

25-02-2017

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

Re: Review of the Unit Titles Act 2010

Dear Sirs,

Further to my submission dated 12 June 2013 a photocopy of which I enclose, I hereby resubmit that submission on the same point to the Review Papers 4-2 (v).

I note I have not included the pages from the Minutes as no doubt you still hold my original submission on file. However, if you require those pages, please advise.

In addition to the submission, I would point out to the body of people considering this review that they must be aware that any owner of a body corporate can accept proxy votes. Not just a committee member. The wording must not exempt a body corporate member being limited by the legislation by just referring to body corporate committee

members. The legislation must be inclusive of all body corporate members (ie all owners of the apartments within a building).

I quote from the review papers

"Limit the number of proxy votes an individual on a body corporate committee can hold".

Why is consideration being given to just a body corporate committee member? It still allows abuse of the system by other body corporate members.

I look forward to the results of this review and in particular the points I have brought to your attention.

Yours faithfully

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Ministry of Business, Innovation
& Employment - Building & Housing Group

Attention: Unit Titles Amendment
Bill Services Team

Dear Sirs,

I respectfully submit my late submission as I was not aware that an assessment of the Act and Regulations was being undertaken.

In the event that this submission cannot be considered at this time, could it be filed for the next consideration of the Act and Regulations. The reason being that the general public are not aware when legislation is under review.

Submission proceeds over page.

Level 6, 86 Customhouse Quay
PO Box 10-729
Wellington 6142

Attn: Unit Titles Amendment
Bill Services Team

BACKGROUND AND HISTORY:

- Unit Title laws have been in existence in New Zealand since 1972
- The latest amendments were in 2010 and 2011
- The Unit Titles Act 2010 and Unit Titles Regulations 2011 was set up for the management, enjoyment and democratic rights of all owners
- The laws set the working boundaries
- The laws are currently under review

COMPARISON BETWEEN AUSTRALIA AND NEW ZEALAND OF THIS ACT'S VOTING RIGHTS

Unfortunately I have been unable to provide a copy of the Australian legislation but advise by previous experience ~~experience~~ as Secretary of a Body Corporate in Queensland, that it provides:

- (1) one vote per apartment even if an apartment has multiple owners;
- (2) vote by proxy but stipulates the number of proxy votes held by any one person to 3;
- (3) postal voting.

As Australian Unit Titles laws have been in existence since 1961, there has been a longer period of time to correct any anomalies.

New Zealand laws have not taken into consideration limitation of proxies held by any one person.

However, New Zealand law does limit a developer's vote count to no more than three for apartments held under the developer's ownership.

PROBLEM:

As New Zealand laws do not provide a limitation to the number of proxies that any one person can hold on behalf of absentee voters, it leaves open an opportunity for abuse.

This is occurring in the Body Corporate of which I am a member. I enclose copies of the first pages of the Minutes for the last three years disclosing this fact where an owner is having an excess of 40 and 60 proxy votes. I consider this is against the spirit of the Act.

This also appears to have decreased the actual attendances of owners at meetings when one person can control decisions in this way.

This anomaly allows abuse of the system thus interfering with the democratic rights of an individual.

EXCERPTS OF PRINTED OPINIONS ON VOTING

(1) Legal Services Commission of South Australia

Page 12 - MEETINGS AND RESOLUTIONS

"Voting on basis of one vote per Unit."

(2) Strata Data Group - Body Corporate Specialists

Page 1 - WHO CAN VOTE AT A MEETING

"All registered members (unit owners) may exercise one vote for each unit that they own. A member may also give their vote to a proxy to either vote as directed by them on a matter or as they wish at the meeting."

In the case of a unit holder being owned by more than one person the owners collectively are only entitled to one vote per Unit."

(3) The Voice of Property - Issue 1 April 2011

Legal Update Page 6

CHANGES TO COMPLY WITH THE 2010 ACT

"Voting can be by means of one vote per unit or by poll."

It is clear that the intention of legislation is to enable every owner the right to vote even if that owner is absent at the time. The opportunity given is by postal voting and vote by proxy. This determines democracy as of right.

However, I am confident that it was not envisaged that the legislation could be open to abuse.

As it is clear that this is happening, urgent consideration needs to be given to rectify this anomaly.

I enclose the following:

- (1) Copies of the first pages of the Minutes for the last three years disclosing attendances and proxies held;
- (2) Copies of printed material by the recipient of these large numbers of proxies disclosing also, a conflict of interest.

I await your advice, ^{given} to my Submission.

Yours faithfully