



Submission on MBIE's proposed amendments to the Unit Titles Act 2010

December 2016

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Yes MBIE officials can contact me if they have a question about the content of my submission

Yes I wish to remain anonymous in any reporting or submission analysis

Making a submission

To make a submission, please fill out the submission form below, and send to UTAreview2016@mbie.govt.nz. Both Word documents and PDFs will be accepted.

Alternately, you can download the submission form and post it to:

Unit Titles Act Review
Construction and Housing Markets, BRM
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

Consultation on the Unit Titles Act finishes on Friday 3 March 2017 at 5pm. Thank you for your submission.

3.2 Improving Government Services to the UTA Sector

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Please comment on :

- how government agencies might achieve a more joined up approach;
- how we can improve the services we provide; and
- whether you think a separate dedicated entity is warranted; and if yes, what functions and responsibilities would a dedicated unit titles entity deliver? Please list.

In my case we have a major issue with unruly onsite building managers in every way possible. They have a service contract with the body corporate for the past 10 years and I feel they have destroyed the reputation of our complex and had an immense impact on our investment. It seems the body corporate management seem powerless and very hesitant to even attempt to discuss or resolve the issues we are faced with, for fear of law suits.

As we do not have all owners sharing the same views we are finding it very difficult to deal with this situation. We also have a leaky building where we have council involved and an attempt to obtain a section 74 is being made with great difficulty. We have the council not taking any actions in certain areas with relation to our complex and the building managers. These issues are very questionable. If there were any incidents to occur as unit owners we are the ones ultimately responsible. There are a few owners that have withdrawn from the letting pool because of a fear of an incident occurring and any retaliation from this. We also have the added factor of our building deteriorating rapidly with the cost of repair increasing daily and the loss of income.

As we have several issues relating with the building management eg. no clarity, theft, dishonesty, inappropriate behaviour, fraud, conflict of interest council and leaky building problems with no end in sight, there is at present no one point of contact to review our case. At present there is also seems to be a lack of information on the government website to help in our situation.

I attempted to try and seek guidance and answers with our situation and just got passed on from one person to the next with no results.

In our case I feel that an arbitrator or the tribunal is not appropriate in our case. The fact that our Situation has gone on for this length of time and that the culprits seem to be in the position to Flaunt he law as they seem fit without any retribution is deplorable. It seems the only avenue Open to us at present is to take legal action at a huge cost.

Surely as an investor we should have the right to have an investment free, from all these Nightmares.

It would be an advantage in my opinion to have one agency to address our sort of situation.

4.1 Improving the Disclosure Regime

Proposal 1: Amalgamate the current requirements of the pre-contract, pre-settlement and additional disclosure statements into one step

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Do you agree that the pre-contract, pre-settlement and additional disclosure step should be consolidated into one step? If no, why?

Proposal 2: Add further requirements in disclosure statements

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Do you agree that these additional requirements should be included in disclosure statements? Do you consider any other requirements should be included?

Proposal 3: Require a statutory warranty on all disclosure statements

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Do you agree that bodies corporate should certify all disclosed information is complete and correct? If no, why?

4.2 Strengthening Body Corporate Governance

Proposal 1: Address conflicts of interest

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We propose to add provisions to the UTA that address conflicts of interest that achieve similar aims to the provisions included in the Incorporated Societies Bill. Do you agree? If no, why?

Proposal 2: Increase reporting of delegated powers

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We propose that bodies corporate of large sized complexes (30 and over) should report on the performance of their delegated powers at every general body corporate meeting? Do you agree? If no, why?

Proposal 3: Duties and responsibilities of body corporate committees

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We propose including additional provisions on the duties and responsibilities of a body corporate committee similar to those included in the Queensland's Code of Conduct for committee members. Do you agree? If no, why?

Proposal 4: Limit the number of proxy votes an individual can hold

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Do you consider that the risk of proxy farming is sufficiently high to warrant amendment of the UTA to limit the number of proxy votes one person can hold at a time? If yes, why?

Yes there should be a limit as I think at present it is too wide open for abuse

Proposal 5: Limit the impact of unfair service contracts

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We propose to amend the UTA so that bodies corporate can vary the terms of or seek to release themselves from longer term contracts in certain circumstances. Do you agree? If no, why?

Proposal 6: Clarification of governance terms

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Do you agree with the proposals made above as they relate to:

- Minority relief – no change warranted;
- Alteration to units – sections 79 and 80 (i) to be amended if necessary to align with section 65;
- Quorum – section 95 to be clarified; and
- Resolutions – section 101 to be amended.

If no, why?

4.3 Professionalism in Body Corporate Management

Proposal 1: Status Quo and Self-Regulation

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Do you agree that industry bodies such as those mentioned have the ability to increase professionalism and help address body corporate management issues? If no, why?

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Do you support requiring body corporate managers to be members of a professional group and being subject to the codes of practice of the group? If no, why?

I believe body corporate managers should be members of a professional group and being subject to the codes of practice. This would bring about more professionalism in the industry.

If there is a breach of the codes of practice then there should be made accountable. I feel there needs to be some form of professionalism maintained

Proposal 2: Make contracting a body corporate manager a requirement for medium and large complexes

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Do you support body corporate managers being mandatory for medium and large complexes? If no, why?

Yes I think there needs to be some form of control over complexes to maintain their standards

And maintain the best interests of an owner's investment

Proposal 3: Define body corporate managers in the UTA and introduce operational requirements in regulations

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Do you support the functions of body corporate managers being set out in the UTA? If no, why?

Yes this would make for more clarity of their position which they could be bound to.

17

What functions, if any, do you think should be prohibited from being contracted to a body corporate manager?

I think they should not be able to have control of bank accounts unless they are in a trust account

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Do you support the setting of additional requirements in regulation for body corporate managers? If no, why?

I support the view that there should be more provision to be able to have more powers to deal with all service contracts and the ability to review these on an annual basis. I feel there should be some strict guidelines put in place in order to maintain a high level of financial accountability and to ensure the quality of service and professionalism is maintained especially with building on site managers.

Proposal 3: Extend the timeframe of LTMPs to 30 years

22

Do you agree that 30 years is an appropriate timeframe for LTMPs for medium (unless they resolve not to) and large complexes? If no, what threshold or timeframe do you consider appropriate?

Proposal 4: Require body corporates to review their LTMPs every three years

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Do you agree that LTMPs for medium and large complexes should be reviewed every three years? If no, what threshold or timeframe do you consider appropriate?

Proposal 5: Require large bodies corporate to have a LTMF

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We propose that medium sized bodies corporate comprising 10-29 units are required to establish and maintain a LTMF (unless they resolve not to by special resolution). Large complexes comprising 30 units and over units would be required to have and maintain a LTMF. Do you agree? If no, why?

Proposal 6: Require bodies corporate LTMFs to be annually audited

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We propose that the LTMFs of medium and large bodies corporate are audited annually. Do you agree?

4.5 Accessibility of the Disputes Resolution Regime

Proposal 1: Fee settings

26 Do you support the proposed fee level for the dispute resolution service? If no, why?

27 Would you consider using mediation if the above option was adopted? If no, why?

Proposal 2: Revise the name of the Tenancy Tribunal (preferred proposal)

28 Do you agree that the name of the Tenancy Tribunal should be changed to the 'Tenancy and Unit Titles Tribunal' to reflect its jurisdiction over unit title disputes? If no, why?
