants
10. Reduces emergencies



Building warrant of fitness

The Building Act 1991 requires all buildings with certain features – apart from single family dwellings – to have a warrant of fitness which is displayed prominently in the building.

If the building has any of the following features the body corporate must obtain a warrant of fitness:

- Automatic sprinkler system
- Automatic fire doors
- Emergency lighting system
- Emergency warning systems
- Automatic back flow preventers
- Lifts or escalators
- Mechanical ventilation or air conditioning systems

These features must be maintained and inspected regularly. There may also be other infrastructure, such as stormwater treatment filters, that must be maintained as a condition of the developments resource consent.

Before buying an apartment

Do your homework before committing yourself to ensure the complex meets your requirements and is set up to work well for you. The booklet 'What to look for when buying a terraced house or apartment' will help and is available from your local council or on www.arc.govt.nz/pubs.

Buying off plans

You don't need to take it all on faith. You will, of course, ensure that the development is in the right area for you, close to transport if you need it, have a satisfactory exposure to the sun and views that won't be built out.

Compare the measurements of rooms in your prospective unit with rooms in your existing home. Also check:

- Has the developer a good reputation for quality building and fair dealing?
- Will you have a clause for signoff by an independent expert in your contract with the developer, to ensure satisfactory completion?
- Can you make changes to layout and design during the building process?
- Will wiring and cabling suit your needs?
- Are the body corporate secretary and building manager, if any, well regarded?
- How much are the levies and sinking fund?
- Will the car parking work for you including visitor parking?

- What are the body corporate rules and are they reasonable?
- How do the rules deal with noise, pets, exterior colours, windows and window boxes, washing, curtains and blinds, TV aerials and satellite dishes, access to common areas and facilities?
- What systems are there for rubbish and recycling, security?

Be wary of initial levies
Sometimes levies are set too low at the outset, possibly to attract buyers, and will go up, at times significantly.



Existing development

Most of the checks necessary before buying off plans also apply to buying an existing apartment. The advantage is that you can see the actuality.

Additional checks are necessary to ensure the complex works well for you:

- Is the body corporate active and efficient and what current issues are there?
- Ask the vendor to supply AGM minutes and other background including financial reports and a copy of the body corporate rules
- Check the annual accounts to see how much you will need to pay. (You pay your share of extra facilities such as swimming pools and tennis courts even if you don't use them)
- Check that the levies are realistic and that a big enough sinking fund is available for major maintenance
- Talk to existing owners to see how things are going

Section 36 certificate

The Unit Titles Act requires under Section 36a 'Certificate of proprietor's liability' to be supplied whenever a unit is sold or mortgaged.

This certificate shows what contributions (levies) are required including any arrears and the rate of interest. It also states whether the body corporate has or is about to incur other liabilities for which the new owner might be liable. The Section 36 certificate also tells you whether there are any proceedings outstanding against the body corporate.

Your lawyer should ask for this certificate from the vendor's lawyer who will get it from the body corporate secretary.

Make sure you see it!

Construction

Check out the construction of the building you are interested in:

- Is it of good design and built of high-quality materials?
- Are there possible defects in cladding, roof, eaves (or lack of them)?
- Does it have means available for exterior cleaning – gantries, abseiling hooks?
- What about possible leaky building problems? (see box)

It is sometimes difficult to get someone to take responsibility for the problems of leaky buildings. Statutory limitation periods might make it difficult to sue a builder or developer for unsatisfactory work after a certain number of years.

A body corporate has a responsibility to mitigate damage. Professional advice – engineering and/or legal – is often the best starting point.

Help with leaky buildings

The Government has established the Weathertight Homes Resolution Service (WHRS) to help owners of homes less than 10 years old which have problems with leaks. The WHRS provides independent professional assessment, mediation and adjudication services to help resolve disputes over the damage caused by leaks.

Contact the Weathertight Homes Resolution Service at:
Freepost 113435
Weathertight Homes Resolution Service
PO Box 5011, Wellington
Ph: 0800 116 926
Fax: 0800 116 189
www.weathertightness.govt.nz

Check the operational details

What are the rules on access to common areas including permitted hours of use of recreation facilities?

Also check:

- The location and servicing requirements for mechanical systems. Is the pool pump or plant room for air conditioning right outside your window?
- Check how common electrical, plumbing and drainage systems are looked after

- What about fire and security systems?
- Lifts and stairs?
- Where is the water stopcock for the apartment?
- Is the building warrant of fitness (if required) prominently displayed and up to date?
- Check out insurance details for the complex. It covers your apartment but you'll need to get your own contents insurance

Car parking and access

Check what parking is available for you and your visitors. Is this abused by other owners?



Shared services

A number of services may be shared and paid for by the body corporate. A key issue is how water and wastewater are paid for.

Most developments have a single meter for water use and the water company bills the development as a whole. High-rise apartments normally share the water and wastewater bills equally between units and include this in the annual budget.

Many terraced developments and apartment blocks have 'check meters' which allow water usage to be measured and the bill divided accordingly. They are not official water company meters and owners do not receive bills direct from the water company.

Check metering may be complex and time-consuming but may be preferred by owners – meters have to be read, a spreadsheet of usage has to be maintained, owners billed separately by the body corporate secretary and debts collected and chased.

Other shared services may include:

- Electricity for common area lighting, plant, swimming pools etc
- Telecommunications including cabling as far as your apartment which is often provided from common aerials and dishes. What is the system for the complex you are looking at and does it meet your needs?

Security

The security of your development relies on both the quality of any security equipment used and the vigilance of residents. (It helps to know your neighbours.)

Card-operated motor vehicle entry systems need to be of high quality to keep non-authorized vehicles out and to cope with high usage.

Check what system there is for:

- Dealing with trespassers
- Getting rid of graffiti
- Security lighting including time switches
- Security of walls and gates

Rubbish

Rubbish is one of the biggest problems for multi-unit developments. Check it out on rubbish day to see whether refuse and recycling are neatly lined up in the appropriate place.

The system might be some form of bins or skips or possibly a rubbish chute with a skip under it. Is there a building manager to keep things tidy or does the owners committee need to organise it? What's the recycling system?





Selling your apartment

Prospective purchasers are likely to have the same hopes and concerns that you had. You should:

- Advise the owners' committee, body corporate secretary and building manager (if any) that you will be selling your apartment
- Be ready to supply minutes of your body corporate, copies of the rules and any other appropriate documentation
- Ensure your levies and any other outstandings are paid up-to-date
- Be aware that a Section 36 certificate will be sought

Common problems and possible solutions

Problem	Possible solutions
Poor body corporate manager/secretary	Insist on improvements
	Replace the manager or secretary
Concerns about long-term maintenance	Commission a long-term maintenance plan
	Set up sinking fund or raise sinking fund levy
	Keep regular maintenance in hand
Communication problems with owners and tenants	Regular newsletter for owners and tenants
	User-friendly rules
	Encourage feedback from owners and tenants
	Organise owners' committee introductory visits for new owners and tenants
	Foreign language signage and newsletters if appropriate
Noise	Reminders on noise levels, quiet times via newsletters
	Approach noisy residents direct
	Circulate information on noise control
	Assistance from local council
Rubbish and recycling	Reminders to residents in newsletter
	Direct approach for persistent breaches
	Private contractor to supply and clear skip
	Contact council to discuss better arrangements
Parking and traffic problems	Speed humps and signage to slow traffic
	Yellow lines for prohibited parking
	Engage tow company for illegally parked vehicles
	Direct approaches to residents

Problem	Possible solutions
Misunderstandings over provision of services including water, wastewater, electricity, shared facilities such as gym, swimming pool	<p>Provide clear explanation of services and how they are paid for in body corporate rules</p> <p>Review costs in annual budget</p> <p>Review usage and payment options with utility companies</p> <p>Circulate information to residents and owners</p> <p>Be rigorous with account processing and debt collecting</p>
Security and graffiti	<p>Improve lighting, signage, security alarms, surveillance</p> <p>Newsletter reminders to close accessible windows and report trespassers and burglaries</p> <p>Social activities to promote increased feeling of security among neighbours</p> <p>Report and remove graffiti promptly</p>
Non-compliance with rules	<p>Ensure regular circulation of rules to tenants as well as owners</p> <p>Encourage attendance at AGM and involvement in rule setting</p> <p>Act on breaches of rules to ensure precedents aren't set</p>





Glossary

Apartment	Used here to refer to unit title dwellings which also include terraced and town houses, low- and high-rise apartments
Body corporate	Collectively the proprietors (owners) of the development
Body corporate administrator	Strictly speaking a court-appointed person handling a financial crisis of the body corporate
Body corporate manager	Sometimes an alternative term for a body corporate secretary Alternative term for body corporate secretary
Body corporate secretary	Person or firm appointed by body corporate to look after administrative affairs of development
Building manager	Person appointed to look after ongoing maintenance and day-to-day, on-site running of development
Common property	Property open to and owned by all residents
Cross lease/company ownership	See box on page 4
Owners' committee	Committee elected by body corporate to run affairs of development
Principal and accessory units	A principal unit is the private residence. Accessory units are private garage, carpark, garden, storage etc spaces that go with the principal unit
Property manager	Person or firm appointed as a letting and management agent for individual units
Proprietor	Owner of unit
Strata title	Another name for unit title
Unit entitlement	Defined share that one unit bears of common costs (based on relative value of units)
Unit plan	A plan deposited with the District Land Registrar showing layout and major legal details of a development
Unit Titles Act	Statute covering unit-titled dwellings

Further reading and useful contacts

This bodies corporate manual has been produced by the Auckland Regional Council as a result of research commissioned in 2002 and published in January 2003. That research, 'Bodies Corporate and Intensive Housing in Auckland', is available on the Auckland Regional Council website.

This booklet is also available in Mandarin and Korean and can be obtained from the Auckland Regional Council.

Auckland Regional Council

Ph: 09 366 2000

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www.arc.govt.nz

Department of Building and Housing

The department is responsible for regulation and dispute resolution in New Zealand's building and housing sector. DBH also oversees Tenancy Services, the Residential Tenancies Act, the Unit Titles Act, and the Weathertight Homes Resolution Service (see below).

www.dbh.govt.nz

Tenancy Services

For help in the case of disputes between landlords and tenants see the Department of Building and Housing's Tenancy Services website. This site also has information on the Residential Tenancies Act, landlord and tenant responsibilities, bond lodgement and dispute resolution.

www.dbh.govt.nz

Weathertight Homes Resolution Service

Freepost 113435

or

PO Box 5011

Wellington

Ph: 0800 116 926

Fax: 0800 116 189

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ConsumerBuild is a partnership between the Department of Building and Housing and Consumers' Institute. It is an independent resource designed to help people who are building, renovating, or maintaining a home.

www.consumerbuild.org.nz

Unit Titles Act 1972

The Unit Titles Act can be viewed at this website:

www.legislation.govt.nz under Statutes

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