



Agent copy. Please do not remove.  
**Ray White**

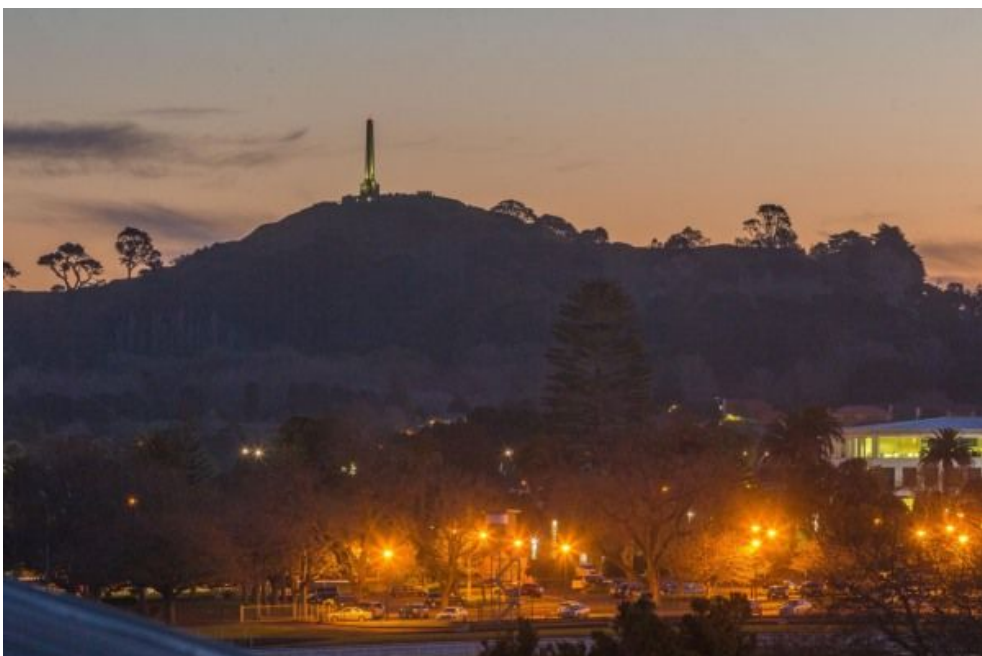
## 3/7 Grand View Road Remuera



Age 1980s  
 Legal Description FLAT 3 DP 95317 ON PT LOT 24 DP 4392 1.3 SH 1192 M2  
 Certificate Of Title NA51C/108  
 Rateable Value \$960,000 (2014)  
 Rates \$3857.81 per annum incl GST  
 Building Area 140 m<sup>2</sup> (approx)  
 Land Area 1/3 share of 1192m<sup>2</sup> (approx)  
 Bedrooms 3  
 Bathrooms 1.5  
 Roof Concrete tile  
 Joinery Aluminium  
 Exterior Brick, block & weatherboard  
 Garaging One carport plus ample off street parking

Chattels Blinds, Fixed Floor Coverings, Light Fittings, Extractor Fan, Rangehood, Stove, Dishwasher, Waste Master, Heated Towel Rail, Heat Pump.

School Zones Remuera School, Remuera Intermediate, Selwyn College.



A full information pack is available upon request. Contents of this information sheet do not form part of the contract for sale and purchase. While care has been taken in preparation of this information, no responsibility is accepted for the accuracy of the whole or any part and interested parties should make their own enquiries to satisfy themselves in every respect.

**For more information on 3/7 Grand View Road, Remuera please contact:**



**Richard Lyne**  
 mobile 021 687 000  
 richard.lyne@raywhite.com



Proudly Marketed By  
**Richard Lyne**

RAY WHITE REAL ESTATE  
 Ray White Remuera  
 Megan Jaffe Real Estate Ltd Licensed (REAA 2008)





## 3/7 Grand View Road Remuera

Refreshed, Upside & a Look to One Tree Hill

This unique free standing 1980s abode offers more than the first look might suggest.

Fresh upbeat interior, easy open plan living & a huge basement area below gives options for accommodation flexibility and further development possibility.

The brick clad & block base will appeal as will the elevated Northwest aspect & exclusive use land area; which is enough to park off-street, kick a ball or develop your green thumb.

In-zone for popular Remuera Primary & Remuera Intermediate schools & located just moments from the local village & supermarket. Public transport & essential motorway links are close by as well. Your early registration is advised as this property is unlikely to last long.

CV \$960k (2014).

3  1  1.5  1  4 

Auction 5:00pm, Wednesday 7 September 2016  
In rooms, 369 Remuera Road  
(unless sold prior)

View Saturday & Sunday 1:00 - 2:00pm

Online [rwremuera.co.nz/RMU23847](http://rwremuera.co.nz/RMU23847)



## Important please note:

The contents of this information pack do not form part of the contract for sale and purchase. Whilst care has been taken in preparation of this information to assist in your initial assessment of this property, no responsibility is accepted for the accuracy of the whole or any part and interested parties should make their own enquiries to satisfy themselves in every respect.

It is our advice that all information that is material to any purchase decision be verified through independent professional advisors.

In particular;

You must seek legal advice with respect to legal conveyance; GST &/or land withholding tax implications; any aspect pertaining to building construction method and performance; property valuation; council regulation / planning and zoning rules / PAUP, geotechnical concerns and/or any other matter material to your decision making process.

For further clarification please contact us and / or review the attached Real Estate Code of Conduct & the REAA Buyers & Sellers Guide Booklets.

Licensed Residential Real Estate Sales Professional  
REAA 2008 – Licence Reference # 10002550

Seek further information on-line : <http://www.reaa.govt.nz>

## Statement of passing over information

This information has been supplied by the vendor or the vendor's agents. Accordingly Megan Jaffe Real Estate Limited is merely passing over the information as supplied to us by the vendor or the vendor's agents. We cannot guarantee its accuracy and reliability as we have not checked, audited, or reviewed the information and all intending purchasers are advised to conduct their own due diligence investigation into the same. To the maximum extent permitted by law Megan Jaffe Real Estate Limited do not accept any responsibility to any person for the accuracy of the information herein.



**RICHARD LYNE**

LESS SECRET MORE AGENT

**MOB: 021 687 000**

RICHARD.LYNE@RAYWHITE.COM

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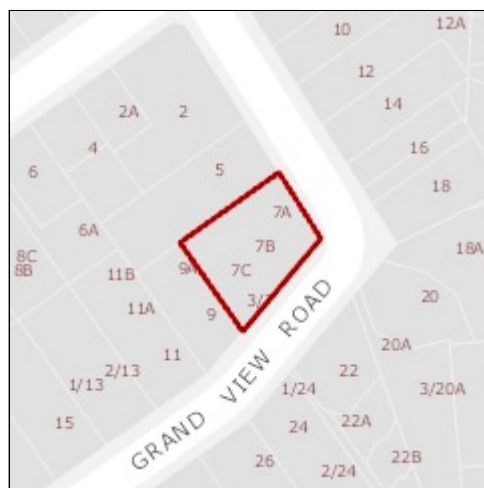




## 3/7 GRAND VIEW ROAD REMUERA AUCKLAND

<b>Rating Valuations:</b>	\$960,000
<b>Land Value:</b>	\$750,000
<b>Improvements Value:</b>	\$210,000
<b>Valuation Date:</b>	01-Jul-2014
<b>Last Sale Price:</b>	\$615,000
<b>Last Sale Date:</b>	20-Oct-2011
<b>Last Sale Type:</b>	Whole. One property involved
<b>Sale Tenure:</b>	Freehold
<b>Purchase Relationship:</b>	Market Level - Bonafide
<b>Net Sale Price:</b>	\$608,000
<b>Chattels:</b>	\$7,000



<b>Valuation Address:</b>	3/7 GRAND VIEW ROAD REMUERA AUCKLAND
<b>Valuation Reference:</b>	4/4500290200
<b>Legal Description:</b>	FLAT 3 DP 95317 ON PT LOT 24 DP 4392 1/3 SH 1192 M2
<b>TA Name:</b>	Auckland
<b>Tenure:</b>	Not Applicable or Extension
<b>Floor Area:</b>	115 m <sup>2</sup>
<b>Land Area:</b>	n/a
<b>Bedrooms:</b>	3
<b>Building Age:</b>	1980 - 1989
<b>Category:</b>	Residential, Dwelling, average (RD)
<b>Wall Material:</b>	Brick / GOOD
<b>Roof Material:</b>	Tile Profile / GOOD
<b>Contour:</b>	Easy to moderate fall
<b>Deck:</b>	Y
<b>Parking Freestanding:</b>	1 car
<b>Parking Main Roof:</b>	0
<b>Land Use:</b>	Single Unit excluding Bach
<b>Zoning:</b>	Residential (9J)



**Owners:** Comins, *Earlene Roberta* & *Kenneth Kingsley*   
Tanner Fitzgerald Trustees (2005)  
Limited 

**Certificate Of Title:** NA51C/108 (Cross Lease)

**Comments:** [Add comment](#)

## Disclaimer

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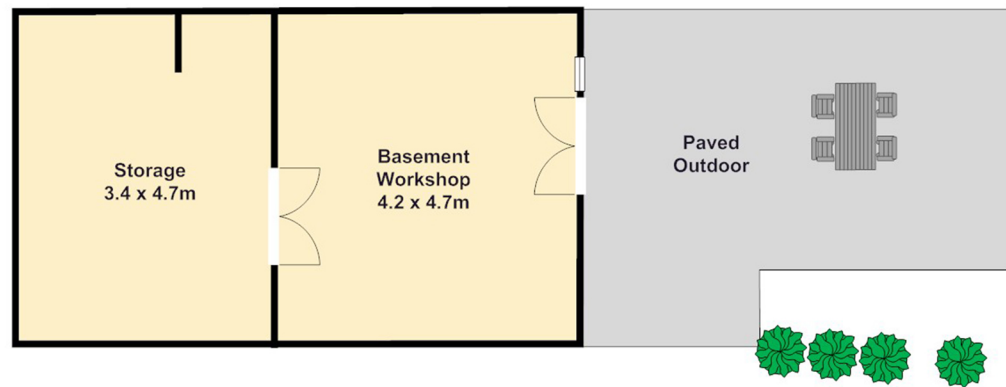
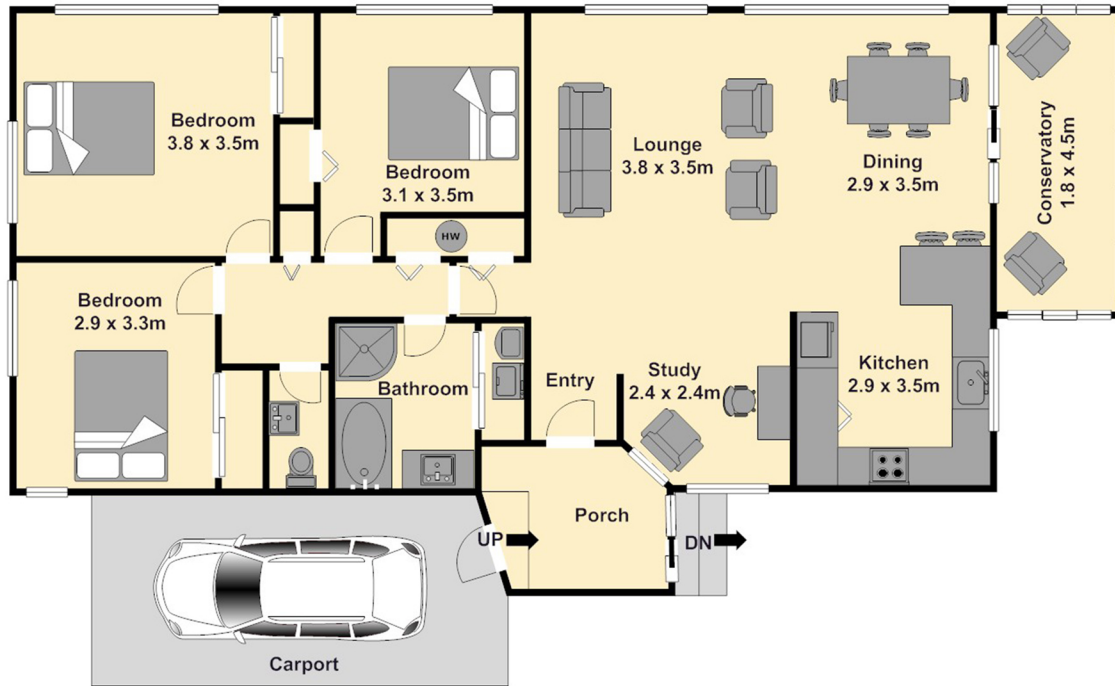


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# 3/7 Grand View Road Remuera, Auckland



**Approx Floor Area: 152m<sup>2</sup> (External Living Area: 44m<sup>2</sup>) - FOR VISUAL PURPOSE ONLY**

**DISCLAIMER** | Drawings are approximate and to be used for visual representations ONLY. We measure internal spaces (excl walls) and not the exterior - our floor areas reflect this. Measurements should be verified by the buyer. We take no responsibility for omissions and errors.



## 3/7 Grand View Road Remuera

### Property information

CT number	CT-51C/108
Land area	<a href="#">Not available</a> Square Metres
Legal description	FLAT 3 DP 95317 ON PT LOT 24 DP 4392 1/3 SH 1192 M2
Land use	SINGLE UNITS - DETACHED DWELL
Description of improvements	<a href="#">Not available</a>
Local board	Orakei

### Valuation information

The valuation displayed is an assessment of the value of the property as at 1 July 2014 based on sales. It is not a current market valuation

These values are subject to change due to objections, subdivisions or changes to improvements.

#### Latest Valuation to be used to assess 2017/2018 rates

Valuation date	01 July 2014
Latest Capital value	\$960,000
Latest Land value	\$750,000
Latest Value of improvements	\$210,000

### Rates assessment (2016/2017)

The following information and values were used to assess the 2016/17 rates.

Assessment number	00000116368
Capital value	\$960,000
Land value	\$750,000
Rateability	<a href="#">Not available</a>
Land use	SINGLE UNITS - DETACHED DWELL
<b>Total Rates</b>	<b>\$3,173.58 (GST inclusive)</b>

### How your rates were calculated

Type of rate	Rate calculation	Total rate
Uniform Annual General Charge	Number of separate parts 1	<b>\$394.00</b>
	Charge 394.00	
General Rate - Urban Residential	Capital value 960,000	<b>\$2,433.01</b>
	Rate 0.00253439	
Waste Management - Full Service	Per service 1	<b>\$232.72</b>
	Charge 232.72	
Other Targeted Rate(s)	NA	<b>\$0.00</b>
	Rate	

Targeted Rate - Transport	Number of separate parts	1	<b>\$113.85</b>
Levy - Non-Business	Charge	113.85	
<b>Total Rates for 2016/2017 (including GST)</b>			<b>\$3,173.58</b>





22 August 2016

To whom it may concern,

**Rental Appraisal – 3/7 Grand View Road, Remuera**

I have appraised 3/7 Grandview Road, Remuera – A lovely brick and tiled home that is located in central Remuera. Approximate floor area: 115m<sup>2</sup>

Features include:

- Three bedrooms with built in wardrobes
- One modern bathroom with a separate toilet
- Open plan dining and living area
- Separate newly painted kitchen
- Living opens out to a conservatory
- Downstairs is a rumpus/ office with plenty of under house storage
- One Carport with extra off street parking.

The property is within walking distance to Remuera primary and is in zone for Remuera intermediate it is also a short drive to Upland Road shops and Remuera village.

**Based on the current, local market rents in this area, I feel this property would rent for between \$740 and \$775 per week.**

Should you have any queries regarding this appraisal please do not hesitate to contact me.

Kind Regards,

***Alicia Charteris-Harrison***  
**021 444 393**

LPMNZ Winner - **2014 Property Manager of the Year**  
LPMNZ Winner - **2014 Best Property Management Website**

**NB:** This is a professional estimate of rental level for the property based upon our extensive market knowledge of the area; however, it should not be acted upon as a rental appraisal from a registered valuer. Should you require such a report we recommend you seek the services of a registered valuer.





**COMPOSITE COMPUTER REGISTER  
UNDER LAND TRANSFER ACT 1952**



R. W. Muir  
Registrar-General  
of Land

**Search Copy**

**Identifier**                    **NA51C/108**  
**Land Registration District** **North Auckland**  
**Date Issued**                02 December 1981

**Prior References**

NA242/78

**Estate**                    Fee Simple - 1/3 share  
**Area**                     1192 square metres more or less  
**Legal Description**    Part Lot 24 Deposited Plan 4392

**Proprietors**

Kenneth Kingsley Comins, Earlene Roberta Comins and Tanner Fitzgerald Trustees (2005) Limited

<b>Estate</b>	Leasehold	<b>Instrument</b>	L B012196.3
		<b>Term</b>	999 years as from and including 30 November 1981

**Legal Description** Flat 3 Deposited Plan 95317

**Proprietors**

Kenneth Kingsley Comins, Earlene Roberta Comins and Tanner Fitzgerald Trustees (2005) Limited

**Interests**

- B012196.1 Lease of Flat 1 Composite CT NA51C/106 issued - 2.12.1981 (Affects Fee Simple)
- Land Covenant in Lease B012196.1 - 2.12.1981 (Affects Fee Simple)
- B012196.2 Lease of Flat 2 Composite CT NA51C/107 issued - 2.12.1981 (Affects Fee Simple)
- Land Covenant in Lease B012196.2 - 2.12.1981 (Affects Fee Simple)
- Land Covenant in Lease B012196.3 - 2.12.1981 (Affects Fee Simple)
- B012196.3 Lease of Flat 3 DP 95317 Term 999 years as from and including 30 November 1981 Composite CT NA51C/108 issued - 2.12.1981 (Affects Fee Simple)
- 8904917.2 Mortgage to Southland Building Society - 7.11.2011 at 3:15 pm





50/2196.1 L

Approved by the District Land Registrars: North Auckland 4235/75, South Auckland H.030022/1975, Canterbury 964787, Marlborough 78937, Gisborne 115146.1, Hawkes Bay 311609, Taranaki 221056, Wellington 064649, Westland 47105.

# MEMORANDUM OF LEASE

THE LESSORS DE LUXE UNITS LIMITED a duly incorporated Company having its registered office at Auckland

THE LESSEE DE LUXE UNITS LIMITED a duly incorporated Company having its registered office at Auckland

The lessors being registered as proprietors of an estate in fee simple subject however to such encumbrances, liens, and interests as are notified by memoranda underwritten or endorsed hereon in all that piece of land described in Schedule A.

## SCHEDULE A LEGAL DESCRIPTION OF FEE SIMPLE

Land Registration District: North Auckland

Area: ONE THOUSAND ONE HUNDRED & NINETY FOUR SQUARE METRES (1194m<sup>2</sup>)  
Particulars (including title reference, encumbrances, and appurtenances)

Part of Lot 24 Deposited Plan 4392 being part of Allotment 22 of Section 12 Suburbs of Auckland and being all the land in Certificate of Title 242/78

SUBJECT TO: Agreement as to fencing contained in Transfer 49377

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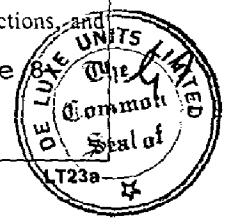
IN CONSIDERATION of the rent hereinafter reserved and of the covenants, conditions, and agreements on the part of the lessee herein expressed or implied to be paid performed observed and fulfilled the lessors DO HEREBY LEASE UNTO the lessee all that the flat numbered One (1) \*

(hereinafter called "the flat") more particularly shown on Deposited Plan No. 95317 being part of the building (hereinafter called "the said building") erected on the said land \*\*

TO BE HELD by the Lessee as tenant for the space of 999 years as from and including 30th day of November 1981 at the yearly rental of ten cents payable in advance in each year throughout the term hereby created SUBJECT to the following covenants conditions, and restrictions that is to say:-

1. The lessee covenants with the lessor as set out in schedule B
2. The lessors do and each of them doth covenant with the lessee is set out in schedule C.
3. It is hereby covenanted by and between the lessors and the lessee as set out in schedule D.
4. It is hereby covenanted by and between the lessors and each of them as set out in schedule E.
5. It is hereby covenanted by and between the lessors and each of them and by and between the lessors and the lessee as set out in schedule F.
6. The parties agree that the term "proportionate share" shall be deemed to mean "one third share".
7. The lessee accepts this lease to be held by him as tenant subject to the conditions, restrictions, and covenants set forth herein.
- \*\* together with and subject to the rights of user set out in Clause 8 hereof.
8. See attached sheet.

\* If garage, carport, or storage is included in definition of "flat", add description.



DATED this 28th day of November 1981

Signed by the abovenamed THE COMMON SEAL of DE LUXE UNITS LIMITED was hereunto affixed as Lessors in the presence of:

Witness's Signature

Occupation Governing Director

Address



Signed by the abovenamed THE COMMON SEAL of DE LUXE UNITS LIMITED was hereunto affixed as Lessee in the presence of:

Witness's Signature

Occupation Governing Director

Address



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SCHEDULE B Lessees Covenants

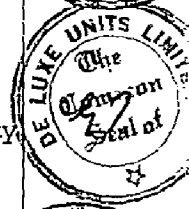
Pay rent

1. The lessee shall pay the rent in the manner and at the times hereinbefore provided.

Pay share of the following payments

2. (1) The lessee shall upon demand in writing by the lessors or their duly authorised agent pay to the lessors a "proportionate share" of the cost of the following payments for repairs, maintenance, and other charges incurred or to be incurred in respect of the said land and the said buildings:—

- (a) General rates and other levies assessed on the said land and the said building. See attached sheet
(b) Fire insurance premiums assessed on the said building
(c) Repairs to or reconstruction of all electrical and plumbing equipment, drains, and other amenities serving the said building as a whole
(d) Repairs to or reconstruction of the roof, spouting, and downpipes of the said building
(e) Charges for any exterior decoration or exterior cleaning of the walls, doors, windows, roof and plumbing fittings of the said building
(f) Charges for all structural repairs and maintenance necessary to the walls, framework, or foundations of the said building
(g) Charges for care and maintenance of the grounds paths fences gates and other amenities surrounding the said building known as the common driveway, common area or common property
(h) Provision for a general reserve fund to meet contingent repairs and maintenance
(i) Provision for and charges for the payment, performance, and observance of all moneys, covenants, and conditions to be paid, performed, and observed in respect of any mortgage or mortgages or charge or charges now or at any time hereafter raised by the lessors jointly and secured upon the whole of the said piece of land of which the lessors are registered as proprietors as aforesaid but nothing herein contained or implied shall have any reference of application to any mortgage or charge raised by any one or more of the lessors affecting the individual estate and interest of each such lessor or lessors individually
(j) All other expenses in respect of the said land and building jointly incurred by the lessors and not relating solely to any particular flat in the said building, or portion of the land over which the Lessee may have the sole right of use or occupancy.



N.B. On no account should this margin be used

**To whom payable**

- 2. (2) All money payable under this clause shall be payable to the person appointed by the lessors or a majority of them pursuant to clause 19 hereof as the agent of the lessors for the purpose of receiving and disbursing or applying the same for the foregoing purposes.

**If payment not made**

- (3) And in default of payment thereof by the lessee the lessors shall be entitled to demand interest on the amount or amounts owing at a rate being one per cent in excess of the average rate charged from time to time by trading banks on account current which is overdrawn from the date when payment should have been made but such demand shall be without prejudice to the rights of the lessors under this lease PROVIDED ALWAYS that if any general rates and other levies fire insurances or other outgoings are hereafter assessed levied and demanded in respect of the said flat as a separate dwelling or interest in the said land then the same shall be paid by the lessee.

**Residential purposes only — no pets**

- 3. The lessee shall use the flat for residential purposes only and shall not bring into or keep in the flat any cat, dog, bird, or other pet which may unreasonably interfere with the quiet enjoyment of the other lessees of the said building or which may create a nuisance.

**Not create fire hazard**

- 4. The lessee shall not bring into or keep in the flat any goods or any substances of a highly combustible nature or do anything (including the unauthorised use of light and power fittings) which may render an increased premium payable for the fire insurance of the said building or which may make void or voidable any such policy of insurance. The lessee shall comply with all statutes, regulations, and by-laws of any local authority insofar as they affect the use of the flat by the lessee.

**Maintain interior**

- 5. ~~The lessee shall at his own cost keep and maintain the interior of the flat including the doors, windows, electrical and plumbing apparatus and all fittings of any kind in good order and condition.~~ See attached sheet

**Keep clear of rubbish**

- 6. The lessee shall not leave or place in the passageways stairways or parking area or in the grounds surrounding the said building any receptacles or obstructions whatsoever and will not deposit any refuse or rubbish therein or thereon and will place any garbage cans in the location approved of by the lessors or a majority of them.

**Not cause nuisance**

- 7. The lessee shall not use the flat for any illegal or immoral purposes and will refrain from causing excessive noise or disturbance within the flat which may be likely to cause a nuisance or an annoyance to the lessors or occupants of any of the other flats in the said building.

**Right to inspect**

- 8. The lessee shall permit the lessors or their representatives at all reasonable times to enter upon the flat to inspect the condition of the flat.

**No structural alterations**

- 9. (1) The lessee shall not (without the consent in writing of the lessors or a majority of them for that purpose on every occasion first had and obtained) make any structural alterations to the flat or to any partition walls therein or to any passageway or stairways leading thereto nor take any action which might constitute danger or risk to the said building.

**Pay electricity, etc.**

- 10. The lessee shall duly and punctually pay all charges for water, electricity, gas, or other supplies or services relating solely to the flat.

**SCHEDULE C  
Lessors Covenants with Lessee**

**Lessee's rights to exclusive occupation**

- 11. The lessee performing and observing all and singular the covenants and conditions on his part herein contained and implied shall quietly hold and enjoy the flat without any interruption by the lessors or any person claiming under them together with the use in common with the other lessees of flats in the said building of the drives, paths, and grounds on the said land and of any stairways, balconies, and verandahs in the said building for access only to and from such flats.

**Lessors to insure**

- 12. The lessors shall insure the said building against fire and earthquake to its full insurable value and shall take out a replacement policy and will pay all insurance premiums on any such policies as and when the same shall become due and owing unless the lessee and every other lessee of the said building agrees to effect and keep current a separate and adequate insurance policy for such parts of the said building each lessee holds as tenant. ~~separate policies shall be effected with the one company.~~

**Repair exterior and roof**

- 13. (1) ~~The lessors shall keep the exterior and roof of the said building in a good state of repair and shall at all times cause the said land and the said building and the services and amenities serving the same to be managed and maintained at a high standard and shall (from time to time as when and so often as the same respectively become necessary or desirable) execute and do the works and things and (subject to payment thereof by the lessees as provided in clause 2 hereof) duly and punctually pay the costs, charges, expenses, and outgoings specified and referred to in the said clause 2 and shall apply and deal with the said contributions to reserve fund as the lessees or a majority of them from time to time resolve or direct.~~

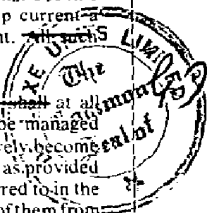
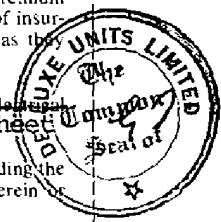
- (2) In the performance of the covenants of this present clause the lessors have the right at all reasonable times in the daytime and after giving reasonable notice to the lessee by their agents, servants, contractors, and workmen to enter inspect and (if necessary or desirable so to do) to execute and do such of the said works and things as may be required to be executed and done in or from the interior of the flat.

- (3) If any such work or thing is rendered necessary by the wilful act, neglect, or negligence of the lessee or of any person being a licensee or invitee of the lessee, then the cost and expense thereof shall be borne solely by the lessee.

**SCHEDULE D  
Covenants Between Lessors and Lessee**

**Retain ownership of freehold**

- 14. (1) It is a condition of this lease that the lessee shall at all material times remain owner as proprietor of an undivided proportionate share in the fee simple of the said land while he continues to be a lessee hereunder. If the



N.B. On no account should this margin be used



lessee (unless by these presents expressly authorised so to do) shall deal with either his interest hereunder or his interest in the fee simple in such a manner that both leasehold and freehold interests are not owned and occupied by the same person, then this lease shall be immediately determined, without however discharging the lessee from payment of any moneys owing hereunder or releasing him from liability arising from any other breach previously committed.

(2) Notwithstanding any rule of law to the contrary the transfer by the lessee of his interest hereunder shall operate as a release of the lessee from liability hereunder provided that

(i) The transfer of the lessee's interest hereunder shall contemporaneously with the grant of such transfer have vested in him the legal and beneficial ownership of the proportionate share in the fee simple at the time owned by the lessee, and

(ii) Such transfer shall not release the lessee from any antecedent liability hereunder.

**Lessors' right to terminate lease if breach**

15. If and whenever there is any breach or non-observance of any covenant, condition, or agreement on the part of the lessee contained or implied of which the lessors have given to the lessee twenty-eight days' notice in writing thereof and calling upon him to remedy such breach non-observance and if after the expiration of the said notice the lessee fails to remedy such breach non-observance or non-observance it shall be lawful for the lessors forthwith at any time thereafter to re-enter upon and take possession of the flat or any part thereof in the name of the whole whereupon the term hereby created shall absolutely cease and determine. (continued on attached sheet)

**Fire or earthquake**

16. (1) If any flat is partially or wholly damaged or destroyed by fire or earthquake during the term hereby created, then all money received under and by virtue of any policy or policies of insurance shall thereupon be expended with all possible expedition in reinstatement of the said flat or flats and making good the loss or damage in respect of which the said insurance moneys have become payable.

(2) If the money received under and by virtue of the said policy of insurance is insufficient to reinstate the said flat or flats so damaged or destroyed, such insufficiency shall be borne by the lessors in the proportion in which they respectively own the fee simple of the above described land provided that if the fire was caused by the negligence of one or more of the lessors that party or parties shall bear such insufficiency.

(3) If the lessees of each separate flat have effected separate insurance as provided in clause 12 hereof each lessee shall expend the insurance moneys received by him in reinstatement and making good as aforesaid the damage to his own flat and shall bear any insufficiency himself.

**Water damage**

17. The lessors shall not be liable to the lessee or any other person for any water damage caused either by the overflow of the water supply to the said building or to the flat or by rainwater entering the flat.

**Arbitration**

18. If any question or difference whatsoever arises between the parties to this lease or their respective representatives or assigns or between one of the parties hereto and representatives of the others of them touching these presents or any clause or anything herein contained or the construction hereof as to matter in any way connected with or arising out of these presents or the operations thereof or the rights duties or liabilities of any party in connection with the premises, then and in every case (except where the question or difference arises from the observation of the procedure set forth in clause 20 hereof) the matter in difference shall be referred to arbitration in accordance with the Arbitration Act 1908 and its amendments.

**SCHEDULE E  
Covenants Between Lessors**

**Appoint agent**

19. The lessors or a majority of them shall from time to time appoint one of their number or any other person or incorporated body as an agent (hereinafter called "the agent") for the purposes of receiving, disbursing and applying moneys under clause 2 hereof and for the purposes specified in clause 20 hereof and for such other purposes as they shall from time to time determine.

**If three or more lessors — procedure to make decision**

20. (1) If the lessors are more than two in number, then and in such case in the event of any one or more (being fewer than all) of them desiring or proposing that any act matter or thing be done by the lessors which the lessors are empowered or required to do whether under these presents or as lessees of the said land or lessors of the said building or which may be considered to be necessary or desirable for the efficient and harmonious administration of the said land and/or the said building the following procedure shall be observed:

(a) Such proposing lessor or lessors shall give notice in writing setting out the proposed action and shall serve a copy thereof upon each of the other lessors (and upon the agent if the agent be not a lessor);

(b) Each of the lessors so served as aforesaid shall within seven days next after such service give notice to the agent in writing of his approval or otherwise of the proposed action. (The notice of the proposing lessor or lessors under paragraph (a) hereto shall constitute his approval for the purposes of this present paragraph);

(c) Any lessor who neglects or fails within the period aforesaid to give notice of his disapproval of the proposed action shall be deemed to have approved thereof;

(d) If all the lessors signify their approval as aforesaid, then the proposed action shall forthwith thereafter be carried into effect;

(e) If fewer than all but being a majority (as hereinafter defined) of the lessors signify their approval as aforesaid, then the agent shall forthwith give notice in writing to all the lessors of the majority decision and the proposed action may thereafter be carried into effect in the name of and so as to bind all the lessors notwithstanding that one or more (being fewer than the majority) of them shall not have signified his approval as aforesaid;

(f) If a majority of the lessors within the period aforesaid notify their disapproval of the proposed action or if the lessors are unable to arrive at a majority decision by the means aforesaid, then the proposed action shall be referred to a single arbitrator in case the parties can agree upon one and otherwise to two arbitrators (one to be appointed by the approving lessors and the other by the non-approving lessors) or their umpire in accordance with the provisions of the Arbitration Act 1908 or any statutory modification or re-enactment thereof for the time being in force.

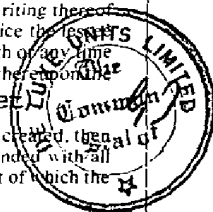
(g) If no person be appointed as the agent then

(i) the notice to be given to the agent under subclause (b) of this clause shall in lieu thereof be given to all the other lessors and

(ii) the notice to be given by the agent under subclause (e) of this clause shall be given by or on behalf of the lessors approving of the proposed action to all the other lessors.

*N.B. On no account should this margin be used*

*N.B. On no account should this margin be used*



**If two Lessors disagree**

(2) If the lessors are only two in number, then any proposed action on which they fail to agree shall be referred to a single arbitrator (if the parties can agree upon one) and otherwise to two arbitrators (one to be appointed by each party) or their umpire in accordance with the provisions of the Arbitration Act.

**SCHEDULE F  
Mutual Covenants**

**Right to sell Lessee's flat**

21. (1) The lessee hereby covenants that he will obey and carry out any such notice in terms of clause 20 hereof as aforesaid and in the event of the lessee neglecting or failing to carry out perform observe or pay any act matter thing or moneys in strict compliance with the terms of any such notice in terms of clause 20 hereof within seven days of the date specified in such notice for the due carrying out, performance observance, or payment as aforesaid (or in the event of no date being specified in such notice then within seven days of the date of the receipt of such notice by the lessee) and/or in the event of this lease being determined or becoming determinable for a period of seven days, then the lessee hereby irrevocably appoints the lessors or such of them as shall then be willing and able to act as the lessee's attorneys upon such lessors thereupon electing so to act and serving written notice in that behalf upon the lessee to be the true and lawful attorneys of the lessee for him and in his name and on his behalf to ask, demand, sue for, recover, and receive all or any sum of money due to or become due to the lessee touching any matter herein contained or implied to demand enforce and procure compliance with and observance of all covenants, conditions, and provisions herein contained or implied to pursue and exercise all remedies and powers herein contained or implied to dispose of the lessee's said interest in the fee simple of the said land and in and under the lease hereby created either by public auction or by private contract and either for cash or upon terms and for such purposes to sign, make, execute, complete, deliver, stamp, and register all the necessary instruments, deeds, documents, and writings of every description as fully and effectually as if the lessee were personally present and acting therein.

(2) The lessors as attorneys for the lessee shall first obtain the report of a registered valuer as to the fair market value of the lessee's said interest in the fee simple and in and under the lease hereby created but shall not however be bound to sell at such valuation and shall not be liable to the lessee for selling at a price less than such valuation PROVIDED THAT they have made every reasonable endeavour to obtain a price equivalent to the said valuation.

(3) The lessors shall not be bound to take any steps hereby empowered nor shall the lessors be responsible for any involuntary loss arising upon the pursuit or exercise of any remedies or powers hereunder.

(4) No person corporation or authority dealing with the lessors as attorneys for the lessee shall be concerned to see or enquire as to the propriety or expediency of any act deed matter or thing which the lessors as attorneys of the lessee may do or perform or purport to do or perform or agree to do or perform in the name of the lessee by virtue of the foregoing provisions.

(5) The foregoing is subject to the condition that in every case before the power of attorney granted by this clause can be exercised to dispose of any party's interest in the said fee simple, a further notice in writing must be served on such party giving him or her twenty-eight days to request that the matter be referred to arbitration. If such party refuses or neglects within such twenty-eight days to reply in writing requesting reference to arbitration, then the said power of attorney may be exercised forthwith but otherwise the matter shall be referred to arbitration in all respects as if a majority decision could not be reached pursuant to the preceding clause. The net proceeds of any sale of the lessee's interest pursuant to this clause (after payment of all expenses whatsoever incurred by the lessors in any way arising out of the determination of this lease and/or the said sale or in any way relating thereto) shall be held by the lessors in trust for the lessee.

**Sale pursuant to Clause 21**

(6) If the lessors effect a sale on terms pursuant to clause 21 hereof, then those terms shall require payment in cash of not less than one-third of the total price and the securing of the balance upon first mortgage of the said fee simple and the said interest in and under this lease such mortgage being in terms as are then current for first mortgage and trustee investments made by solicitors in the district in which the property is situated.

**Notices**

22. It is further mutually agreed and declared and covenanted that any notice required to be given or served touching anything contained or implied in this lease shall be deemed to have been validly and effectually given and/or served in full compliance with the terms and conditions of this lease if such notice or notices have been given or served upon the party concerned either personally or by leaving the same at or posting the same to the last known place of abode or address of such party or parties and in the event of such service being effected by post the same shall be sent by registered letter and service shall be deemed to have been effected on the day after posting thereof or by affixing the same to the premises demised by the lessors hereof to the party or parties concerned (being part of the said building) by securely affixing the same to the main or front door exterior thereof and service shall be deemed to have been effected on the day after affixing thereof as aforesaid.

**Right to sub-let**

23. The lessee shall have the right to let the flat to a reputable tenant PROVIDED THAT the lessee shall ensure that such tenant shall be so bound as to protect all rights under this lease and the lessee shall take all reasonable steps to enforce such rights.

**No merger**

The parties agree that there shall be no merger in the event of the lessee acquiring or remaining a proprietor of a freehold estate in the said land.

**Interpretation**

25. (1) That wherever used in these presents —

(a) The expression "the lessors" shall extend to signify include and bind the person/s executing these presents as lessors and all the lessors for the time being hereunder (if more than one) jointly and severally and all the respective executors administrators successors and permitted assigns of each lessor.

(b) The expression "the lessee" shall extend to signify include and bind the person/s executing these presents as lessee and all lessees for the time being hereunder (if more than one) jointly and severally and all the respective executors administrators successors and permitted assigns of each lessee.

(c) The expressions "majority of the lessors" and "majority of them" shall each mean any number of lessors for the time being who and/or whose personal representatives together own more than an undivided one-half share of or interest in the fee simple and the expression "a majority decision" shall mean a decision of the majority of the lessors as so defined.

(d) The sub-headings and marginal notes do not affect the construction of these presents.

(e) Words importing one gender include the other genders as the case may require.

(f) Words importing the singular or plural number include the plural and singular number respectively.

(2) These presents shall be considered as always speaking and whenever any matter or thing is expressed in the present tense the same shall be applied to the circumstances as they arise, so that effect may be given to these presents and every part thereof according to their spirit, true intent and meaning.

*N.B. On no account should this margin be used*

*N.B. On no account should this margin be used*

SCHEDULE A continued ..

8. (a) Use of Common Driveway and/or Common Area and/or Common Property

The Lessee shall not without the written consent of the Lessors in any way use or enjoy that part of the said land marked or shown as common property and/or common driveway and/or common area on Deposited Plan No. 95317 other than for the purposes of reasonable ingress and egress by vehicle or on foot.

(b) Use of Exclusive Areas

That the Lessors do and each of them DOETH HEREBY COVENANT that the Lessors throughout the term of this Lease shall not use or occupy nor shall the Lessors permit any Lessee of the said land or flat constructed thereon to use or occupy that part of the said land lettered A on Deposited Plan No. 95317 PROVIDED ALWAYS that this Covenant shall not operate as a restriction on the use of the area of land so defined by the Lessee for the time being hereunder TO THE INTENT that this restrictive covenant shall be forever appurtenant to the estate and interest of the Lessees for the time being hereunder this Lease.

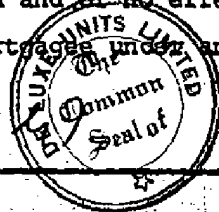
SCHEDULE B continued ..

2. (1) (a) General Rates and other levies assessed on the said land and the said flat but the Lessee shall pay such rates and levies of the land and flat separately assessed.

5. The Lessee shall at his own cost keep and maintain the exterior of the flat herein referred to including roof spouting downpipes and the interior of the flat including floors windows electrical and plumbing apparatus and all fittings of any kind in good order and condition and meet all charges for all structural repairs and maintenance necessary to the walls, framework, or foundations of the said flat and cause that part of the land marked A on Deposited Plan No. 95317 to be managed and maintained to a high standard.

SCHEDULE D continued ..

15. continued .. PROVIDED HOWEVER that any determination of the Lease upon the grounds set out shall be void and of no effect unless a copy of the said notice has been served on the Mortgagee under any Mortgage registered against this Lease.



REGISTERED IN DUPLICATE

MEMORANDUM OF LEASE

Correct for the purposes of the Land Transfer Act

*Mearns*

...DE. LUXE. UNITS. LIMITED..... Lessor (Solicitor for) the Lessee

...DE. LUXE. UNITS. LIMITED..... Lessee

TO: The District Land Registrar  
Auckland.

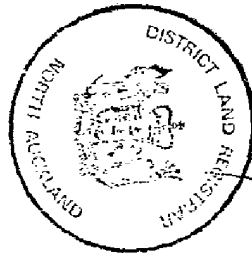
Please note the Lessors restrictive  
Covenant contained in Clause 8 of  
the Lease against the fee simple  
title to the said land.

*Mearns*

SOLICITORS FOR THE LESSEE

Particulars entered in the Register as shown in the  
schedule of land herein on the date and at the time  
stamped below.

District Land Registrar  
Assistant  
of the District of .....



13.30 02 DEC 81 B012196  
PARTICULARS ENTERED IN THE  
REGISTER BOOK  
24/1/78  
ASST. LAND REGISTRAR

LAND REGISTRY OFFICE  
AUCKLAND

WILSON HOUGH & WRIGHT  
SOLICITORS  
AUCKLAND.





BO12196.2L

Approved by the District Land Registrars: North Auckland 4235/75, South Auckland H.030022/1975, Canterbury 964787, Marlborough 78937, Gisborne 115146.1, Hawkes Bay 311609, Taranaki 221056, Wellington 064649, Westland 47105.

# MEMORANDUM OF LEASE

THE LESSORS DE LUXE UNITS LIMITED a duly incorporated Company having its registered office at Auckland

THE LESSEE DE LUXE UNITS LIMITED a duly incorporated Company having its registered office at Auckland

The lessors being registered as proprietors of an estate in fee simple subject however to such encumbrances, liens, and interests as are notified by memoranda underwritten or endorsed hereon in all that piece of land described in Schedule A.

## SCHEDULE A

### LEGAL DESCRIPTION OF FEE SIMPLE

Land Registration District: North Auckland

Area: ONE THOUSAND ONE HUNDRED & NINETY FOUR SQUARE METRES (1194m<sup>2</sup>)

Particulars (including title reference, encumbrances, and appurtenances)

Part of Lot 24 Deposited Plan 4392 being part of Allotment 22 of Section 12 Suburbs of Auckland and being all the land in Certificate of Title 242/78

SUBJECT TO: Agreement as to fencing contained in Transfer 49377

N.B. On no account should this margin be used

N.B. On no account should this margin be used

IN CONSIDERATION of the rent hereinafter reserved and of the covenants, conditions, and agreements on the part of the lessee herein expressed or implied to be paid performed observed and fulfilled the lessors DO

HEREBY LEASE UNTO the lessee all that the flat numbered Two (2).....\*

(hereinafter called "the flat") more particularly shown on Deposited Plan No. 95317 being part of the building (hereinafter called "the said building") erected on the said land \*\*

TO BE HELD by the Lessee as tenant for the space of 999 years as from and including 30th day of November 1981 at the yearly rental of ten cents payable in advance in each year throughout the term hereby created SUBJECT to the following covenants conditions, and restrictions that is to say:-

1. The lessee covenants with the lessor as set out in schedule B
2. The lessors do and each of them doth covenant with the lessee is set out in schedule C.
3. It is hereby covenanted by and between the lessors and the lessee as set out in schedule D.
4. It is hereby covenanted by and between the lessors and each of them as set out in schedule E.
5. It is hereby covenanted by and between the lessors and each of them and by and between the lessors and the lessee as set out in schedule F.
6. The parties agree that the term "proportionate share" shall be deemed to mean "one third share".
7. The lessee accepts this lease to be held by him as tenant subject to the conditions, restrictions, and covenants set forth herein.

\*\* together with and subject to the rights of user set out in Clause hereof.

8. See attached sheet.

\* If garage, carport, or storage is included in definition of "flat", add description.



DATED this .....28th..... day of ..... November..... 1981

Signed by the abovenamed THE COMMON SEAL of DE LUXE UNITS LIMITED was hereunto affixed as Lessors in the presence of:

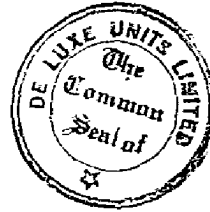


Witness's Signature ..... *G Sale* .....

Occupation ..... Governing Director .....

Address .....

Signed by the abovenamed THE COMMON SEAL of DE LUXE UNITS LIMITED was hereunto affixed as Lessee in the presence of :



Witness's Signature ..... *G Sale* .....

Occupation ..... Governing Director .....

Address .....

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**SCHEDULE B**  
Lessees Covenants

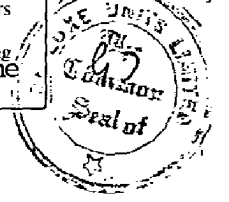
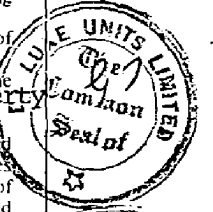
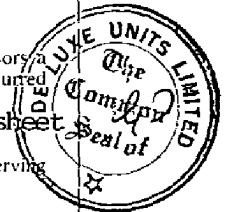
**Pay rent**

1. The lessee shall pay the rent in the manner and at the times hereinbefore provided.

**Pay share of the following payments**

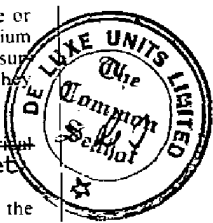
2. (1) The lessee shall upon demand in writing by the lessors or their duly authorised agent pay to the lessors a "proportionate share" of the cost of the following payments for repairs, maintenance, and other charges incurred or to be incurred in respect of the said land and the said buildings:—

- (a) ~~General rates and other levies assessed on the said land and the said building. See attached sheet~~
- (b) Fire insurance premiums assessed on the said building.
- (c) Repairs to or reconstruction of ~~all electrical and plumbing equipment~~, drains, and other amenities serving the said building as a whole
- (d) ~~Repairs to or reconstruction of the roof, spouting, and downpipes of the said building~~
- (e) Charges for ~~any exterior decoration or exterior cleaning of the walls, doors, windows, roof, and plumbing fittings of the said building~~
- (f) Charges for all structural repairs and maintenance necessary to the walls, framework, or foundations of the said building
- (g) Charges for care and maintenance of the grounds paths fences gates and other amenities surrounding the said building **known as the common driveway, common area or common property**
- (h) Provision for a general reserve fund to meet contingent repairs and maintenance
- (i) Provision for and charges for the payment, performance, and observance of all moneys, covenants, and conditions to be paid, performed, and observed in respect of any mortgage or mortgages or charge or charges now or at any time hereafter raised by the lessors jointly and secured upon the whole of the said piece of land of which the lessors are registered as proprietors as aforesaid but nothing herein contained or implied shall have any reference of application to any mortgage or charge raised by any one or more of the lessors affecting the individual-estate and interest of each such lessor or lessors individually
- (j) All other expenses in respect of the said land and building jointly incurred by the lessors and not relating solely to any particular flat in the said building. **or portion of the land over which the Lessee may have the sole right of use or occupancy.**



N.B. On no account should this margin be used

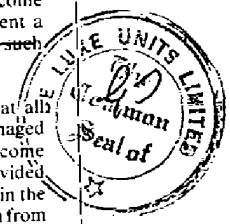
- To whom payable**
2. (2) All money payable under this clause shall be payable to the person appointed by the lessors or a majority of them pursuant to clause 19 hereof as the agent of the lessors for the purpose of receiving and disbursing or applying the same for the foregoing purposes.
- If payment not made**
- (3) And in default of payment thereof by the lessee the lessors shall be entitled to demand interest on the amount or amounts owing at a rate being one per cent in excess of the average rate charged from time to time by trading banks on account current which is overdrawn from the date when payment should have been made but such demand shall be without prejudice to the rights of the lessors under this lease PROVIDED ALWAYS that if any general rates and other levies fire insurances or other outgoings are hereafter assessed levied and demanded in respect of the said flat as a separate dwelling or interest in the said land then the same shall be paid by the lessee.
- Residential purposes only — no pets**
3. The lessee shall use the flat for residential purposes only and shall not bring into or keep in the flat any cat, dog, bird, or other pet which may unreasonably interfere with the quiet enjoyment of the other lessees of the said building or which may create a nuisance.
- Not create fire hazard**
4. The lessee shall not bring into or keep in the flat any goods or any substances of a highly combustible nature or do anything (including the unauthorised use of light and power fittings) which may render an increased premium payable for the fire insurance of the said building or which may make void or voidable any such policy of insurance. The lessee shall comply with all statutes, regulations, and by-laws of any local authority insofar as they affect the use of the flat by the lessee.
- Maintain interior**
5. ~~The lessee shall at his own cost keep and maintain the interior of the flat including the doors, windows, electrical and plumbing apparatus and all fittings of any kind in good order and condition.~~ See attached sheet
- Keep clear of rubbish**
6. The lessee shall not leave or place in the passageways stairways or parking area or in the grounds surrounding the said building any receptacles or obstructions whatsoever and will not deposit any refuse or rubbish therein or thereon and will place any garbage cans in the location approved of by the lessors or a majority of them.
- Not cause nuisance**
7. The lessee shall not use the flat for any illegal or immoral purposes and will refrain from causing excessive noise or disturbance within the flat which may be likely to cause a nuisance or an annoyance to the lessors or occupants of any of the other flats in the said building.
- Right to inspect**
8. The lessee shall permit the lessors or their representatives at all reasonable times to enter upon the flat to inspect the condition of the flat.
- No structural alterations**
9. (1) The lessee shall not (without the consent in writing of the lessors or a majority of them for that purpose on every occasion first had and obtained) make any structural alterations to the flat or to any partition walls therein or to any passageway or stairways leading thereto nor take any action which might constitute danger or risk to the said building.
- Pay electricity, etc.**
10. The lessee shall duly and punctually pay all charges for water, electricity, gas, or other supplies or services relating solely to the flat.



N.B. On no account should this margin be used

### SCHEDULE C Lessors Covenants with Lessee

- Lessee's rights to exclusive occupation**
11. The lessee performing and observing all and singular the covenants and conditions on his part herein contained and implied shall quietly hold and enjoy the flat without any interruption by the lessors or any person claiming under them together with the use in common with the other lessees of flats in the said building of the drives, paths, and grounds on the said land and of any stairways, balconies, and verandahs in the said building for access only to and from such flats.
- Lessors to insure**
12. The lessors shall insure the said building against fire and earthquake to its full insurable value and shall take out a replacement policy and will pay all insurance premiums on any such policies as and when the same shall become due and owing unless the lessee and every other lessee of the said building agrees to effect and keep current a separate and adequate insurance policy for such parts of the said building each lessee holds as tenant. ~~All such separate policies shall be effected with the one company.~~
- Repair exterior and roof**
13. (1) The lessors shall ~~keep the exterior and roof of the said building in a good state of repair and shall at all times cause the said land and the said building and the services and amenities serving the same to be managed and maintained at a high standard and shall (from time to time as when and so often as the same respectively become necessary or desirable) execute and do the works and things and (subject to payment thereof by the lessees as provided in clause 2 hereof) duly and punctually pay the costs, charges, expenses, and outgoings specified and referred to in the said clause 2 and shall apply and deal with the said contributions to reserve fund as the lessees or a majority of them from time to time resolve or direct.~~
- (2) In the performance of the covenants of this present clause the lessors have the right at all reasonable times in the daytime and after giving reasonable notice to the lessee by their agents, servants, contractors, and workmen to enter inspect and (if necessary or desirable so to do) to execute and do such of the said works and things as may be required to be executed and done in or from the interior of the flat.
- (3) If any such work or thing is rendered necessary by the wilful act, neglect, or negligence of the lessee or of any person being a licensee or invitee of the lessee, then the cost and expense thereof shall be borne solely by the lessee.



### SCHEDULE D Covenants Between Lessors and Lessee

- Retain ownership of freehold**
14. (1) It is a condition of this lease that the lessee shall at all material times remain owner as proprietor of an undivided proportionate share in the fee simple of the said land while he continues to be a lessee hereunder. If the

lessee (unless by these presents expressly authorised so to do) shall deal with either his interest hereunder or his interest in the fee simple in such a manner that both leasehold and freehold interests are not owned and occupied by the same person, then this lease shall be immediately determined, without however discharging the lessee from payment of any moneys owing hereunder or releasing him from liability arising from any other breach previously committed.

(2) Notwithstanding any rule of law to the contrary the transfer by the lessee of his interest hereunder shall operate as a release of the lessee from liability hereunder provided that

(i) The transfer of the lessee's interest hereunder shall contemporaneously with the grant of such transfer have vested in him the legal and beneficial ownership of the proportionate share in the fee simple at the time owned by the lessee, and

(ii) Such transfer shall not release the lessee from any antecedent liability hereunder.

**Lessors' right to terminate lease if breach**

15. If and whenever there is any breach or non-observance of any covenant, condition, or agreement on the part of the lessee contained or implied of which the lessors have given to the lessee twenty-eight days' notice in writing thereof and calling upon him to remedy such breach non-observance and if after the expiration of the said notice the lessee fails to remedy such breach non-observance or non-observance it shall be lawful for the lessors forthwith or any time thereafter to re-enter upon and take possession of the flat or any part thereof in the name of the whole whereupon the term hereby created shall absolutely cease and determine. (continued on attached sheet)

**Fire or earthquake**

16. (1) If any flat is partially or wholly damaged or destroyed by fire or earthquake during the term hereby created, then all money received under and by virtue of any policy or policies of insurance shall thereupon be expended with all possible expedition in reinstatement of the said flat or flats and making good the loss or damage in respect of which the said insurance moneys have become payable.

(2) If the money received under and by virtue of the said policy of insurance is insufficient to reinstate the said flat or flats so damaged or destroyed, such insufficiency shall be borne by the lessors in the proportion in which they respectively own the fee simple of the above described land provided that if the fire was caused by the negligence of one or more of the lessors that party or parties shall bear such insufficiency.

(3) If the lessees of each separate flat have effected separate insurance as provided in clause 12 hereof each lessee shall expend the insurance moneys received by him in reinstatement and making good as aforesaid the damage to his own flat and shall bear any insufficiency himself.

**Water damage**

17. The lessors shall not be liable to the lessee or any other person for any water damage caused either by the overflow of the water supply to the said building or to the flat or by rainwater entering the flat.

**Arbitration**

18. If any question or difference whatsoever arises between the parties to this lease or their respective representatives or assigns or between one of the parties hereto and representatives of the others of them touching these presents or any clause or anything herein contained or the construction hereof as to matter in any way connected with or arising out of these presents or the operations thereof or the rights duties or liabilities of any party in connection with the premises, then and in every case (except where the question or difference arises from the observation of the procedure set forth in clause 20 hereof) the matter in difference shall be referred to arbitration in accordance with the Arbitration Act 1908 and its amendments.

**SCHEDULE E  
Covenants Between Lessors**

**Appoint agent**

19. The lessors or a majority of them shall from time to time appoint one of their number or any other person or incorporated body as an agent (hereinafter called "the agent") for the purposes of receiving, disbursing and applying moneys under clause 2 hereof and for the purposes specified in clause 20 hereof and for such other purposes as they shall from time to time determine.

**If three or more lessors — procedure to make decision**

20. (1) If the lessors are more than two in number, then and in such case in the event of any one or more (being fewer than all) of them desiring or proposing that any act matter or thing be done by the lessors which the lessors are empowered or required to do whether under these presents or as lessees of the said land or lessors of the said building or which may be considered to be necessary or desirable for the efficient and harmonious administration of the said land and/or the said building the following procedure shall be observed:

(a) Such proposing lessor or lessors shall give notice in writing setting out the proposed action and shall serve a copy thereof upon each of the other lessors (and upon the agent if the agent be not a lessor);

(b) Each of the lessors so served as aforesaid shall within seven days next after such service give notice to the agent in writing of his approval or otherwise of the proposed action. (The notice of the proposing lessor or lessors under paragraph (a) hereto shall constitute his approval for the purposes of this present paragraph);

(c) Any lessor who neglects or fails within the period aforesaid to give notice of his disapproval of the proposed action shall be deemed to have approved thereof;

(d) If all the lessors signify their approval as aforesaid, then the proposed action shall forthwith thereafter be carried into effect;

(e) If fewer than all but being a majority (as hereinafter defined) of the lessors signify their approval as aforesaid, then the agent shall forthwith give notice in writing to all the lessors of the majority decision and the proposed action may thereafter be carried into effect in the name of and so as to bind all the lessors notwithstanding that one or more (being fewer than the majority) of them shall not have signified his approval as aforesaid;

(f) If a majority of the lessors within the period aforesaid notify their disapproval of the proposed action or if the lessors are unable to arrive at a majority decision by the means aforesaid, then the proposed action shall be referred to a single arbitrator in case the parties can agree upon one and otherwise to two arbitrators (one to be appointed by the approving lessors and the other by the non-approving lessors) or their umpire in accordance with the provisions of the Arbitration Act 1908 or any statutory modification or re-enactment thereof for the time being in force.

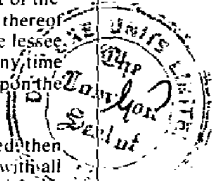
(g) If no person be appointed as the agent then

(i) the notice to be given to the agent under subclause (b) of this clause shall in lieu thereof be given to all the other lessors and

(ii) the notice to be given by the agent under subclause (e) of this clause shall be given by or on behalf of the lessors approving of the proposed action to all the other lessors.

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**If two Lessors disagree**

(2) If the lessors are only two in number, then any proposed action on which they fail to agree shall be referred to a single arbitrator (if the parties can agree upon one) and otherwise to two arbitrators (one to be appointed by each party) or their umpire in accordance with the provisions of the Arbitration Act.

**SCHEDULE F  
Mutual Covenants**

**Right to sell Lessee's flat**

21. (1) The lessee hereby covenants that he will obey and carry out any such notice in terms of clause 20 hereof as aforesaid and in the event of the lessee neglecting or failing to carry out perform observe or pay any act matter thing or moneys in strict compliance with the terms of any such notice in terms of clause 20 hereof within seven days of the date specified in such notice for the due carrying out, performance observance, or payment as aforesaid (or in the event of no date being specified in such notice then within seven days of the date of the receipt of such notice by the lessee) and/or in the event of this lease being determined or becoming determinable for a period of seven days, then the lessee hereby irrevocably appoints the lessors or such of them as shall then be willing and able to act as the lessee's attorneys upon such lessors thereupon electing so to act and serving written notice in that behalf upon the lessee to be the true and lawful attorneys of the lessee for him and in his name and on his behalf to ask, demand, sue for, recover, and receive all or any sum of money due to or become due to the lessee touching any matter herein contained or implied to demand enforce and procure compliance with and observance of all covenants, conditions, and provisions herein contained or implied to pursue and exercise all remedies and powers herein contained or implied to dispose of the lessee's said interest in the fee simple of the said land and in and under the lease hereby created either by public auction or by private contract and either for cash or upon terms and for such purposes to sign, make, execute, complete, deliver, stamp, and register all the necessary instruments, deeds, documents, and writings of every description as fully and effectually as if the lessee were personally present and acting therein.

(2) The lessors as attorneys for the lessee shall first obtain the report of a registered valuer as to the fair market value of the lessee's said interest in the fee simple and in and under the lease hereby created but shall not however be bound to sell at such valuation and shall not be liable to the lessee for selling at a price less than such valuation PROVIDED THAT they have made every reasonable endeavour to obtain a price equivalent to the said valuation.

(3) The lessors shall not be bound to take any steps hereby empowered nor shall the lessors be responsible for any involuntary loss arising upon the pursuit or exercise of any remedies or powers hereunder.

(4) No person corporation or authority dealing with the lessors as attorneys for the lessee shall be concerned to see or enquire as to the propriety or expediency of any act deed matter or thing which the lessors as attorneys of the lessee may do or perform or purport to do or perform or agree to do or perform in the name of the lessee by virtue of the foregoing provisions.

(5) The foregoing is subject to the condition that in every case before the power of attorney granted by this clause can be exercised to dispose of any party's interest in the said fee simple, a further notice in writing must be served on such party giving him or her twenty-eight days to request that the matter be referred to arbitration. If such party refuses or neglects within such twenty-eight days to reply in writing requesting reference to arbitration, then the said power of attorney may be exercised forthwith but otherwise the matter shall be referred to arbitration in all respects as if a majority decision could not be reached pursuant to the preceding clause. The net proceeds of any sale of the lessee's interest pursuant to this clause (after payment of all expenses whatsoever incurred by the lessors in any way arising out of the determination of this lease and/or the said sale or in any way relating thereto) shall be held by the lessors in trust for the lessee.

**Sale pursuant to Clause 21**

(6) If the lessors effect a sale on terms pursuant to clause 21 hereof, then those terms shall require payment in cash of not less than one-third of the total price and the securing of the balance upon first mortgage of the said fee simple and the said interest in and under this lease such mortgage being in terms as are then current for first mortgage and trustee investments made by solicitors in the district in which the property is situated.

**Notices**

22. It is further mutually agreed and declared and covenanted that any notice required to be given or served touching anything contained or implied in this lease shall be deemed to have been validly and effectually given and/or served in full compliance with the terms and conditions of this lease if such notice or notices have been given or served upon the party concerned either personally or by leaving the same at or posting the same to the last known place of abode or address of such party or parties and in the event of such service being effected by post the same shall be sent by registered letter and service shall be deemed to have been effected on the day after posting thereof or by affixing the same to the premises demised by the lessors hereof to the party or parties concerned (being part of the said building) by securely affixing the same to the main or front door exterior thereof and service shall be deemed to have been effected on the day after affixing thereof as aforesaid.

**Right to sub-let**

23. The lessee shall have the right to let the flat to a reputable tenant PROVIDED THAT the lessee shall ensure that such tenant shall be so bound as to protect all rights under this lease and the lessee shall take all reasonable steps to enforce such rights.

**No merger**

The parties agree that there shall be no merger in the event of the lessee acquiring or remaining a proprietor of a freehold estate in the said land.

**Interpretation**

25. (1) That wherever used in these presents —  
(a) The expression "the lessors" shall extend to signify include and bind the person/s executing these presents and all the lessors for the time being hereunder (if more than one) jointly and severally and all the respective executors administrators successors and permitted assigns of each lessor.  
(b) The expression "the lessee" shall extend to signify include and bind the person/s executing these presents as lessee and all lessees for the time being hereunder (if more than one) jointly and severally and all the respective executors administrators successors and permitted assigns of each lessee.  
(c) The expressions "majority of the lessors" and "majority of them" shall each mean any number of lessors for the time being who and/or whose personal representatives together own more than an undivided one-half share of or interest in the fee simple and the expression "a majority decision" shall mean a decision of the majority of the lessors as so defined.  
(d) The sub-headings and marginal notes do not affect the construction of these presents.  
(e) Words importing one gender include the other genders as the case may require.  
(f) Words importing the singular or plural number include the plural and singular number respectively.

(2) These presents shall be considered as always speaking and whenever any matter or thing is expressed in the present tense the same shall be applied to the circumstances as they arise, so that effect may be given to these presents and every part thereof according to their spirit, true intent and meaning.

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SCHEDULE A continued ..

8. (a) Use of Common Driveway and/or Common Area and/or Common Property

The Lessee shall not without the written consent of the Lessors in any way use or enjoy that part of the said land marked or shown as common property and/or common driveway and/or common area on Deposited Plan No. 95317 other than for the purposes of reasonable ingress and egress by vehicle or on foot.

(b) Use of Exclusive Areas

That the Lessors do and each of them DOETH HEREBY COVENANT that the Lessors throughout the term of this Lease shall not use or occupy nor shall the Lessors permit any Lessee of the said land or flat constructed thereon to use or occupy that part of the said land lettered B & C on Deposited Plan No. 95317 PROVIDED ALWAYS that this Covenant shall not operate as a restriction on the use of the area of land so defined by the Lessee for the time being hereunder TO THE INTENT that this restrictive covenant shall be forever appurtenant to the estate and interest of the Lessees for the time being hereunder this Lease.

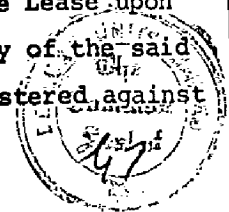
SCHEDULE B continued ..

2. (1) (a) General Rates and other levies assessed on the said land and the said flat but the Lessee shall pay such rates and levies of the land and flat separately assessed.

5. The Lessee shall at his own cost keep and maintain the exterior of the flat herein referred to including roof spouting downpipes and the interior of the flat including floors windows electrical and plumbing apparatus and all fittings of any kind in good order and condition and meet all charges for all structural repairs and maintenance necessary to the walls, framework, or foundations of the said flat and cause that part of the land marked B & C on Deposited Plan No. 95317 to be managed and maintained to a high standard.

SCHEDULE D continued ..

15. continued .. PROVIDED HOWEVER that any determination of the Lease upon the grounds set out shall be void and of no effect unless a copy of the said notice has been served on the Mortgagee under any Mortgage registered against this Lease.



REGISTERED IN DUPLICATE

MEMORANDUM OF LEASE

Correct for the purposes of the Land Transfer Act

*[Handwritten signature]*

DE LUXE UNITS LIMITED ..... Lessor

(Solicitor for) the Lessee

DE LUXE UNITS LIMITED ..... Lessee

TO: The District Land Registrar  
Auckland.

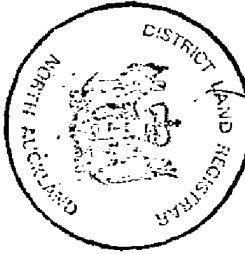
Please note the Lessors restrictive  
Covenant contained in Clause 8 of  
the Lease against the fee simple  
title to the said land.

*[Handwritten signature]*

SOLICITORS FOR THE LESSEE

Particulars entered in the Register as shown in the  
schedule of land herein on the date and at the time  
stamped below.

District Land Registrar  
Assistant  
of the District of .....



WILSON HOUGH & WRIGHT  
SOLICITORS  
AUCKLAND.

13.30 02 DEC 81 B012196.2  
PARTICULARS ENTERED IN THE  
REGISTER BOOK  
24/1/78  
ASST. LAND REGISTRAR

LAND REGISTRY OFFICE  
AUCKLAND



BO12196.3L

Approved by the District Land Registrars: North Auckland 423575, South Auckland H.030022/1975, Canterbury 964787, Marlborough 78937, Gisborne 115146.1, Hawkes Bay 311609, Taranaki 221056, Wellington 064649, Westland 47105.

# MEMORANDUM OF LEASE

THE LESSORS DE LUXE UNITS LIMITED a duly incorporated Company having its registered office at Auckland

THE LESSEE DE LUXE UNITS LIMITED a duly incorporated Company having its registered office at Auckland.

The lessors being registered as proprietors of an estate in fee simple subject however to such encumbrances, liens, and interests as are notified by memoranda underwritten or endorsed hereon in all that piece of land described in Schedule A.

## SCHEDULE A LEGAL DESCRIPTION OF FEE SIMPLE

Land Registration District: North Auckland

Area: ONE THOUSAND ONE HUNDRED & NINETY FOUR SQUARE METRES (1194m<sup>2</sup>);  
Particulars (including title reference, encumbrances, and appurtenances)

Part of Lot 24 Deposited Plan 4392 being part of Allotment 22 of Section 12 Suburbs of Auckland and being all the land in Certificate of Title 242/78

SUBJECT TO: Agreement as to fencing contained in Transfer 49377

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IN CONSIDERATION of the rent hereinafter reserved and of the covenants, conditions, and agreements on the part of the lessee herein expressed or implied to be paid performed observed and fulfilled the lessors DO

HEREBY LEASE UNTO the lessee all that the flat numbered Three... (3).....\*

(hereinafter called "the flat") more particularly shown on Deposited Plan No. 95317 being part of the building (hereinafter called "the said building") erected on the said land \*\*

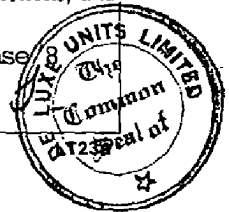
TO BE HELD by the Lessee as tenant for the space of 999 years as from and including 30th day of November 19 81 at the yearly rental of ten cents payable in advance in each year throughout the term hereby created SUBJECT to the following covenants conditions and restrictions that is to say:-

1. The lessee covenants with the lessor as set out in schedule B
2. The lessors do and each of them doth covenant with the lessee is set out in schedule C.
3. It is hereby covenanted by and between the lessors and the lessee as set out in schedule D.
4. It is hereby covenanted by and between the lessors and each of them as set out in schedule E.
5. It is hereby covenanted by and between the lessors and each of them and by and between the lessors and the lessee as set out in schedule F.
6. The parties agree that the term "proportionate share" shall be deemed to mean "one third share".
7. The lessee accepts this lease to be held by him as tenant subject to the conditions, restrictions, and covenants set forth herein.

\*\* together with and subject to the rights of user set out in Clause hereof.

8. See attached sheet.

\* If garage, carport, or storage is included in definition of "flat", add description.





DATED this 28th day of November 1981

Signed by the abovenamed THE COMMON SEAL of DE LUXE UNITS LIMITED was hereunto affixed

as Lessors in the presence of:

Witness's Signature G. Sale

Occupation Governing Director

Address



Signed by the abovenamed THE COMMON SEAL of DE LUXE UNITS LIMITED was hereunto affixed

as Lessee in the presence of:

Witness's Signature G. Sale

Occupation Governing Director

Address



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SCHEDULE B Lessees Covenants

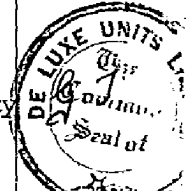
Pay rent

1. The lessee shall pay the rent in the manner and at the times hereinbefore provided.

Pay share of the following payments

2. (i) The lessee shall upon demand in writing by the lessors or their duly authorised agent pay to the lessors a "proportionate share" of the cost of the following payments for repairs, maintenance, and other charges incurred or to be incurred in respect of the said land and the said buildings:-

- (a) General rates and other levies assessed on the said land and the said building see attached sheet
(b) Fire insurance premiums assessed on the said building
(c) Repairs to or reconstruction of all electrical and plumbing equipment, drains, and other amenities serving the said building as a whole
(d) Repairs to or reconstruction of the roof, pointing, and downpipes of the said building
(e) Charges for any exterior decoration or exterior cleaning of the walls, doors, windows, roof, and plumbing fittings of the said building
(f) Charges for all structural repairs and maintenance necessary to the walls, framework or foundations of the said building
(g) Charges for care and maintenance of the grounds paths fences gates and other amenities surrounding the said building known as the common driveway, common area or common property
(h) Provision for a general reserve fund to meet contingent repairs and maintenance
(i) Provision for and charges for the payment, performance, and observance of all moneys, covenants, and conditions to be paid, performed, and observed in respect of any mortgage or mortgages or charge or charges now or at any time hereafter raised by the lessors jointly and secured upon the whole of the said piece of land of which the lessors are registered as proprietors as aforesaid but nothing herein contained or implied shall have any reference of application to any mortgage or charge raised by any one or more of the lessors affecting the individual estate and interest of each such lessor or lessors individually
(j) All other expenses in respect of the said land and building jointly incurred by the lessors and not relating solely to any particular flat in the said building or portion of the land over which the Lessee may have the sole right of use or occupancy.



**To whom payable**

2. (2) All money payable under this clause shall be payable to the person appointed by the lessors or a majority of them pursuant to clause 19 hereof as the agent of the lessors for the purpose of receiving and disbursing or applying the same for the foregoing purposes.

**If payment not made**

(3) And in default of payment thereof by the lessee the lessors shall be entitled to demand interest on the amount or amounts owing at a rate being one per cent in excess of the average rate charged from time to time by trading banks on account current which is overdrawn from the date when payment should have been made but such demand shall be without prejudice to the rights of the lessors under this lease PROVIDED ALWAYS that if any general rates and other levies fire insurances or other outgoings are hereafter assessed levied and demanded in respect of the said flat as a separate dwelling or interest in the said land then the same shall be paid by the lessee.

**Residential purposes only — no pets**

3. The lessee shall use the flat for residential purposes only and shall not bring into or keep in the flat any cat, dog, bird, or other pet which may unreasonably interfere with the quiet enjoyment of the other lessees of the said building or which may create a nuisance.

**Not create fire hazard**

4. The lessee shall not bring into or keep in the flat any goods or any substances of a highly combustible nature or do anything (including the unauthorised use of light and power fittings) which may render an increased premium payable for the fire insurance of the said building or which may make void or voidable any such policy of insurance. The lessee shall comply with all statutes, regulations, and by-laws of any local authority insofar as they affect the use of the flat by the lessee.

**Maintain interior**

5. ~~The lessee shall at his own cost keep and maintain the interior of the flat including the doors, windows, electrical and plumbing apparatus, and all fittings of any kind in good order and condition.~~ See attached sheet.

**Keep clear of rubbish**

6. The lessee shall not leave or place in the passageways stairways or parking area or in the grounds surrounding the said building any receptacles or obstructions whatsoever and will not deposit any refuse or rubbish therein or thereon and will place any garbage cans in the location approved of by the lessors or a majority of them.

**Not cause nuisance**

7. The lessee shall not use the flat for any illegal or immoral purposes and will refrain from causing excessive noise or disturbance within the flat which may be likely to cause a nuisance or an annoyance to the lessors or occupants of any of the other flats in the said building.

**Right to inspect**

8. The lessee shall permit the lessors or their representatives at all reasonable times to enter upon the flat to inspect the condition of the flat.

**No structural alterations**

9. (1) The lessee shall not (without the consent in writing of the lessors or a majority of them for that purpose on every occasion first had and obtained) make any structural alterations to the flat or to any partition walls therein or to any passageway or stairways leading thereto nor take any action which might constitute danger or risk to the said building.

**Pay electricity, etc.**

10. The lessee shall duly and punctually pay all charges for water, electricity, gas, or other supplies or services relating solely to the flat.

**SCHEDULE C  
Lessors Covenants with Lessee**

**Lessee's rights to exclusive occupation**

11. The lessee performing and observing all and singular the covenants and conditions on his part herein contained and implied shall quietly hold and enjoy the flat without any interruption by the lessors or any person claiming under them together with the use in common with the other lessees of flats in the said building of the drives, paths, and grounds on the said land and of any stairways, balconies, and verandahs in the said building for access only to and from such flats.

**Lessors to insure**

12. The lessors shall insure the said building against fire and earthquake to its full insurable value and shall take out a replacement policy and will pay all insurance premiums on any such policies as and when the same shall become due and owing unless the lessee and every other lessee of the said building agrees to effect and keep current a separate and adequate insurance policy for such parts of the said building each lessee holds as tenant. ~~All such separate policies shall be effected with the one company.~~

**Repair exterior and roof**

13. (1) The lessors shall ~~keep the exterior and roof of the said building in a good state of repair and shall at all times cause the said land and the said building and the services and amenities serving the same to be managed and maintained at a high standard and shall from time to time as when and so often as the same respectively become necessary or desirable) execute and do the works and things and (subject to payment thereof by the lessees as provided in clause 2 hereof) duly and punctually pay the costs, charges, expenses, and outgoings specified and referred to in the said clause 2 and shall apply and deal with the said contributions to reserve fund as the lessees or a majority of them from time to time resolve or direct.~~

(2) In the performance of the covenants of this present clause the lessors have the right at all reasonable times in the daytime and after giving reasonable notice to the lessee by their agents, servants, contractors, and workmen to enter inspect and (if necessary or desirable so to do) to execute and do such of the said works and things as may be required to be executed and done in or from the interior of the flat.

(3) If any such work or thing is rendered necessary by the wilful act, neglect, or negligence of the lessee or of any person being a licensee or invitee of the lessee, then the cost and expense thereof shall be borne solely by the lessee.

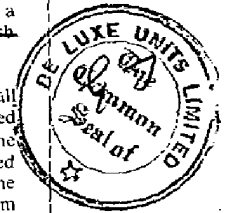
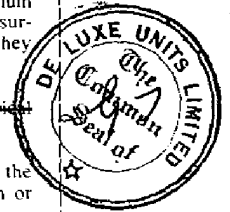
**SCHEDULE D  
Covenants Between Lessors and Lessee**

**Retain ownership of freehold**

14. (1) It is a condition of this lease that the lessee shall at all material times remain owner as proprietor of an undivided proportionate share in the fee simple of the said land while he continues to be a lessee hereunder. If the

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lessee (unless by these presents expressly authorised so to do) shall deal with either his interest hereunder or his interest in the fee simple in such a manner that both leasehold and freehold interests are not owned and occupied by the same person, then this lease shall be immediately determined, without however discharging the lessee from payment of any moneys owing hereunder or releasing him from liability arising from any other breach previously committed.

(2) Notwithstanding any rule of law to the contrary the transfer by the lessee of his interest hereunder shall operate as a release of the lessee from liability hereunder provided that

(i) The transfer of the lessee's interest hereunder shall contemporaneously with the grant of such transfer have vested in him the legal and beneficial ownership of the proportionate share in the fee simple at the time owned by the lessee, and

(ii) Such transfer shall not release the lessee from any antecedent liability hereunder.

**Lessors' right to terminate lease if breach**

15. If and whenever there is any breach or non-observance of any covenant, condition, or agreement on the part of the lessee contained or implied of which the lessors have given to the lessee twenty-eight days' notice in writing thereof and calling upon him to remedy such breach non-observance and if after the expiration of the said notice the lessee fails to remedy such breach non-observance or non-observance it shall be lawful for the lessors forthwith or any time thereafter to re-enter upon and take possession of the flat or any part thereof in the name of the whole whereupon the term hereby created shall absolutely cease and determine. (continued on attached sheet)

**Fire or earthquake**

16. (1) If any flat is partially or wholly damaged or destroyed by fire or earthquake during the term hereby created, then all money received under and by virtue of any policy or policies of insurance shall thereupon be expended with all possible expedition in reinstatement of the said flat or flats and making good the loss or damage in respect of which the said insurance moneys have become payable.

(2) If the money received under and by virtue of the said policy of insurance is insufficient to reinstate the said flat or flats so damaged or destroyed, such insufficiency shall be borne by the lessors in the proportion in which they respectively own the fee simple of the above described land provided that if the fire was caused by the negligence of one or more of the lessors that party or parties shall bear such insufficiency.

(3) If the lessees of each separate flat have effected separate insurance as provided in clause 12 hereof each lessee shall expend the insurance moneys received by him in reinstatement and making good as aforesaid the damage to his own flat and shall bear any insufficiency himself.

**Water damage**

17. The lessors shall not be liable to the lessee or any other person for any water damage caused either by the overflow of the water supply to the said building or to the flat or by rainwater entering the flat.

**Arbitration**

18. If any question or difference whatsoever arises between the parties to this lease or their respective representatives or assigns or between one of the parties hereto and representatives of the others of them touching these presents or any clause or anything herein contained or the construction hereof as to matter in any way connected with or arising out of these presents or the operations thereof or the rights duties or liabilities of any party in connection with the premises, then and in every case (except where the question or difference arises from the observation of the procedure set forth in clause 20 hereof) the matter in difference shall be referred to arbitration in accordance with the Arbitration Act 1908 and its amendments.

**SCHEDULE E  
Covenants Between Lessors**

**Appoint agent**

19. The lessors or a majority of them shall from time to time appoint one of their number or any other person or incorporated body as an agent (hereinafter called "the agent") for the purposes of receiving, disbursing and applying moneys under clause 2 hereof and for the purposes specified in clause 20 hereof and for such other purposes as they shall from time to time determine.

**If three or more lessors — procedure to make decision**

20. (1) If the lessors are more than two in number, then and in such case in the event of any one or more (being fewer than all) of them desiring or proposing that any act matter or thing be done by the lessors which the lessors are empowered or required to do whether under these presents or as lessees of the said land or lessors of the said building or which may be considered to be necessary or desirable for the efficient and harmonious administration of the said land and/or the said building the following procedure shall be observed:

(a) Such proposing lessor or lessors shall give notice in writing setting out the proposed action and shall serve a copy thereof upon each of the other lessors (and upon the agent if the agent be not a lessor);

(b) Each of the lessors so served as aforesaid shall within seven days next after such service give notice to the agent in writing of his approval or otherwise of the proposed action. (The notice of the proposing lessor or lessors under paragraph (a) hereto shall constitute his approval for the purposes of this present paragraph);

(c) Any lessor who neglects or fails within the period aforesaid to give notice of his disapproval of the proposed action shall be deemed to have approved thereof.

(d) If all the lessors signify their approval as aforesaid, then the proposed action shall forthwith thereafter be carried into effect;

(e) If fewer than all but being a majority (as hereinafter defined) of the lessors signify their approval as aforesaid, then the agent shall forthwith give notice in writing to all the lessors of the majority decision and the proposed action may thereafter be carried into effect in the name of and so as to bind all the lessors notwithstanding that one or more (being fewer than the majority) of them shall not have signified his approval as aforesaid;

(f) If a majority of the lessors within the period aforesaid notify their disapproval of the proposed action or if the lessors are unable to arrive at a majority decision by the means aforesaid, then the proposed action shall be referred to a single arbitrator in case the parties can agree upon one and otherwise to two arbitrators (one to be appointed by the approving lessors and the other by the non-approving lessors) or their umpire in accordance with the provisions of the Arbitration Act 1908 or any statutory modification or re-enactment thereof for the time being in force.

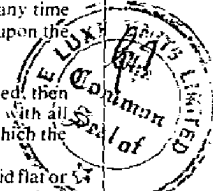
(g) If no person be appointed as the agent then

(i) the notice to be given to the agent under subclause (b) of this clause shall in lieu thereof be given to all the other lessors and

(ii) the notice to be given by the agent under subclause (e) of this clause shall be given by or on behalf of the lessors approving of the proposed action to all the other lessors.

N.B. On no account should this margin be used

N.B. On no account should this margin be used



**If two Lessors disagree**

(2) If the lessors are only two in number, then any proposed action on which they fail to agree shall be referred to a single arbitrator (if the parties can agree upon one) and otherwise to two arbitrators (one to be appointed by each party) or their umpire in accordance with the provisions of the Arbitration Act.

**SCHEDULE F  
Mutual Covenants**

**Right to sell Lessee's flat**

21. (1) The lessee hereby covenants that he will obey and carry out any such notice in terms of clause 20 hereof as aforesaid and in the event of the lessee neglecting or failing to carry out perform observe or pay any act matter thing or moneys in strict compliance with the terms of any such notice in terms of clause 20 hereof within seven days of the date specified in such notice for the due carrying out, performance observance, or payment as aforesaid (or in the event of no date being specified in such notice then within seven days of the date of the receipt of such notice by the lessee) and/or in the event of this lease being determined or becoming determinable for a period of seven days, then the lessee hereby irrevocably appoints the lessors or such of them as shall then be willing and able to act as the lessee's attorneys upon such lessors thereupon electing so to act and serving written notice in that behalf upon the lessee to be the true and lawful attorneys of the lessee for him and in his name and on his behalf to ask, demand, sue for, recover, and receive all or any sum of money due to or become due to the lessee touching any matter herein contained or implied to demand enforce and procure compliance with and observance of all covenants, conditions, and provisions herein contained or implied to pursue and exercise all remedies and powers herein contained or implied to dispose of the lessee's said interest in the fee simple of the said land and in and under the lease hereby created either by public auction or by private contract and either for cash or upon terms and for such purposes to sign, make, execute, complete, deliver, stamp, and register all the necessary instruments, deeds, documents, and writings of every description as fully and effectually as if the lessee were personally present and acting therein.

(2) The lessors as attorneys for the lessee shall first obtain the report of a registered valuer as to the fair market value of the lessee's said interest in the fee simple and in and under the lease hereby created but shall not however be bound to sell at such valuation and shall not be liable to the lessee for selling at a price less than such valuation PROVIDED THAT they have made every reasonable endeavour to obtain a price equivalent to the said valuation.

(3) The lessors shall not be bound to take any steps hereby empowered nor shall the lessors be responsible for any involuntary loss arising upon the pursuit or exercise of any remedies or powers hereunder.

(4) No person corporation or authority dealing with the lessors as attorneys for the lessee shall be concerned to see or enquire as to the propriety or expediency of any act deed matter or thing which the lessors as attorneys of the lessee may do or perform or purport to do or perform or agree to do or perform in the name of the lessee by virtue of the foregoing provisions.

(5) The foregoing is subject to the condition that in every case before the power of attorney granted by this clause can be exercised to dispose of any party's interest in the said fee simple, a further notice in writing must be served on such party giving him or her twenty-eight days to request that the matter be referred to arbitration. If such party refuses or neglects within such twenty-eight days to reply in writing requesting reference to arbitration, then the said power of attorney may be exercised forthwith but otherwise the matter shall be referred to arbitration in all respects as if a majority decision could not be reached pursuant to the preceding clause. The net proceeds of any sale of the lessee's interest pursuant to this clause (after payment of all expenses whatsoever incurred by the lessors in any way arising out of the determination of this lease and/or the said sale or in any way relating thereto) shall be held by the lessors in trust for the lessee.

**Sale pursuant to Clause 21**

(6) If the lessors effect a sale on terms pursuant to clause 21 hereof, then those terms shall require payment in cash of not less than one-third of the total price and the securing of the balance upon first mortgage of the said fee simple and the said interest in and under this lease such mortgage being in terms as are then current for first mortgage and trustee investments made by solicitors in the district in which the property is situated.

**Notices**

22. It is further mutually agreed and declared and covenanted that any notice required to be given or served touching anything contained or implied in this lease shall be deemed to have been validly and effectually given and/or served in full compliance with the terms and conditions of this lease if such notice or notices have been given or served upon the party concerned either personally or by leaving the same at or posting the same to the last known place of abode or address of such party or parties and in the event of such service being effected by post the same shall be sent by registered letter and service shall be deemed to have been effected on the day after posting thereof or by affixing the same to the premises demised by the lessors hereof to the party or parties concerned (being part of the said building) by securely affixing the same to the main or front door exterior thereof and service shall be deemed to have been effected on the day after affixing thereof as aforesaid.

**Right to sub-let**

23. The lessee shall have the right to let the flat to a reputable tenant PROVIDED THAT the lessee shall ensure that such tenant shall be so bound as to protect all rights under this lease and the lessee shall take all reasonable steps to enforce such rights.

**No merger**

The parties agree that there shall be no merger in the event of the lessee acquiring or remaining a proprietor of a freehold estate in the said land.

**Interpretation**

25. (1) That wherever used in these presents —  
(a) The expression "the lessors" shall extend to signify include and bind the person/s executing these presents as lessors and all the lessors for the time being hereunder (if more than one) jointly and severally and all the respective executors administrators successors and permitted assigns of each lessor.  
(b) The expression "the lessee" shall extend to signify include and bind the person/s executing these presents as lessee and all lessees for the time being hereunder (if more than one) jointly and severally and all the respective executors administrators successors and permitted assigns of each lessee.  
(c) The expressions "majority of the lessors" and "majority of them" shall each mean any number of lessors for the time being who and/or whose personal representatives together own more than an undivided one-half share of or interest in the fee simple and the expression "a majority decision" shall mean a decision of the majority of the lessors as so defined.  
(d) The sub-headings and marginal notes do not affect the construction of these presents.  
(e) Words importing one gender include the other genders as the case may require.  
(f) Words importing the singular or plural number include the plural and singular number respectively.

(2) These presents shall be considered as always speaking and whenever any matter or thing is expressed in the present tense the same shall be applied to the circumstances as they arise, so that effect may be given to these presents and every part thereof according to their spirit, true intent and meaning.

*N.B. On no account should this margin be used*

*N.B. On no account should this margin be used*



SCHEDULE A continued ..

8. (a) Use of Common Driveway and/or Common Area and/or Common Property

The Lessee shall not without the written consent of the Lessors in any way use or enjoy that part of the said land marked or shown as common property and/or common driveway and/or common area on Deposited Plan No. 95317 other than for the purposes of reasonable ingress and egress by vehicle or on foot.

(b) Use of Exclusive Areas

That the Lessors do and each of them DOTH HEREBY COVENANT that the Lessors throughout the term of this Lease shall not use or occupy nor shall the Lessors permit any Lessee of the said land or flat constructed thereon to use or occupy that part of the said land lettered D on Deposited Plan No. 95317 PROVIDED ALWAYS that this Covenant shall not operate as a restriction on the use of the area of land so defined by the Lessee for the time being hereunder TO THE INTENT that this restrictive covenant shall be forever appurtenant to the estate and interest of the Lessees for the time being hereunder this Lease.

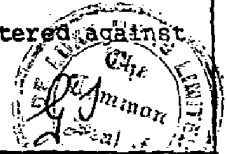
SCHEDULE B continued ..

2. (1) (a) General Rates and other levies assessed on the said land and the said flat but the Lessee shall pay such rates and levies of the land and flat separately assessed.

5. The Lessee shall at his own cost keep and maintain the exterior of the flat herein referred to including roof spouting downpipes and the interior of the flat including floors windows electrical and plumbing apparatus and all fittings of any kind in good order and condition and meet all charges for all structural repairs and maintenance necessary to the walls, framework, or foundations of the said flat and cause that part of the land marked D on Deposited Plan No. 95317 to be managed and maintained to a high standard.

SCHEDULE D continued ..

15. continued .. PROVIDED HOWEVER that any determination of the Lease upon the grounds set out shall be void and of no effect unless a copy of the said notice has been served on the Mortgagee under any Mortgage registered against this Lease.



REGISTERED IN DUPLICATE

MEMORANDUM OF LEASE

Correct for the purposes of the Land Transfer Act

*Name*

DE LUXE UNITS LIMITED ..... Lessor

(Solicitor for) the Lessee

DE LUXE UNITS LIMITED ..... Lessee

TO: The District Land Registrar  
Auckland.

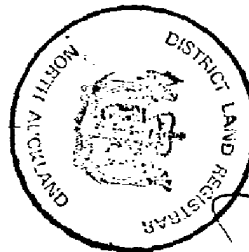
Please note the Lessors restrictive  
Covenant contained in Clause 8 of  
the Lease against the fee simple  
title to the said land.

*Name*

SOLICITORS FOR THE LESSEE

Particulars entered in the Register as shown in the  
schedule of land herein on the date and at the time  
stamped below.

District .....  
Assistant Land Registrar  
of the District of .....



13.30 02 DEC 81 B012195  
PARTICULARS ENTERED IN THE  
REGISTER BOOK  
24/78  
ASST. LAND REGISTRAR  
*Name*

LAND REGISTRY OFFICE  
AUCKLAND



WILSON HOUGH & WRIGHT  
SOLICITORS  
AUCKLAND.



E R Comins  
C/O K K & E R Comins  
20 Stonebridge Estate  
RD 9  
Hamilton 3289

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<b>Applicant</b>	E R Comins
<b>LIM address</b>	3/7 Grand View Road Remuera Auckland 1050
<b>Application number</b>	P/LEN/2016/15443
<b>Client name/ref</b>	
<b>Date issued</b>	02/08/2016
<b>Legal description</b>	FLAT 3 DP 95317 ON PT LOT 24 DP 4392 1/3 SH 1192 M2
<b>Certificates of title</b>	CT-51C/108

---

## Disclaimer

This Land Information Memorandum (LIM) has been prepared for the applicant for the purpose of section 44A of the Local Government Official Information and Meetings Act 1987.

The LIM includes information which:

- Must be included pursuant to section 44A of Local Government Official Information and Meetings Act 1987
- Council at its discretion considers should be included because it relates to land
- Is considered to be relevant and reliable

This LIM does not include other information:

- Held by council that is not required to be included
- Relating to the land which is unknown to the council
- Held by other organisations which also hold land information

Council has not carried out an inspection of the land and/or buildings for the purpose of preparing this LIM. Council records may not show illegal or unauthorised building or works on the land.

The applicant is solely responsible for ensuring that the land or any building on the land is suitable for a particular purpose and for sourcing other information held by council or other bodies. In addition, the applicant should check the Certificate of Title as it might also contain obligations relating to the land.

The text and attachments of this document should be considered together.

This Land Information Memorandum is valid as at the date of issue only.

## Property addresses on this site

This site contains a number of addresses. Council may hold information on any or all of these addresses, and may also hold information on the site as a whole.

### Site address

<b>Address</b>	7 Grand View Road Remuera Auckland 1050
<b>Legal description</b>	PT LOT 24 DP 4392
<b>Certificates of title</b>	Cancelled title

### Other addresses

<b>Address</b>	3/7 Grand View Road Remuera Auckland 1050
<b>Legal description</b>	FLAT 3 DP 95317 ON PT LOT 24 DP 4392 1/3 SH 1192 M2
<b>Certificates of title</b>	CT-51C/108

<b>Address</b>	7A Grand View Road Remuera Auckland 1050
<b>Legal description</b>	FLAT 1 DP 95317 ON PT LOT 24 DP 4392 1/3 SH 1192 M2
<b>Certificates of title</b>	CT-51C/106

<b>Address</b>	7B Grand View Road Remuera Auckland 1050
<b>Legal description</b>	Flat 2 DP 95317, Carport 2 DP 95317 on Pt Lot 24 DP 4392 1/3 SH 1192m2
<b>Certificates of title</b>	CT-51C/107



Auckland Council customer support at Property Data (09) 301 0101 if you require further information.

## Financial obligations

### Financial / development contributions

Financial and development contributions are relevant for recently subdivided land, vacant lots, new residential unit(s) or where there is further development of a site. If any financial or development contribution has not been paid, council can recover outstanding amount(s) from a subsequent owner of the land.

Please note that financial contributions and development contributions may be paid in land, cash or a combination of these. The form of payment of contributions may be subject to negotiation but final discretion remains with the Council.



Auckland Council (09) 301 0101 if you require further information.

### Property rates - combined information as of 1 July 2012

**Address** 3/7 Grand View Road, Remuera, Auckland 1050

<b>Billing number</b>	11636
<b>Land area</b>	0m <sup>2</sup>
<b>Previous year's rates</b>	3,857.81
Current rates	3,173.58
Arrears	0.00
Penalties	0.00
Other charges	0.00
<b>Total charges</b>	3173.58
Receipts	0.00
Discounts	0.00
Refunds	0.00
Remissions	0.00
Overpayments	0.00
<b>Balance at 02/08/2016</b>	3,173.58



Auckland Council (09) 301 0101 if you require further information.



Rates information is available for viewing  
<http://www.aucklandcouncil.govt.nz>

### Retrofit Your Home Programme

This property is subject to a targeted rate under Auckland Council's Retrofit Your Home Programme.

This programme offers homeowners a retrofit plan for their homes, and financial assistance up to \$5000 to install clean heating and insulation. The financial assistance is repaid by the

home owner to Auckland Council by way of a targeted rate, over a period of up to nine years. If the property is sold before the funding is fully repaid, the new home owner is liable to pay the targeted rate until the financial assistance is fully repaid.

To find out the total amount owing, and the amount of the targeted rate payable for each year remaining in the Retrofit Your Home programme, please contact Auckland Council on 09 367 4305 or email retrofit@aucklandcouncil.govt.nz.

## Water services

Watercare Services charges are based on consumption and are not assessed as a rate pursuant to the Local Government (Rating) Act 2002. As such, any charges invoiced to an individual or entity by Watercare Services is personal information as defined by the provisions of the Privacy Act 1991, and is not information that is required to appear on LIM documentation.



Watercare Services (09) 442 2222 if you require further information on water and wastewater services provided to the property.

## Drainage and water services plans

If any as-built private drainage plans and/or public drainage and water services maps exist for this land they will be included in the attachments section.

Note: private drainage is the responsibility of the property owner up to and including the point of connection to the public sewer or drain.



Auckland Council (09) 301 0101 if you require further information.

## Consents and permits

The following consents and permits have been applied for and/or issued.

Note that consents and permits for other addresses will be included. For cross leases it may be important to consider these for site coverage issues.

If the land has been subdivided there may be consents and permits included that relate to the original property.

### Building, plumbing and drainage consents and permits

**Address: 7 Grand View Road Remuera Auckland 1050**

Summary description	Application number	Decision	Life span	Status
Drainage to three units	O/47940/01	Approved 10/09/1981		Note (1)
Erect three units	O/34767/01	Approved 17/07/1981		Note (1)



Summary description	Application number	Decision	Life span	Status
Repairs to foulwater drain	O/26387/02	Approved 04/10/1973		Note (1)
Renew drain	O/18683/02	Approved 19/02/1971		Note (1)
Alter apartment dwelling to four self contained flats	O/5899/10	Approved 13/04/1965		Note (1)
Plumbing - one flat & one w c	O/21860/01	Approved 23/03/1965		Note (1)
Fireproof apartment dwelling	O/5498/10	Approved 10/03/1965		Note (1)
Add bathroom and apartment dwelling	O/5499/09	Approved 10/02/1965		Note (1)
Erect fire egress	O/9870/10	Approved 10/09/1956		Note (1)
Convert dwelling to 2 flats	O/1715/27	Approved 01/10/1940		Note (1)

**Address: 3/7 Grand View Road Remuera Auckland 1050**

Summary description	Application number	Decision	Life span	Status
Build workshops under units two & three	O/35960/01	Approved 10/11/1981		Note (1)

**Address: 7A Grand View Road Remuera Auckland 1050**

Summary description	Application number	Decision	Life span	Status
Install additional toilet in large existing bathroom install hand basin in toilet cubicle (Residential addition)	BLD20060324501	Approved 02/03/2006	50 years	CCC Issued 16/03/2007 (2)
Add conservatory to dwelling unit one	O/3351/08	Approved 10/12/1985		Note (1)

**Address: 7B Grand View Road Remuera Auckland 1050**

Summary description	Application number	Decision	Life span	Status
Build workshops under units two & three	O/35960/01	Approved 10/11/1981		Note (1)



**Status notes:**

1. Permit issued prior to the Building Act 1991 taking effect. Code Compliance Certificates (CCC) were not required.
2. Code Compliance Certificate for this consent was issued on this date. Documents may be included in the attachments section.

**Life span note:** For those building consents issued under the Building Act 1991, life span describes the intended life of an item or building, from CCC issue date, that has been granted approval to be installed, constructed or erected. After this time, the owner is to take the appropriate steps to replace, upgrade or maintain the item or building to the relevant standards that this building consent relates to.

**Building Act note:** While Auckland Council has always endeavoured to maintain full pre-Building Act records, Councils were not legally obliged to do so. It is recognised that not all records for this period have survived and in other cases where building work is



documented, information may be incomplete. Council does not accept responsibility for any omission.



It is recommended that Council records are viewed and compared with the actual building and activities on site to identify any illegal or unauthorised building works or activities.



Auckland Council (09) 301 0101 if you require further information.



Auckland Council building helpdesk (09) 353 9358 if you require further information.

## Engineering approvals

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No engineering approvals recorded.



Auckland Council (09) 301 0101 if you require further information.

## Vehicle crossing permits

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No vehicle crossing permits recorded.

**Note:** Council has recorded vehicle crossing permits from 22/03/2001. Any vehicle crossing permits prior to that will not be included.



Auckland Council (09) 301 0101 if you require further information.

## Resource consents - planning

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No planning consents recorded.

## Resource consents - subdivision

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No subdivision consents recorded.

## Special Housing Area (SHA)

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Special Housing Areas are now in operation around Auckland. Being in a SHA enables land owners/developers to develop under the provisions of the Proposed Auckland Unitary Plan, which may be significantly different to the current 'operative' District Plans, and to access a fast-track development process.

Until 16 September 2016, the Council and Central Government may establish SHAs in accordance with the Housing Accords and Special Housing Areas Act 2013 and the Auckland Housing Accord for the purpose of accelerating Auckland's housing supply.

Maps and other information on SHAs can be found on the following internet page:  
<http://www.aucklandcouncil.govt.nz/EN/RATESBUILDINGPROPERTY/HOUSINGSUPPLY/Pages/specialhousingareas.aspx>

Contact the Housing Project Office (09) 373 6292 or [specialhousingarea@aucklandcouncil.govt.nz](mailto:specialhousingarea@aucklandcouncil.govt.nz) for further information.

## Further information

The Council may hold additional information for this property, for example concerning resource consents for discharges to air, land or water issued by the former Auckland Regional Council prior to 1 November 2010 and by Auckland Council prior to November 2013. If you would like the Council to search for this type of information, please call (09) 301 0101.

## Swimming/spa pools

No swimming/spa pools recorded.



Auckland Council (09) 301 0101 if you require further information.



Pool fencing information is available for viewing  
<http://www.aucklandcouncil.govt.nz>

## Other issues or actions required

No other issues or actions recorded.



Auckland Council (09) 301 0101 if you require further information.

## Planning

This site is in the Auckland Isthmus District Plan area.

The following is a summary of town planning controls affecting this site.

<b>Zoning</b>	Residential - 5
<b>Limitations</b>	None recorded.
<b>Proposed Modifications</b>	7507cf21-6577-4a9d-849b-21251d89d358.

District Plan maps are contained in the attachments section.



Auckland Council Planning helpdesk (09) 353 9356 for further information.



District Plan maps are available for viewing  
<http://www.aucklandcouncil.govt.nz>

Please note that the Proposed Auckland Unitary Plan applies to this property. This LIM report does not contain specific information about the Proposed Auckland Unitary Plan. The

Proposed Auckland Unitary Plan should be carefully reviewed and considered, as it may have implications for how this property can be developed or used. The Proposed Auckland Unitary Plan can be accessed at Council service centres and libraries and can be found on the following internet page:

<http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/unitaryplan/Pages/home.aspx>

## Special land features

The council knows the following special features or characteristics of this land.

Note that this information should not be regarded as a full analysis of the site features of this land, as there may be features that the council is unaware of. The applicant is solely responsible for ensuring that the land is suitable for a particular purpose including development.

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**Soil issues** No soil issues recorded.

No soil reports held.

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**Flood risk** No flood risk recorded.

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**Contamination issues** No Contamination Issues Recorded.

### General issues

### Reports

No reports are held about issues specific to this site.

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**Wind zone** No wind feature recorded.

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**Corrosion exposure zone** Zone 1

New Zealand Standards (NZS 3604:1999) applies zones to all building sites, depending on the degree of exposure to wind-driven sea salt or to geothermal gases.

All of New Zealand is classified as either sea spray zone or zones 1 to 4. The different zones require fittings and fixtures appropriate to the designation.

Auckland Council isthmus and the Gulf Islands sites are designated either sea spray (generally for more coastal locations) or zone 1 (generally city suburbs) or a combination of the two zones. When a property is designated with both sea spray zone and zone 1, the requirements of the sea spray zone will apply.

Classifications will apply for new structures, under Approved Document B1 and B2 of the New Zealand Building Code.

If property is outside Isthmus and Gulf Island boundary please contact Auckland Council Building Helpdesk.



Auckland Council building helpdesk (09) 353 9358 for further details of the Building Code.

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A special land features map is contained in the attachments section.



## Attachments

### Code Compliance Certificates (CCC's)

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1 page attached.

### Consent conditions

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No documents attached.

### Other issues or actions required

---



No documents attached.

### Private drainage plans

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3 plans attached.

### Public drainage and water services map

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Attached map indicates public drainage and water services.

### District Plan maps

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District Plan – Isthmus, Operative 1999, Map 1 – Zoning  
District Plan – Isthmus, Operative 1999, Map 2 – Additional Limitation  
District Plan – Isthmus, Operative 1999, Map 3 – Additional Limitation

### Special land features map

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Attached map indicates wind, flood, soil warnings, soils register and contamination, if recorded.



# CODE COMPLIANCE CERTIFICATE

## SECTION 95, BUILDING ACT 2004

**CONSENT NO:** BLD20060324501  
**Issued By:** Auckland City Council

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**PROJECT:**

**Use:** Install Additional Toilet In Large Existing Bathroom, Install Hand Basin In Toilet Cubicle

**Class:** House - Not Attached      **Intended Life:** Not Less Than 50 Years

---

**PROJECT ADDRESS:** 7A Grand View Road, Remuera, Auckland 1005  
FLAT 1 DP 95317 ON PT LOT 24 DP 4392 1/3 SH 1192 M2  
CT-51C/106

**Name of Owner** M G Summerfield & S F Bailey,  
7 A Grand View Road, Remuera, Auckland 1005

**This is:** A final Code Compliance Certificate issued in respect of all of the building work under the above Consent.

---

This Code Compliance Certificate is issued subject to the following conditions:  
NIL

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The Building Consent Authority named below is satisfied, on reasonable grounds, that:

- (a) The building work complies with the building consent; and
- (b) The specified systems in the building are capable of performing to the performance standards set out in the building consent

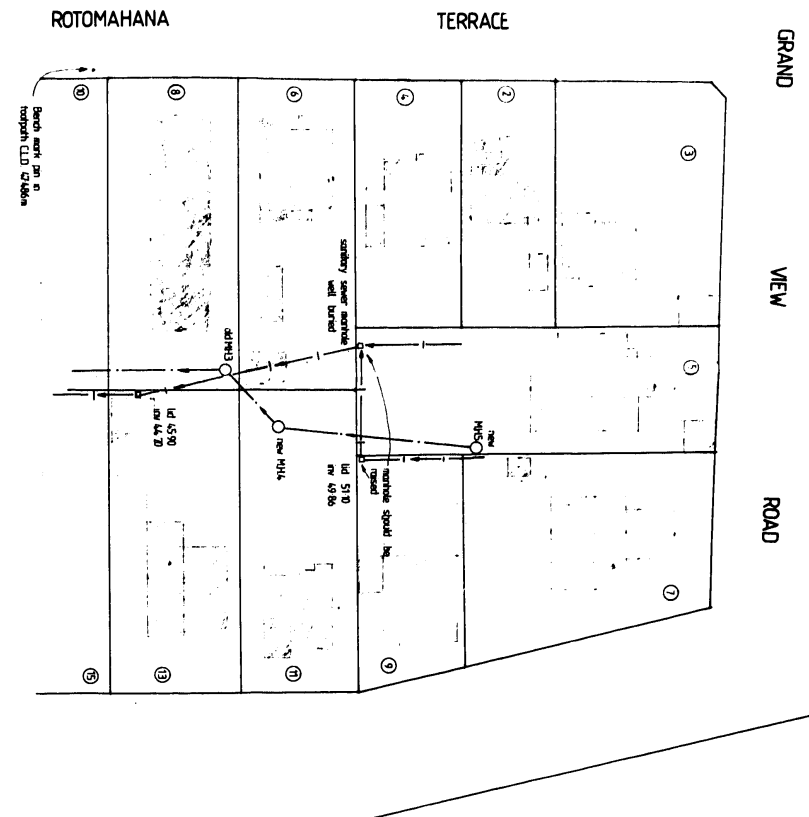
This Code Compliance Certificate is based on the Council Officer's opinion that the building work inspected complies with the Building Consent. The reasonable grounds for the Council Officer's belief are:  
The inspection of the building works by Council Inspections Officers

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Signed for and on behalf of Council



**Ian McCormick**  
**Manager Building Control**  
**Date:** 16 March 2007



PLAN  
SCALE 1:500

DEPTH TO INVERT	PEG LEVEL	GROUND LEVEL	INVERT LEVEL	DISTANCE	GRADIENT
2.60	68.97	54.742	65.37	0	0.4%
0.90	69.99	54.654	65.09	13.00	5.4%
0.33	71.99	54.654	71.66	57.00	

LONGITUDINAL SECTION  
SCALE HORIZ 1:500  
VERT 1:100

- NOTES**
- 1/ Both sanitary sewer lines that are to be crossed are to be crossed by the contractor immediately prior to construction and the engineer will provide design grades before construction proceeds. All sewer construction to be to standard A/C specifications.
  - 2/ Design of levels: 225mm RCSP CLD, 300mm RCSP CLD, 450mm RCSP CLD. Both center of each grade and boundaries terrace.
  - 3/ All work shall be machine dug where possible.
  - 4/ All trees and shrubs to be protected and if damaged by contractor shall be replaced.
  - 5/ Trenches to be compacted in 300mm layers by an approved method and the ground shall be reinstated to a standard of 100mm equal to the existing.
  - 6/ The maintenance period shall be 3 months from time of completion.
  - 7/ Work shall be carried out during favorable weather.
  - 8/ All bank piles shall be factory sealed.

*DRUMMOND E. BRANK.*

Project Engineer	Amendments

PROPOSED EXTENSION TO STORMWATER LINE FOR TAYLOR-DELUXE AT No 7 GRAND-VIEW ROAD, REMUERA.

Kevin d Kelly & Assoc  
Registered A/C/Engineers  
111 Maitland St, Auckland  
SIA members of  
Inst. of Professional Engineers  
Scale AS SHOWN

Drawn: *[Signature]*  
Date: JUNE 1981  
Scale AS SHOWN

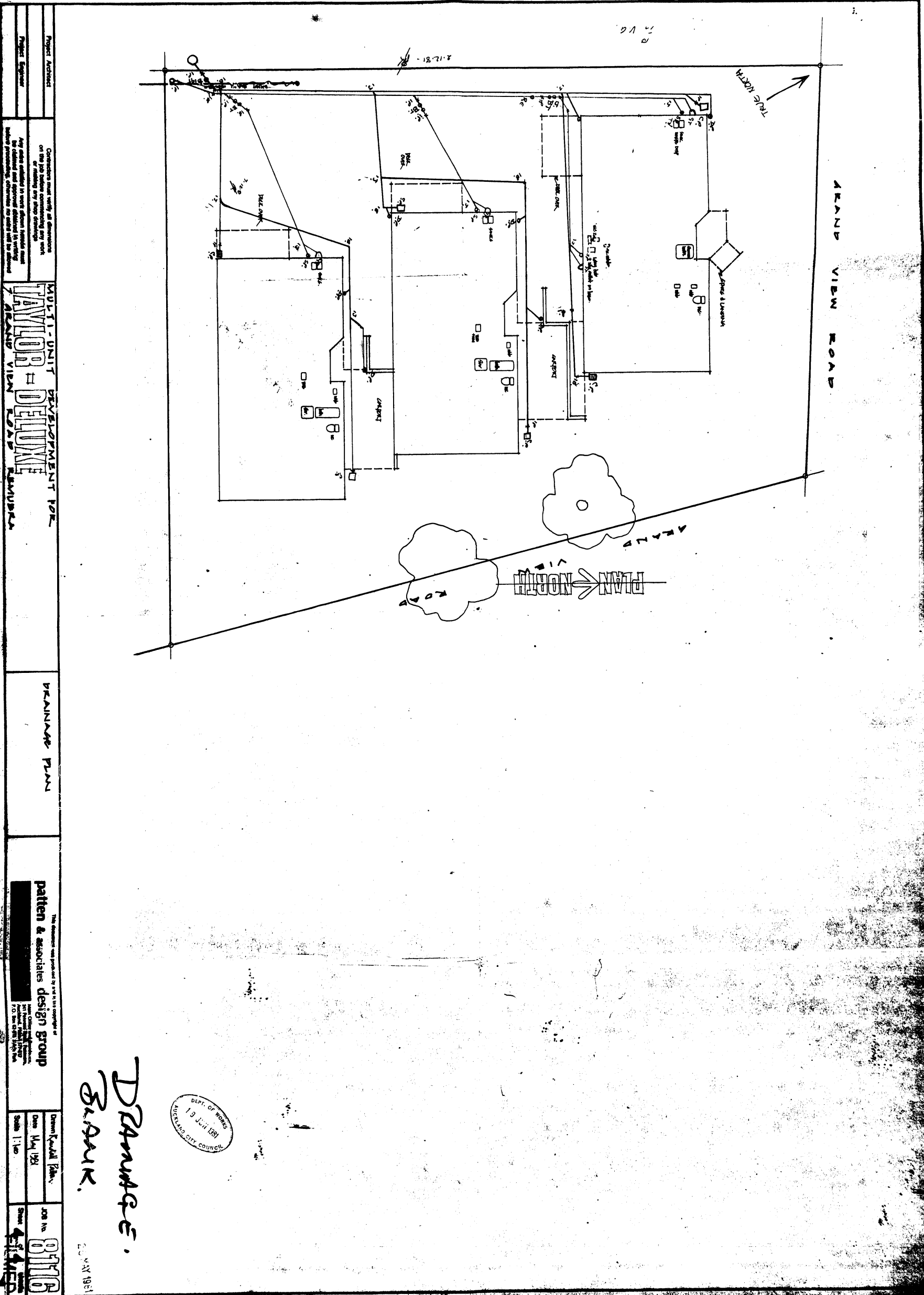
Job No. 309  
Sheet: *[Signature]*

# PRIVATE DRAINAGE PLAN

Site Address: 3/7 Grand View Road Remuera Auckland 1050  
Date Printed: 02/08/2016  
Page: 1 of 3  
Not to scale

Note: This plan may contain errors or omissions. The information has been provided by contractors undertaking work for the property owner and exact locations have not been verified by Auckland Council. Please consult the relevant City Office if you have any queries regarding this plan.





*Drainage*  
*BRANK*



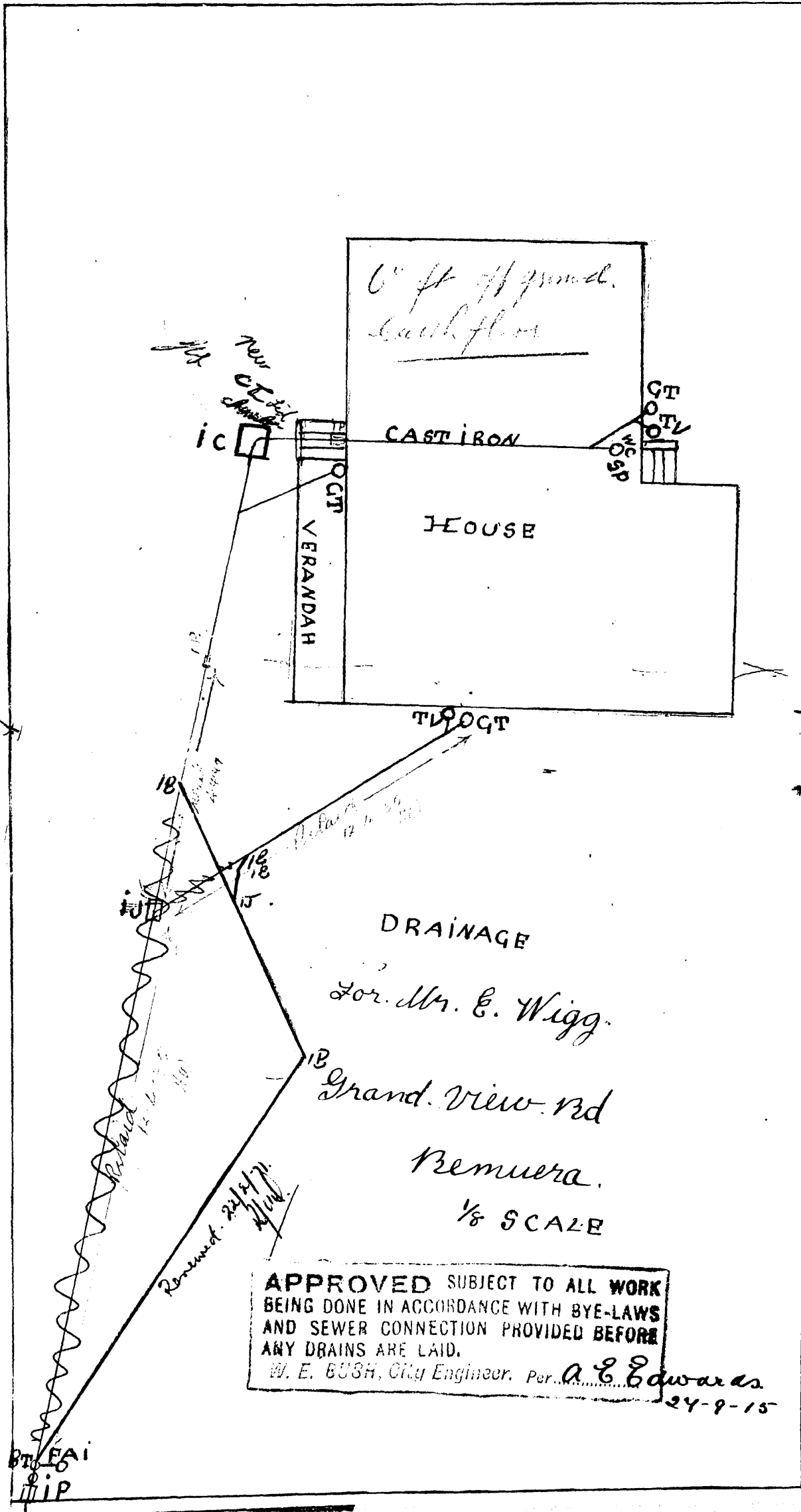
# PRIVATE DRAINAGE PLAN

Site Address: 3/7 Grand View Road Remuera Auckland 1050  
 Date Printed: 02/08/2016  
 Page: 2 of 3  
 Not to scale

Note: This plan may contain errors or omissions. The information has been provided by contractors undertaking work for the property owner and exact locations have not been verified by Auckland Council. Please consult the relevant City Office if you have any queries regarding this plan.



4 GRAND VIEW RD.



*Grand View Rd*

~~ROYAL VERANDAH~~

APPROVED SUBJECT TO ALL WORK  
 BEING DONE IN ACCORDANCE WITH BYE-LAWS  
 AND SEWER CONNECTION PROVIDED BEFORE  
 ANY DRAINS ARE LAID.

W. E. BUSH, City Engineer. Per *A. E. Edwards*  
 24-9-15

A3

FILMED

### PRIVATE DRAINAGE PLAN

Site Address: 37 Grand View Road Remuera Auckland 1050  
 Date Printed: 02/08/2016  
 Page: 3 of 3  
 Not to scale



Note: This plan may contain errors or omissions. The information has been provided by contractors undertaking work for the property owner and exact locations have not been verified by Auckland Council. Please consult the relevant City Office if you have any queries regarding this plan.



## ANALYSIS REPORT

<b>Client:</b>	MethSolutions Limited	<b>Lab No:</b>	1606961	SDSPv1
<b>Contact:</b>	Miles Stratford C/- MethSolutions Limited PO Box 58259 Greenmount Auckland 2141	<b>Date Registered:</b>	28-Jun-2016	
		<b>Date Reported:</b>	29-Jun-2016	
		<b>Quote No:</b>	56608	
		<b>Order No:</b>		
		<b>Client Reference:</b>	180003493	
		<b>Submitted By:</b>	Miles Stratford	

### Analysis Results

Sample Name:	Lab Number	Amphetamine µg/sample	Ephedrine µg/sample	Methamphetamine µg/sample	Pseudoephedrine µg/sample
180003493 24-Jun-2016 3:00 pm	1606961.1	< 0.02	< 0.02	< 0.02	< 0.02

### Analyst's Comments

#### Sample 1 Comment:

For interpretation of the results presented in this Analysis Report, MethSolutions Limited recommend this report is read in conjunction with their covering letter. For more information please contact MethSolutions Limited on 0800 638 4522.

## SUMMARY OF METHODS

The following table(s) gives a brief description of the methods used to conduct the analyses for this job. The detection limits given below are those attainable in a relatively clean matrix. Detection limits may be higher for individual samples should insufficient sample be available, or if the matrix requires that dilutions be performed during analysis.

### Sample Type: Miscellaneous Wipe

Test	Method Description	Default Detection Limit	Sample No
Methamphetamine Including Precursors on Wipes by LCMSMS	Desorption with 0.1M Sulphuric by shaking, LCMSMS analysis. (modified NIOSH9111).	0.02 µg/sample	1

These samples were collected by yourselves (or your agent) and analysed as received at the laboratory.

Samples are held at the laboratory after reporting for a length of time depending on the preservation used and the stability of the analytes being tested. Once the storage period is completed the samples are discarded unless otherwise advised by the client.

This report must not be reproduced, except in full, without the written consent of the signatory.

Ara Heron BSc (Tech)  
Client Services Manager - Environmental



Residential Sales Listing  
 Period: last3Months (01/01/2016 - 31/03/2016)  
 Price: \$0 to \$999,999,999  
 District: Auckland  
 Tla(s): Auckland City  
 Suburb(s): Remuera  
 Street(s): ---- ALL ----,Ascot,Greenlane East,Ladies Mile,Maungarei,Peach,Remuera,Rotomahana,Tahora,Waimea

Unit No	Street No	Street Name	Suburb	List Price	Sale Price	Sale Method	List Date	Uncond Date	Agree Date	Title	B R M S	Land Area M2	Floor Area M2	Val'n	Val'n Date	New Dwelling	Type	Sale As Is
1	6	Tahora Ave	Remuera	\$359,000	\$342,500	P - Private Treaty(Neg.)	22/02/2016	31/03/2016	13/03/2016	Freehold	1	1,024	32	\$235,000	7/2000	No	Apartment	No
6	746	Remuera Rd	Remuera	\$650,000	\$773,000	P - Private Treaty(Neg.)	5/02/2016	22/03/2016	14/03/2016	Unknown	2	280	125	\$700,000	1/2014	No	Residence	No
	26A	Peach Pde	Remuera		\$855,000	P - Private Treaty(Neg.)	27/12/2015	22/02/2016	19/02/2016	Crosslease	3			\$1,130,000	7/2014	No	Residence	No
	776A	Remuera Rd	Remuera		\$942,500	A - Auction	7/01/2016	29/02/2016	3/02/2016	Freehold	2	380		\$740,000	1/2014	Yes	Residence	No
	20D	Ladies Mile	Remuera		\$950,000	A - Auction	16/02/2016	31/03/2016	9/03/2016	Freehold	3	1,947		\$710,000	1/2011	No	Townhouse	No
3B	524	Remuera Rd	Remuera		\$960,000	A - Auction	23/02/2016	31/03/2016	16/03/2016	Freehold	2		112	\$735,000	7/2000	No	Apartment	No
	463A	Remuera Rd	Remuera		\$1,000,000	P - Private Treaty(Neg.)	18/01/2016	31/03/2016	14/03/2016	Freehold	3		187	\$1,250,000	1/2014	No	Apartment	No
	5	Peach Pde	Remuera		\$1,065,000	A - Auction	28/01/2016	31/03/2016	19/02/2016	Freehold	3	1,257				Yes	Residence	No
	20C	Ladies Mile	Remuera		\$1,275,000	P - Private Treaty(Neg.)	9/03/2016	31/03/2016	14/03/2016	Freehold	3					Yes	Townhouse	No
	2A	Tahora Ave	Remuera	\$1,325,000	\$1,310,000	P - Private Treaty(Neg.)	16/02/2016	31/03/2016	7/03/2016	Freehold	3	616		\$870,000	1/2014	No	Townhouse	No
3	576	Remuera Rd	Remuera	\$1,300,000	\$1,347,270	P - Private Treaty(Neg.)	14/01/2016	19/02/2016	10/02/2016	Unknown	3	1,024	241	\$580,000	7/2014	No	Residence	No
	78a	Ladies Mile	Remuera		\$1,670,000	A - Auction	25/11/2015	12/02/2016	10/02/2016	Freehold	5	658	260	\$1,160,000	1/2014	No	Residence	No
	35	Maungarei Rd	Remuera		\$1,775,000	A - Auction	22/01/2016	31/03/2016	2/03/2016	Freehold	4	479	53	\$1,210,000	7/2014	Yes	Townhouse	No
	88	Remuera Rd	Remuera		\$2,200,000	P - Private Treaty(Neg.)	11/02/2016	18/03/2016	29/02/2016	Freehold	4	472	200	\$1,880,000	7/2000	No	Residence	No
G1	519	Remuera Rd	Remuera		\$2,400,000	A - Auction	26/01/2016	31/03/2016	27/02/2016	Freehold	3		260	\$1,955,000	1/2011	No	Apartment	No
	701	Remuera Rd	Remuera		\$2,600,000	P - Private Treaty(Neg.)	22/02/2016	31/03/2016	23/03/2016	Freehold	4	1,191	323	\$2,250,000	1/2014	No	Residence	No
	8	Ladies Mile	Remuera		\$3,265,000	A - Auction	15/02/2016	10/03/2016	9/03/2016	Freehold	5	779	334	\$2,150,000	1/2014	No	Residence	No



Residential Sales Listing  
 Period: Last12Months (01/04/2015 - 31/03/2016)  
 Price: \$0 to \$999,999,999  
 District: Auckland  
 Tla(s): Auckland City  
 Suburb(s): Remuera  
 Street(s): Grand View

Unit No	Street No	Street Name	Suburb	List Price	Sale Price	Sale Method	List Date	Uncond Date	Agree Date	Title	B R M S	Land Area M2	Floor Area M2	Val'n	Val'n Date	New Dwelling	Type	Sale As Is
C	11A	Grand View Rd	Remuera		\$950,000	A - Auction	15/04/2015	18/05/2015	15/05/2015	Crosslease	3		160			No	Residence	No
	22C	Grand View Rd	Remuera		\$970,000	P - Private Treaty(Neg.)	9/09/2015	21/10/2015	14/10/2015	Freehold	4	272				No	Townhouse	No
	22	Grand View Rd	Remuera		\$1,370,000	P - Private Treaty(Neg.)	14/10/2015	6/11/2015	21/10/2015	Unknown	4					No	Residence	No

Residential Sales Listing  
 Period: 18/04/2013 - 18/04/2016  
 Price: \$0 to \$999,999,999  
 District: Auckland  
 Tla(s): Auckland City  
 Suburb(s): Remuera  
 Street(s): Grand View

Unit No	Street No	Street Name	Suburb	List Price	Sale Price	Sale Method	List Date	Uncond Date	Agree Date	Title	B R M S	Land Area M2	Floor Area M2	Val'n	Val'n Date	New Dwelling	Type	Sale As Is
	22C	Grand View Rd	Remuera		\$745,000	P - Private Treaty(Neg.)	13/02/2013	30/04/2013	10/04/2013	Freehold	3	272		\$620,000	1/2011	No	Townhouse	No
	7B	Grand View Rd	Remuera		\$745,000	A - Auction	4/11/2013	3/12/2013	3/12/2013	Crosslease	3	1,192	115	\$545,000	7/2011	No	Townhouse	No
	11B	Grand View Rd	Remuera	\$779,000	\$756,500	P - Private Treaty(Neg.)	26/06/2014	4/08/2014	24/07/2014	Crosslease	3			\$710,000	1/2011	No	Residence	No
	36	Grand View Rd	Remuera		\$938,000	A - Auction	25/06/2013	30/08/2013	6/08/2013	Freehold	4	613		\$790,000	1/2011	No	Residence	No
	11A	Grand View Rd	Remuera		\$950,000	A - Auction	15/04/2015	18/05/2015	15/05/2015	Crosslease	3		160			No	Residence	No
	22C	Grand View Rd	Remuera		\$970,000	P - Private Treaty(Neg.)	9/09/2015	21/10/2015	14/10/2015	Freehold	4	272				No	Townhouse	No
	28	Grand View Rd	Remuera		\$975,000	P - Private Treaty(Neg.)	12/11/2013	31/01/2014	22/12/2013	Freehold	3	1,292		\$1,060,000	1/2011	Yes	Residence	No
	24	Grand View Rd	Remuera		\$1,277,000	A - Auction	14/01/2015	28/02/2015	25/02/2015	Unknown	4	1,313	170	\$1,100,000	7/2014	No	Residence	No
C	22	Grand View Rd	Remuera		\$1,370,000	P - Private Treaty(Neg.)	14/10/2015	6/11/2015	21/10/2015	Unknown	4					No	Residence	No
	14	Grand View Rd	Remuera	\$1,595,000	\$1,540,000	P - Private Treaty(Neg.)	18/02/2013	3/04/2013	27/03/2013	Freehold	4	745	190	\$1,330,000	1/2011	No	Residence	No
	20A	Grand View Rd	Remuera		\$1,705,000	A - Auction	23/05/2013	31/07/2013	20/06/2013	Freehold	8	1,179		\$970,000	1/2011	Yes	Residence	No

**Ray White Remuera**  
369 Remuera Road  
Remuera  
Auckland 1050  
p +64 9 520 9100  
rwremuera.co.nz

# Buyer Declaration Form

I/We hereby register my/our interest as a potential purchaser of the property situated at:

.....  
(property address)

.....  
(name / phone / email)

.....  
(name / phone / email)

.....  
(name / phone / email)

.....  
(name / phone / email)

We the receiving company confirm the above.

Signed: .....

Designation: .....



# PARTICULARS AND CONDITIONS OF SALE OF REAL ESTATE BY AUCTION

This form is approved by the Real Estate Institute of New Zealand Incorporated and by Auckland District Law Society Incorporated.

## AUCTION DETAILS

Auctioneer: **Wayne Maguire**

Place of Auction: **In rooms, 369 Remuera Road**

Date and Time of Auction: **5:00pm, Wednesday 7 September 2016**

Licensed Agent acting for Vendor: **Megan Jaffe Real Estate Ltd, Licensed REAA (2008)**

**Vendor: Kenneth Kingsley Comins, Earlene Roberta Comins and Tanner Fitzgerald Trustees (2005) Limited as trustees of The K K & E R Comins Family Trust**

The vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement:

**Yes/No**

## PARTICULARS OF PROPERTY

Address: **3/7 Grand View Road, Remuera, Auckland**

Estate:	<b>FEE SIMPLE</b>	<b>LEASEHOLD</b>	<b>STRATUM-IN-FREEHOLD</b>	<b>STRATUM-IN-LEASEHOLD</b>
	<b>CROSSLEASE (FEE SIMPLE)</b>		<b>CROSSLEASE (LEASEHOLD)</b>	(if none is deleted fee simple)

Legal Description:

<b>Area (more or less):</b>	<b>Lot/Flat/Unit:</b>	<b>DP:</b>	<b>Unique Identifier or CT:</b>
<b>1/3 share 1192m<sup>2</sup></b>	<b>Flat 3 DP 95317</b>	<b>on Part Lot 24 DP 4392</b>	<b>NA51C/108</b>

Created by Lease B012196.3 and being subject to the interests as listed on the attached Certificate of Title

Chattels: The following chattels are included in the sale (strike out or add as applicable):

**Stove Fixed Floor Coverings Blinds Curtains Light Fittings**

Extractor Fan, Rangehood (Ducted), Waste Disposal Unit, Heat Pump, Dishwasher, Heated Towel Rail, Super Tub (Laundry)

## TENANCIES (if any)

Name of tenant: **Vacant possession**

Bond: Rent: Term: Right of Renewal:

## CONDITIONS OF SALE

- 1.1 The property and the chattels included in the sale are sold on these Particulars and Conditions of Sale, the General Terms of Sale and any Further Terms of Sale.
- 1.2 GST will be payable in accordance with the statement of the purchase price in the Memorandum of Contract.
- 1.3 The GST date is: **n/a**
- 1.4 The settlement date is: **30 September 2016**
- 1.5 The interest rate for late settlement is 12 % p.a.

## CONDUCT OF AUCTION

- 2.1 The property is offered for sale subject to a reserve price and, subject to the reserve price being met, the highest bidder whose bid is accepted by the auctioneer shall be the purchaser.
- 2.2 The auctioneer may nominate the sum by which the bidding can be raised.
- 2.3 The auctioneer may refuse any bid.
- 2.4 The auctioneer or the licensed real estate agent acting for the vendor in respect of the sale may submit a bid on behalf of any person. The auctioneer shall identify a person so acting before the commencement of bidding.
- 2.5 The vendor may bid personally, or by a representative, or through the auctioneer, provided that the bid is less than the reserve price. The auctioneer shall identify each vendor bid as it is made.
- 2.6 The vendor may withdraw the property at any time before it has been sold and without declaring the reserve price.
- 2.7 If a dispute arises concerning any bid, the auctioneer may determine the dispute or re-offer the property at the last undisputed bid.
- 2.8 The purchaser shall immediately on the completion of the auction:
  - (a) Sign the Memorandum of Contract failing which the auctioneer may sign on behalf of the purchaser,
  - (b) Pay to the vendor's licensed real estate agent the deposit being 10% of the purchase price unless otherwise agreed; and
  - (c) Complete its GST information in Schedule 1, if applicable.

Release date: **22 August 2016**

## GENERAL TERMS OF SALE

### 3.0 Definitions, time for performance, notices, and interpretation

#### 3.1 Definitions

- (1) Unless the context requires a different interpretation, words and phrases not otherwise defined have the same meanings ascribed to those words and phrases in the Goods and Services Tax Act 1985, the Property Law Act 2007, the Resource Management Act 1991 or the Unit Titles Act 2010.
- (2) "Agreement" means this document including the Particulars and Conditions of Sale, these General Terms of Sale, any Further Terms of Sale, the Memorandum of Contract, and any schedules and attachments.
- (3) "Building Act" means the Building Act 1991 and/or the Building Act 2004.
- (4) "Building warrant of fitness" means a building warrant of fitness supplied to a territorial authority under the Building Act.
- (5) "Cleared funds" means:
  - (a) An electronic transfer of funds that has been made strictly in accordance with the requirements set out in the PLS Guidelines; or
  - (b) A bank cheque, but only in the circumstances permitted by the PLS Guidelines and only if it has been paid strictly in accordance with the requirements set out in the PLS Guidelines.
- (6) "Default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the vendor (or where the vendor is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this agreement but does not include any such sum levied against the vendor (or where the vendor is or was a member of a GST group its representative member) by reason of a default or delay by the vendor after payment of the GST to the vendor by the purchaser.
- (7) "Electronic instrument" has the same meaning as ascribed to that term in the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- (8) "GST" means Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.
- (9) "Landonline Workspace" means an electronic workspace facility approved by the Registrar-General of Land pursuant to the provisions of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- (10) "LINZ" means Land Information New Zealand.
- (11) "Local authority" means a territorial authority or a regional council.
- (12) "OIA Consent" means consent to purchase the property under the Overseas Investment Act 2005.
- (13) "PLS Guidelines" means the most recent edition, as at the date of this agreement, of the Property Transactions and E-Dealing Practice Guidelines prepared by the Property Law Section of the New Zealand Law Society.
- (14) "Property" means the property described in this agreement.
- (15) "Purchase price" means the total purchase price stated in this agreement which the purchaser has agreed to pay the vendor for the property and the chattels included in the sale.
- (16) "Regional council" means a regional council within the meaning of the Local Government Act 2002.
- (17) "Remote settlement" means settlement of the sale and purchase of the property by way of the purchaser's lawyer paying the moneys due and payable on the settlement date directly into the trust account of the vendor's lawyer, in consideration of the vendor agreeing to meet the vendor's obligations under subclause 5.8(2), pursuant to the protocol for remote settlement recommended in the PLS Guidelines.
- (18) "Secure web document exchange" means an electronic messaging service enabling messages and electronic documents to be posted by one party to a secure website to be viewed by the other party immediately after posting.
- (19) "Settlement date" means the date specified as such in this agreement.
- (20) "Settlement statement" means a statement showing the purchase price, plus any GST payable by the purchaser in addition to the purchase price, less any deposit or other payments or allowances to be credited to the purchaser, together with apportionments of all incomings and outgoings apportioned at the settlement date.
- (21) "Territorial authority" means a territorial authority within the meaning of the Local Government Act 2002.
- (22) "Unit title" means a unit title under the Unit Titles Act 2010.
- (23) The terms "principal unit", "accessory unit", "owner", "unit plan", and "unit" have the meanings ascribed to those terms in the Unit Titles Act 2010.
- (24) The term "rules" includes both body corporate rules under the Unit Titles Act 1972 and body corporate operational rules under the Unit Titles Act 2010.
- (25) The terms "building", "building consent", "code compliance certificate", "compliance schedule", "household unit", and "commercial on-seller" have the meanings ascribed to those terms in the Building Act.
- (26) The term "title" includes where appropriate a computer register within the meaning of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- (27) The terms "going concern", "goods", "principal place of residence", "recipient", "registered person", "registration number", "supply", and "taxable activity" have the meanings ascribed to those terms in the GST Act.
- (28) The terms "tax information" and "tax statement" have the meanings ascribed to those terms in the Land Transfer Act 1952.
- (29) The terms "associated person", "conveyancer", "residential land purchase amount", "offshore RLWT person", "RLWT", "RLWT certificate of exemption" and "RLWT rules" have the meanings ascribed to those terms in the Income Tax Act 2007.
- (30) The term "Commissioner" has the meaning ascribed to that term in the Tax Administration Act 1994.
- (31) "Working day" means any day of the week other than:
  - (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday and Labour Day;
  - (b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
  - (c) a day in the period commencing on the 24th day of December in any year and ending on the 5th day of January in the following year, both days inclusive;
  - (d) the day observed as the anniversary of any province in which the property is situated.
 A working day shall be deemed to commence at 9:00 am and to terminate at 5:00 pm.
- (32) Unless a contrary intention appears in the Conditions of Sale or elsewhere in this agreement:
  - (a) the interest rate for late settlement is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the interest rate for late settlement is payable, plus 5% per annum; and
  - (b) a party is in default if it did not do what it has contracted to do to enable settlement to occur, regardless of the cause of such failure.

#### 3.2 Time for Performance

- (1) Where the day nominated for settlement or the fulfilment of a condition is not a working day, then the settlement date or the date for fulfilment of the condition shall be the last working day before the day so nominated.
- (2) Any act done pursuant to this agreement by a party, including service of notices, after 5.00 pm on a working day, or on a day that is not a working day, shall be deemed to have been done at 9.00 am on the next succeeding working day.
- (3) Where two or more acts done pursuant to this agreement, including service of notices, are deemed to have been done at the same time, they shall take effect in the order in which they would have taken effect but for subclause 3.2(2).

#### 3.3 Notices

The following apply to all notices between the parties relevant to this agreement, whether authorised by this agreement or by the general law:

- (1) All notices must be served in writing.
- (2) Any notice under section 28 of the Property Law Act 2007, where the purchaser is in possession of the property must be served in accordance with section 353 of that Act.
- (3) All other notices, unless otherwise required by the Property Law Act 2007, must be served by one of the following means:
  - (a) on the party as authorised by sections 354 to 361 of the Property Law Act 2007, or
  - (b) on the party or on the party's lawyer:
    - (i) by personal delivery; or
    - (ii) by posting by ordinary mail; or
    - (iii) by facsimile; or
    - (iv) by email; or
    - (v) in the case of the party's lawyer only, be sending by document exchange or, if both parties' lawyers have agreed to subscribe to the same secure web document exchange for this agreement, by secure web document exchange.

- (4) In respect of the means of service specified in subclauses 3.3(3)(b), a notice is deemed to have been served:
  - (a) in the case of personal delivery, when received by the party or at the lawyer's office;
  - (b) in the case of posting by ordinary mail, on the third working day following the date of posting to the address for service notified in writing by the party or to the postal address of the lawyer's office;
  - (c) in the case of facsimile transmission, when sent to the facsimile number notified in writing by the party or to the facsimile number of the lawyer's office;
  - (d) in the case of email, when acknowledged by the party or by the lawyer orally or by return email or otherwise in writing, except that return emails generated automatically shall not constitute an acknowledgement;
  - (e) in the case of sending by document exchange, on the second working day following the date of sending to the document exchange number of the lawyer's office;
  - (f) in the case of sending by secure web document exchange, at the time when in the ordinary course of operation of that secure web document exchange, a notice posted by one party is accessible for viewing or downloading by the other party.
- (5) Any period of notice required to be given under this agreement shall be computed by excluding the day of service.
- (6) In accordance with section 20(1) of the Electronic Transactions Act 2002, the parties agree that any notice or document that must be given in writing by one party to the other may be given in electronic form and by means of an electronic communication, subject to the rules regarding service set out above.

### 3.4 Interpretation

- (1) If there is more than one vendor or purchaser, the liability of the vendors or of the purchasers, as the case may be, is joint and several.
- (2) Where the purchaser executes this agreement with provision for a nominee, or as agent for an undisclosed or disclosed but unidentified principal, or on behalf of a company to be formed, the purchaser shall at all times remain liable for all obligations on the part of the purchaser.
- (3) If any inserted term (including any Further Terms of Sale) conflicts with the General Terms of Sale or the Particulars and Conditions of Sale, the inserted term shall prevail.
- (4) Headings are for information only and do not form part of this agreement.
- (5) References to statutory provisions shall be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time.

## 4.0 Deposit

- 4.1 The purchaser shall pay the deposit to the vendor's licensed real estate agent immediately on the completion of the auction or, where the property has been sold prior to, or subsequent to, the auction, on the execution of this agreement by both parties, time being of the essence.
- 4.2 If the deposit is not paid as set out in subclause 4.1, the vendor may cancel this agreement by serving notice of cancellation on the purchaser.
- 4.3 The deposit shall be in part payment of the purchase price.
- 4.4 If the property is a unit title, the person to whom the deposit is paid shall hold it as a stakeholder until:
  - (1) a pre-settlement disclosure statement, certified correct by the body corporate, under section 147 of the Unit Titles Act 2010 and an additional disclosure statement under section 148 of the Unit Titles Act 2010 (if requested by the purchaser within the time prescribed in section 148(2)) have been provided to the purchaser by the vendor within the times prescribed in those sections or otherwise the purchaser has given notice under section 149(2) of the Unit Titles Act 2010 to postpone the settlement date until after the disclosure statements have been provided; or
  - (2) the purchaser, having the right to cancel this agreement pursuant to section 151(2) of the Unit Titles Act 2010, has cancelled this agreement pursuant to that section, or has waived the right to cancel by giving notice to the vendor, or by completing settlement of the purchase.

## 5.0 Possession and Settlement

### Possession

- 5.1 Unless particulars of a tenancy are included in this agreement, the property is sold with vacant possession and the vendor shall so yield the property on the settlement date.
- 5.2 If the property is sold with vacant possession, then subject to the rights of any tenants of the property, the vendor shall permit the purchaser or any person authorised by the purchaser in writing, upon reasonable notice:
  - (1) to enter the property on one occasion prior to the settlement date for the purposes of examining the property, chattels and fixtures which are included in the sale; and
  - (2) to re-enter the property on or before the settlement date to confirm compliance by the vendor with any agreement made by the vendor to carry out any work on the property and the chattels and the fixtures.
- 5.3 Possession shall be given and taken on the settlement date. Outgoings and incomings in respect of the settlement date are the responsibility of and belong to the vendor.
- 5.4 On the settlement date, the vendor shall make available to the purchaser keys to all exterior doors that are locked by key, electronic door openers to all doors that are opened electronically, and the keys and/or security codes to any alarms. The vendor does not have to make available keys, electronic door openers, and security codes where the property is tenanted and these are held by the tenant.

### Settlement

- 5.5 The vendor shall prepare, at the vendor's own expense, a settlement statement. The vendor shall tender the settlement statement to the purchaser or the purchaser's lawyer a reasonable time prior to the settlement date.
- 5.6 The purchaser's lawyer shall:
  - (1) within a reasonable time prior to the settlement date create a Landonline Workspace for the transaction, notify the vendor's lawyer of the dealing number allocated by LINZ, and prepare in that workspace a transfer instrument in respect of the property; and
  - (2) prior to settlement
    - (a) lodge in that workspace the tax information contained in the transferee's tax statement; and
    - (b) certify and sign the transfer instrument.
- 5.7 The vendor's lawyer shall:
  - (1) within a reasonable time prior to the settlement date prepare in that workspace all other electronic instruments required to confer title on the purchaser in terms of the vendor's obligations under this agreement; and
  - (2) prior to settlement
    - (a) lodge in that workspace the tax information contained in the transferor's tax statement; and
    - (b) have those instruments and the transfer instrument certified, signed and, where possible, pre-validated.
- 5.8 On the settlement date:
  - (1) the balance of the purchase price, interest and other moneys, if any, shall be paid by the purchaser in cleared funds or otherwise satisfied as provided in this agreement (credit being given for any amount payable by the vendor under subclause 5.12 or 5.14);
  - (2) the vendor's lawyer shall immediately thereafter:
    - (a) release or procure the release of the transfer instrument and the other instruments mentioned in subclause 5.7(1) so that the purchaser's lawyer can then submit them for registration;
    - (b) pay to the purchaser's lawyer the LINZ registration fees on all of the instruments mentioned in subclause 5.7(1), unless these fees will be invoiced to the vendor's lawyer by LINZ directly; and
    - (c) deliver to the purchaser's lawyer any other documents that the vendor must provide to the purchaser on settlement in terms of this agreement.
- 5.9 All obligations under subclause 5.8 are interdependent.
- 5.10 The parties shall complete settlement by way of remote settlement, provided that where payment by bank cheque is permitted under the PLS Guidelines, payment may be made by the personal delivery of a bank cheque to the vendor's lawyer's office, so long as it is accompanied by the undertaking from the purchaser's lawyer required by those Guidelines.

### Last Minute Settlement

- 5.11 If due to the delay of the purchaser, settlement takes place between 4:00 pm and 5:00 pm on the settlement date ("last minute settlement"), the purchaser shall pay the vendor:
  - (1) one day's interest at the interest rate for late settlement on the portion of the purchase price paid in the last minute settlement; and
  - (2) if the day following the last minute settlement is not a working day, an additional day's interest (calculated in the same manner) for each day until, but excluding, the next working day.



## Purchaser Default: Late Settlement

- 5.12 If any portion of the purchase price is not paid upon the due date for payment, then, provided that the vendor provides reasonable evidence of the vendor's ability to perform any obligation the vendor is obliged to perform on that date in consideration for such payment:
- (1) the purchaser shall pay to the vendor interest at the interest rate for late settlement on the portion of the purchase price so unpaid for the period from the due date for payment until payment ("the default period"); but nevertheless, this stipulation is without prejudice to any of the vendor's rights or remedies including any right to claim for additional expenses and damages. For the purposes of this subclause, a payment made on a day other than a working day or after the termination of a working day shall be deemed to be made on the next following working day and interest shall be computed accordingly; and
  - (2) the vendor is not obliged to give the purchaser possession of the property or to pay the purchaser any amount for remaining in possession, unless this agreement relates to a tenanted property, in which case the vendor must elect either to:
    - (a) account to the purchaser on settlement for incomings in respect of the property which are payable and received during the default period, in which event the purchaser shall be responsible for the outgoings relating to the property during the default period; or
    - (b) retain such incomings in lieu of receiving interest from the purchaser pursuant to subclause 5.12(1).
- 5.13 Where subclause 5.12(1) applies and the parties are unable to agree upon any amount claimed by the vendor for additional expenses and damages:
- (1) an interim amount shall on settlement be paid to a stakeholder by the purchaser until the amount payable is determined;
  - (2) the interim amount must be a reasonable sum having regards to all of the circumstances;
  - (3) if the parties cannot agree on the interim amount, the interim amount shall be determined by an experienced property lawyer appointed by the parties. The appointee's costs shall be met equally by the parties. If the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president for the time being of the New Zealand Law Society;
  - (4) the stakeholder shall lodge the interim amount on interest-bearing call deposit with a bank registered under the Reserve Bank of New Zealand Act 1989 in the joint names of the vendor and the purchaser;
  - (5) the interest earned on the interim amount net of any withholding tax and any bank or legal administration fees and commission charges shall follow the destination of the interim amount;
  - (6) the amount determined to be payable shall not be limited by the interim amount; and
  - (7) if the parties cannot agree on a stakeholder, the interim amount shall be paid to a stakeholder nominated on the application of either party by the president for the time being of the New Zealand Law Society.

## Vendor Default: Late Settlement or Failure to Give Possession

- 5.14 (1) For the purposes of this subclause 5.14:
- (a) the default period means:
    - (i) in subclause 5.14(2), the period from the settlement date until the date when the vendor is able and willing to provide vacant possession and the purchaser takes possession; and
    - (ii) in subclause 5.14(3), the period from the date the purchaser takes possession until the date when settlement occurs; and
    - (iii) in subclause 5.14(5), the period from the settlement date until the date when settlement occurs; and
  - (b) the vendor shall be deemed to be unwilling to give possession if the vendor does not offer to give possession.
- (2) If this agreement provides for vacant possession but the vendor is unable or unwilling to give vacant possession on the settlement date, then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement:
- (a) The vendor shall pay the purchaser, at the purchaser's election, either:
    - (i) compensation for any reasonable costs incurred for temporary accommodation for persons and storage of chattels during the default period; or
    - (ii) an amount equivalent to interest at the interest rate for late settlement on the entire purchase price during the default period; and
  - (b) the purchaser shall pay the vendor an amount equivalent to the interest earned or which would be earned on overnight deposits lodged in the purchaser's lawyer's trust bank account on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date but remains unpaid during the default period less:
    - (i) any withholding tax; and
    - (ii) any bank or legal administration fees and commission charges; and
    - (iii) any interest payable by the purchaser to the purchaser's lender during the default period in respect of any mortgage or loan taken out by the purchaser in relation to the purchase of the property.
- (3) If this agreement provides for vacant possession and the vendor is able and willing to give vacant possession on the settlement date, then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the purchaser may elect to take possession in which case the vendor shall not be liable to pay any interest or other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in subclause 5.14(2)(b) during the default period. A purchaser in possession under this subclause 5.14(3) is a licensee only.
- (4) Notwithstanding the provisions of subclause 5.14(3), the purchaser may elect not to take possession when the purchaser is entitled to take it. If the purchaser elects not to take possession, the provisions of subclause 5.14(2) shall apply as though the vendor were unable or unwilling to give vacant possession on the settlement date.
- (5) If this agreement provides for the property to be sold tenanted then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the vendor shall on settlement account to the purchaser for incomings which are payable and received in respect of the property during the default period less the outgoings paid by the vendor during that period. Apart from accounting for such incomings, the vendor shall not be liable to pay any other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in subclause 5.14(2)(b) during the default period.
- (6) The provisions of this subclause 5.14 shall be without prejudice to any of the purchaser's rights or remedies including any right to claim for any additional expenses and damages suffered by the purchaser.
- (7) Where the parties are unable to agree upon any amount payable under this subclause 5.14:
- (a) an interim amount shall on settlement be paid to a stakeholder by the party against whom it is claimed until the amount payable is determined;
  - (b) the interim amount shall be the lower of:
    - (i) the amount claimed; or
    - (ii) an amount equivalent to interest at the interest rate for late settlement for the relevant default period on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date.
  - (c) the stakeholder shall lodge the interim amount on interest-bearing call deposit with a bank registered under the Reserve Bank of New Zealand Act 1989 in the joint names of the vendor and the purchaser;
  - (d) the interest earned on the interim amount net of any withholding tax and any bank or legal administration fees and commission charges shall follow the destination of the interim amount;
  - (e) the amount determined to be payable shall not be limited by the interim amount; and
  - (f) if the parties cannot agree on a stakeholder the interim amount shall be paid to a stakeholder nominated on the application of either party by the president for the time being of the New Zealand Law Society.

## Deferment of Settlement and Possession

- 5.15 If
- (1) this is an agreement for the sale by a commercial on-seller of a household unit; and
  - (2) a code compliance certificate has not been issued by the settlement date in relation to the household unit,
- then, unless the parties agree otherwise (in which case the parties shall enter into a written agreement in the form (if any) prescribing by the Building (Forms) Regulations 2004), the settlement date, shall be deferred to the fifth working day following the date upon which the vendor has given the purchaser notice that the code compliance certificate has been issued (which notice must be accompanied by a copy of the certificate).
- 5.16 In every case, if neither party is ready, willing, and able to settle on the settlement date, the settlement date shall be deferred to the third working day following the date upon which one of the parties gives notice it has become ready, willing, and able to settle.
- 5.17 If
- (1) the property is a unit title;
  - (2) the settlement date is deferred pursuant to either subclause 5.15 or subclause 5.16; and
  - (3) the vendor considers on reasonable grounds that an extension of time is necessary or desirable in order for the vendor to comply with the warranty by the vendor in subclause 11.2(3),

- (4) then the vendor may extend the settlement date:
- (a) where there is a deferment of the settlement date pursuant to subclause 5.15, to the tenth working day following the date upon which the vendor gives the purchaser notice that the code compliance certificate has been issued, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice; or
  - (b) where there is a deferment of the settlement date pursuant to subclause 5.16, to the tenth working day following the date upon which one of the parties gives notice that it has become ready, willing, and able to settle, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice.

#### New Title Provision

- 5.18 (1) Where
- (a) the transfer of the property is to be registered against a new title yet to be issued; and
  - (b) a search copy, as defined in section 172A of the Land Transfer Act 1952, of that title is not obtainable by the tenth working day prior to the settlement date,
- then, unless the purchaser elects that settlement shall still take place on the agreed settlement date, the settlement date shall be deferred to the tenth working day following the date on which the vendor has given the purchaser notice that a search copy is obtainable.
- (2) Subclause 5.18(1) shall not apply where it is necessary to register the transfer of the property to enable a plan to deposit and title to the property to issue.

## 6.0 Residential Land Withholding Tax

- 6.1 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons, then:
- (1) the vendor must provide the purchaser or the purchaser's conveyancer, on or before the second working day before the due date for payment of the first residential land purchase amount payable under this agreement, with:
    - (a) sufficient information to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction whether section 54C of the Tax Administration Act 1994 applies to the sale of the property; and
    - (b) if the purchaser or the purchaser's conveyancer determines to their reasonable satisfaction that section 54C of the Tax Administration Act 1994 does apply, all of the information required by that section and either an RLWT certificate of exemption in respect of the sale or otherwise such other information that the purchaser or the purchaser's conveyancer may reasonably require to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction the amount of RLWT that must be withheld from each residential land purchase amount;
  - (2) the vendor shall be liable to pay any costs reasonably incurred by the purchaser or the purchaser's conveyancer in relation to RLWT, including the cost of obtaining professional advice in determining whether there is a requirement to withhold RLWT and the amount of RLWT that must be withheld, if any; and
  - (3) any payments payable by the purchaser on account of the purchase price shall be deemed to have been paid to the extent that:
    - (a) RLWT has been withheld from those payments by the purchaser or the purchaser's conveyancer as required by the RLWT rules; and
    - (b) any costs payable by the vendor under subclause 6.1(2) have been deducted from those payments by the purchaser or the purchaser's conveyancer.
- 6.2 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons and if the vendor fails to provide the information required under subclause 6.1(1), then the purchaser may:
- (1) defer the payment of the first residential land purchase amount payable under this agreement (and any residential land purchase amount that may subsequently fall due for payment) until such time as the vendor supplies that information; or
  - (2) on the due date for payment of that residential land purchase amount, or at any time thereafter if payment has been deferred by the purchaser pursuant to this subclause and the vendor has still not provided that information, treat the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT.
- 6.3 If pursuant to subclause 6.2 the purchaser treats the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT, the purchaser or the purchaser's conveyancer may:
- (1) make a reasonable assessment of the amount of RLWT that the purchaser or the purchaser's conveyancer would be required by the RLWT rules to withhold from any residential land purchase amount if the sale is treated in that manner; and
  - (2) withhold that amount from any residential land purchase amount and pay it to the Commissioner as RLWT.
- 6.4 Any amount withheld by the purchaser or the purchaser's conveyancer pursuant to subclause 6.3 shall be treated as RLWT that the purchaser or the purchaser's conveyancer is required by the RLWT rules to withhold.
- 6.5 The purchaser or the purchaser's conveyancer shall give notice to the vendor a reasonable time before payment of any sum due to be paid on account of the purchase price of:
- (1) the costs payable by the vendor under subclause 6.1(2) that the purchaser or the purchaser's conveyancer intends to deduct; and
  - (2) the amount of RLWT that the purchaser or the purchaser's conveyancer intends to withhold.

## 7.0 Risk and insurance

- 7.1 The property and chattels shall remain at the risk of the vendor until possession is given and taken.
- 7.2 If, prior to the giving and taking of possession, the property is destroyed or damaged, and such destruction or damage has not been made good by the settlement date, then the following provisions shall apply:
- (1) if the destruction or damage has been sufficient to render the property untenable and it is untenable on the settlement date, the purchaser may:
    - (a) complete the purchase at the purchase price, less a sum equal to any insurance moneys received or receivable by or on behalf of the vendor in respect of such destruction or damage, provided that no reduction shall be made to the purchase price if the vendor's insurance company has agreed to reinstate for the benefit of the purchaser to the extent of the vendor's insurance cover; or
    - (b) cancel this agreement by serving notice on the vendor in which case the vendor shall return to the purchaser immediately the deposit and any other moneys paid by the purchaser, and neither party shall have any right or claim against the other arising from this agreement or its cancellation;
  - (2) if the property is not untenable on the settlement date the purchaser shall complete the purchase at the purchase price less a sum equal to the amount of the diminution in value of the property which, to the extent that the destruction or damage to the property can be made good, shall be deemed to be equivalent to the reasonable cost of reinstatement or repair;
  - (3) in the case of a property zoned for rural purposes under an operative District Plan, damage to the property shall be deemed to have rendered the property untenable where the diminution in value exceeds an amount equal to 20% of the purchase price; and
  - (4) if the amount of the diminution in value is disputed, the parties shall follow the same procedure as that set out in subclause 10.4 for when an amount of compensation is disputed.
- 7.3 The purchaser shall not be required to take over any insurance policies held by the vendor.

## 8.0 Title, boundaries and requisitions

- 8.1 The vendor shall not be bound to point out the boundaries of the property except that on the sale of a vacant residential lot which is not limited as to parcels the vendor shall ensure that all boundary markers required by the Cadastral Survey Act 2002 and any related rules and regulations to identify the boundaries of the property are present in their correct positions at the settlement date.
- 8.2 The purchaser is deemed to have accepted the vendor's title to the property and the purchaser may not make any requisitions or objections as to title.
- 8.3 Except as provided by section 7 of the Contractual Remedies Act 1979, no error, omission, or misdescription of the property or the title shall enable the purchaser to cancel this agreement but compensation, if claimed by notice before settlement in accordance with subclause 10.1 but not otherwise, shall be made or given as the case may require.
- 8.4 The vendor shall not be liable to pay for or contribute towards the expense of erection or maintenance of any fence between the property and any contiguous land of the vendor but this proviso shall not enure for the benefit of any subsequent purchaser of the contiguous land; and the vendor shall be entitled to require the inclusion of a fencing covenant to this effect in any transfer of the property.

## 9.0 Vendor's warranties and undertakings

- 9.1 The vendor warrants and undertakes that at the date of this agreement the vendor has not:
- (1) received any notice or demand and has no knowledge of any requisition or outstanding requirement:
    - (a) from any local or government authority or other statutory body; or
    - (b) under the Resource Management Act 1991; or
    - (c) from any tenant of the property; or
    - (d) from any other party; or
  - (2) given any consent or waiver,
- which directly or indirectly affects the property and which has not been disclosed in writing to the purchaser.

9.2 The vendor warrants and undertakes that at settlement:

- (1) The chattels and all plant, equipment, systems or devices which provide any services or amenities to the property, including, without limitation, security, heating, cooling, or air-conditioning, are delivered to the purchaser in reasonable working order, but in all other respects in their state of repair as at the date of this agreement (fair wear and tear excepted) but failure so to deliver them shall only create a right of compensation.
- (2) All electrical and other installations on the property are free of any charge whatsoever.
- (3) There are no arrears of rates, water rates or charges outstanding on the property.
- (4) Where an allowance has been made by the vendor in the settlement statement for incomings receivable, the settlement statement correctly records those allowances including, in particular, the dates up to which the allowances have been made.
- (5) Where the vendor has done or caused or permitted to be done on the property any works:
  - (a) any permit, resource consent, or building consent required by law was obtained; and
  - (b) to the vendor's knowledge, the works were completed in compliance with those permits or consents; and
  - (c) where appropriate, a code compliance certificate was issued for those works.
- (6) Where under the Building Act, any building on the property sold requires a compliance schedule:
  - (a) the vendor has fully complied with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building;
  - (b) the building has a current building warrant of fitness; and
  - (c) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.
- (7) Since the date of this agreement, the vendor has not given any consent or waiver which directly or indirectly affects the property.
- (8) Any notice or demand received by the vendor, which directly or indirectly affects the property, after the date of this agreement:
  - (a) from any local or government authority or other statutory body; or
  - (b) under the Resource Management Act 1991; or
  - (c) from any tenant of the property; or
  - (d) from any other party,
 has been delivered forthwith by the vendor to either the purchaser or the purchaser's lawyer, unless the vendor has paid or complied with such notice or demand. If the vendor fails to so deliver or pay the notice or demand, the vendor shall be liable for any penalty incurred.
- (9) Any chattels included in the sale are the unencumbered property of the vendor.

9.3 If the property is or includes part only of a building, the warranty and undertaking in subclause 9.2(6) does not apply. Instead the vendor warrants and undertakes at the date of this agreement that, where under the Building Act the building of which the property forms part requires a compliance schedule:

- (1) to the vendor's knowledge, there has been full compliance with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building;
- (2) the building has a current building warrant of fitness; and
- (3) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.

9.4 The vendor warrants and undertakes that on or immediately after settlement:

- (1) If the water and wastewater charges are determined by meter, the vendor will have the water meter read and will pay the amount of the charge payable pursuant to that reading; but if the water supplier will not make special readings, the water and wastewater charges shall be apportioned.
- (2) Any outgoings included in the settlement statement are paid in accordance with the settlement statement and, where applicable, to the dates shown in the settlement statement, or will be so paid immediately after settlement.
- (3) The vendor will give notice of sale in accordance with the Local Government (Rating) Act 2002 to the territorial authority and regional council in whose district the land is situated and will also give notice of the sale to every other authority that makes and levies rates or charges on the land and to the supplier of water.
- (4) Where the property is a unit title, the vendor will notify the body corporate in writing of the transfer of the property and the name and address of the purchaser.

9.5 If the purchaser has not validly cancelled this agreement, the breach of any warranty or undertaking contained in this agreement does not defer the obligation to settle but that obligation shall be subject to the rights of the purchaser at law or in equity, including any rights under subclause 8.3 and any right of equitable set-off.

## 10.0 Claims for compensation

10.1 If the purchaser claims a right to compensation either under subclause 8.3 or for an equitable set-off:

- (1) The purchaser must serve notice of the claim on the vendor on or before the last working day prior to settlement; and
- (2) The notice must:
  - (a) in the case of a claim for compensation under subclause 8.3, state the particular error, omission, or misdescription of the property or title in respect of which compensation is claimed;
  - (b) in the case of a claim to an equitable set-off, state the particular matters in respect of which compensation is claimed;
  - (c) comprise a genuine pre-estimate of the loss suffered by the purchaser; and
  - (d) be particularised and quantified to the extent reasonably possible as at the date of the notice.

10.2 For the purposes of subclause 10.1(1), "settlement" means the date for settlement fixed by this agreement unless, by reason of the conduct or omission of the vendor, the purchaser is unable to give notice by that date, in which case notice may be given on or before the last working day prior to the date for settlement fixed by a valid settlement notice served by either party pursuant to subclause 12.1.

10.3 If the amount of compensation is agreed, it shall be deducted on settlement.

10.4 If the amount of compensation is disputed:

- (1) an interim amount shall be deducted on settlement and paid by the purchaser to a stakeholder until the amount of the compensation is determined;
- (2) the interim amount must be a reasonable sum having regard to all of the circumstances;
- (3) if the parties cannot agree on the interim amount, the interim amount shall be determined by an experienced property lawyer appointed by the parties. The appointee's costs shall be met equally by the parties. If the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president for the time being of the New Zealand Law Society;
- (4) the stakeholder shall lodge the interim amount on interest-bearing call deposit with a bank registered under the Reserve Bank of New Zealand Act 1989 in the joint names of the vendor and the purchaser;
- (5) the interest earned on the interim amount net of any withholding tax and any bank or legal administration fees and commission charges shall follow the destination of the interim amount;
- (6) the amount of compensation determined to be payable shall not be limited by the interim amount; and
- (7) if the parties cannot agree on a stakeholder, the interim amount shall be paid to a stakeholder nominated on the application of either party by the president for the time being of the New Zealand Law Society.

10.5 The procedures prescribed in subclauses 10.1 to 10.4 shall not prevent either party taking proceedings for the specific performance of the contract.

## 11.0 Unit title provisions

Unit Titles

11.1 If the property is a unit title, sections 144 to 153 of the Unit Titles Act 2010 ("the Act") require the vendor to provide to the purchaser a pre-contract disclosure statement, a pre-settlement disclosure statement and, if so requested by the purchaser, an additional disclosure statement.

11.2 If the property is a unit title, the vendor warrants and undertakes as follows:

- (1) The information in the pre-contract disclosure statement provided to the purchaser was complete and correct.
- (2) Apart from regular periodic contributions, no contributions have been levied or proposed by the body corporate that have not been disclosed in writing to the purchaser.
- (3) Not less than five working days before the settlement date, the vendor will provide:
  - (a) a certificate of insurance for all insurances effected by the body corporate under the provisions of section 135 of the Act; and
  - (b) a pre-settlement disclosure statement from the vendor, certified correct by the body corporate, under section 147 of the Act. Any periodic contributions to the operating account shown in that pre-settlement disclosure statement shall be apportioned. There shall be no apportionment of contributions to any long-term maintenance fund, contingency fund or capital improvement fund.
- (4) There are no other amounts owing by the owner under any provisions of the Act or the Unit Titles Act 1972.

- (5) There are no unsatisfied judgments against the body corporate and no proceedings have been instituted against or by the body corporate.
  - (6) No order or declaration has been made by any Court against the body corporate or the owner under any provision of the Act or the Unit Titles Act 1972.
  - (7) The vendor has no knowledge or notice of any fact which might give rise to or indicate the possibility of:
    - (a) the owner or the purchaser incurring any other liability under any provision of the Act or the Unit Titles Act 1972; or
    - (b) any proceedings being instituted by or against the body corporate; or
    - (c) any order or declaration being sought against the body corporate or the owner under any provision of the Act or the Unit Titles Act 1972.
  - (8) The vendor is not aware of proposals to pass any body corporate resolution relating to its rules nor are there any unregistered changes to the body corporate rules which have not been disclosed in writing to the purchaser.
  - (9) No lease, licence, easement, or special privilege has been granted by the body corporate in respect of any part of the common property which has not been disclosed in writing to the purchaser.
  - (10) No resolution has been passed and no application has been made and the vendor has no knowledge of any proposal for:
    - (a) the transfer of the whole or any part of the common property;
    - (b) the addition of any land to the common property;
    - (c) the cancellation of the unit plan; or
    - (d) the deposit of an amendment to the unit plan, a redevelopment plan, or a new unit plan in substitution for the existing unit plan,
 which has not been disclosed in writing to the purchaser.
  - (11) As at settlement, all contributions and other moneys payable by the vendor to the body corporate have been paid in full.
- 11.3 If the property is a unit title, in addition to the purchaser's rights under sections 149 and 150 of the Act, and if the vendor does not provide the certificates of insurance and the pre-settlement disclosure statement under section 147 in accordance with the requirements of subclause 11.2(3), the purchaser may:
- (1) postpone the settlement date until the fifth working day following the date on which that information is provided to the purchaser; or
  - (2) elect that settlement shall still take place on the settlement date.
- 11.4 If the property is a unit title, each party specifies that:
- (1) the facsimile number of the office of that party's lawyer shall be an address for service for that party for the purposes of section 205(1)(d) of the Act; and
  - (2) if that party is absent from New Zealand, that party's lawyer shall be that party's agent in New Zealand for the purposes of section 205(2) of the Act.
- 11.5 If the property is a unit title, any costs owing by the purchaser to the vendor pursuant to section 148(5) of the Act for providing an additional disclosure statement shall be included in the moneys payable by the purchaser on settlement pursuant to subclause 5.8(1). Such costs may be deducted from the deposit if the purchaser becomes entitled to a refund of the deposit upon cancellation or avoidance of this agreement.

## 12.0 Notice to complete and remedies on default

- 12.1 (1) If the sale is not settled on the settlement date, either party may at any time thereafter serve on the other party a settlement notice.
- (2) The settlement notice shall be effective only if the party serving it is at the time of service either in all material respects ready, able, and willing to proceed to settle in accordance with this agreement or is not so ready, able, and willing to settle only by reason of the default or omission of the other party.
- (3) If the purchaser is in possession, the vendor's right to cancel this agreement will be subject to sections 28 to 36 of the Property Law Act 2007 and the settlement notice may incorporate or be given with a notice under section 28 of that Act complying with section 29 of that Act.
- 12.2 Subject to subclause 12.1(3) upon service of the settlement notice the party on whom the notice is served shall settle:
- (1) on or before the twelfth working day after the date of service of the notice; or
  - (2) on the first working day after the 13th day of January if the period of twelve working days expires during the period commencing on the 6th day of January and ending on the 13th day of January, both days inclusive,
- time being of the essence, but without prejudice to any intermediate right of cancellation by either party.
- 12.3 (1) If this agreement provides for the payment of the purchase price by instalments and the purchaser fails duly and punctually to pay any instalment on or within one month from the date on which it fell due for payment then, whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up the unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
- (2) The date of service of the notice under this subclause shall be deemed the settlement date for the purposes of subclause 12.1.
- (3) The vendor may give a settlement notice with a notice under this subclause.
- (4) For the purpose of this subclause a deposit is not an instalment.
- 12.4 If the purchaser does not comply with the terms of the settlement notice served by the vendor then, subject to subclause 12.1(3):
- (1) Without prejudice to any other rights or remedies available to the vendor at law or in equity, the vendor may:
    - (a) sue the purchaser for specific performance; or
    - (b) cancel this agreement by notice and pursue either or both of the following remedies namely:
      - (i) forfeit and retain for the vendor's own benefit the deposit paid by the purchaser, but not exceeding in all 10% of the purchase price; and/or
      - (ii) sue the purchaser for damages.
  - (2) Where the vendor is entitled to cancel this agreement, the entry by the vendor into a conditional or unconditional agreement for the resale of the property or any part thereof shall take effect as a cancellation of this agreement by the vendor if this agreement has not previously been cancelled and such resale shall be deemed to have occurred after cancellation.
  - (3) The damages claimable by the vendor under subclause 12.4(1)(b)(ii) shall include all damages claimable at common law or in equity and shall also include (but shall not be limited to) any loss incurred by the vendor on any bona fide resale contracted within one year from the date by which the purchaser should have settled in compliance with the settlement notice. The amount of that loss may include:
    - (a) interest on the unpaid portion of the purchase price at the interest rate for late settlement from the settlement date to the settlement of such resale; and
    - (b) all costs and expenses reasonably incurred in any resale or attempted resale; and
    - (c) all outgoings (other than interest) on or maintenance expenses in respect of the property from the settlement date to the settlement of such resale.
  - (4) Any surplus money arising from a resale as aforesaid shall be retained by the vendor.
- 12.5 If the vendor does not comply with the terms of a settlement notice served by the purchaser, then, without prejudice to any other rights or remedies available to the purchaser at law or in equity the purchaser may:
- (1) sue the vendor for specific performance; or
  - (2) cancel this agreement by notice and require the vendor forthwith to repay to the purchaser any deposit and any other money paid on account of the purchase price and interest on such sum(s) at the interest rate for late settlement from the date or dates of payment by the purchaser until repayment.
- 12.6 The party serving a settlement notice may extend the term of the notice for one or more specifically stated periods of time and thereupon the term of the settlement notice shall be deemed to expire on the last day of the extended period or periods and it shall operate as though this clause stipulated the extended period(s) of notice in lieu of the period otherwise applicable; and time shall be of the essence accordingly. An extension may be given either before or after the expiry of the period of the notice.
- 12.7 Nothing in this clause shall preclude a party from suing for specific performance without giving a settlement notice.
- 12.8 A party who serves a settlement notice under this clause shall not be in breach of an essential term by reason only of that party's failure to be ready and able to settle upon the expiry of that notice.

## 13.0 Non-merger

- 13.1 The obligations and warranties of the parties in this agreement shall not merge with:
- (1) the giving and taking of possession;
  - (2) settlement;
  - (3) the transfer of title to the property;
  - (4) delivery of the chattels (if any); or
  - (5) registration of the transfer of title to the property.

## 14.0 Agent

- 14.1 If the name of a licensed real estate agent is stated on the front page of this agreement, it is acknowledged that the sale evidenced by this agreement has been made through that agent whom the vendor appoints as the vendor's agent to effect the sale. The vendor shall pay the agent's charges including GST for effecting such sale.
- 14.2 The agent may provide statistical data relating to the sale to the Real Estate Institute of New Zealand Incorporated.

**15.0 Goods and Services Tax**

- 15.1 If this agreement provides for the purchaser to pay (in addition to the purchase price stated without GST) any GST which is payable in respect of the supply made under this agreement then:
- (1) the purchaser shall pay to the vendor the GST which is so payable in one sum on the GST date;
  - (2) where the GST date has not been inserted in the Conditions of Sale the GST date shall be the settlement date;
  - (3) where any GST is not so paid to the vendor, the purchaser shall pay to the vendor:
    - (a) interest at the interest rate for late settlement on the amount of GST unpaid from the GST date until payment; and
    - (b) any default GST;
  - (4) it shall not be a defence to a claim against the purchaser for payment to the vendor of any default GST that the vendor has failed to mitigate the vendor's damages by paying an amount of GST when it fell due under the GST Act; and
  - (5) any sum referred to in this clause is included in the moneys payable by the purchaser on settlement pursuant to subclause 5.8(1).
- 15.2 If the supply under this agreement is a taxable supply, the vendor will deliver a tax invoice to the purchaser on or before the GST date or such earlier date as the purchaser is entitled to delivery of an invoice under the GST Act.
- 15.3 The vendor warrants that any dwelling and curtilage or part thereof supplied on sale of the property are not a supply to which section 5(16) of the GST Act applies.
- 15.4
- (1) Without prejudice to the vendor's rights and remedies under subclause 15.1 where any GST is not paid to the vendor on or within one month of the GST date, then whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up any unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
  - (2) The date of service of the notice under this subclause shall be deemed the settlement date for the purposes of subclause 12.1.
  - (3) The vendor may give a settlement notice under subclause 12.1 with a notice under this subclause.

**16.0 Zero-rating**

- 16.1 The vendor warrants that the statement on the front page regarding the vendor's GST registration status in respect of the supply under this agreement is correct at the date of this agreement.
- 16.2 The purchaser warrants that any particulars stated by the purchaser in Schedule 1 are correct at the date of this agreement.
- 16.3 Where the particulars stated on the front page and in Schedule 1 indicate that:
- (1) the vendor is and/or will be at settlement a registered person in respect of the supply under this agreement;
  - (2) the recipient is and/or will be at settlement a registered person;
  - (3) the recipient intends at settlement to use the property for making taxable supplies; and
  - (4) the recipient does not intend at settlement to use the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act,
- GST will be chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act.
- 16.4 If GST is chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act, then on or before settlement the purchaser will provide the vendor with the recipient's name, address, and registration number if any of those details are not included in Schedule 1 or they have altered.
- 16.5 If any of the particulars stated by the purchaser in Schedule 1 should alter between the date of this agreement and settlement, the purchaser shall notify the vendor of the altered particulars and of any other relevant particulars in Schedule 1 which may not have been completed by the purchaser as soon as practicable and in any event no later than two working days before settlement. The purchaser warrants that any altered or added particulars will be correct as at the date of the purchaser's notification. If the GST treatment of the supply under this agreement should be altered as a result of the altered or added particulars, the vendor shall prepare and deliver to the purchaser or the purchaser's lawyer an amended settlement statement if the vendor has already tendered a settlement statement, and a credit note or a debit note, as the case may be, if the vendor has already issued a tax invoice.
- 16.6 If
- (1) the particulars in Schedule 1 state that part of the property is being used as a principal place of residence at the date of this agreement; and
  - (2) that part is still being so used at the time of the supply under this agreement,
- the supply of that part will be a separate supply in accordance with section 5(15)(a) of the GST Act.
- 16.7 If
- (1) the particulars stated in Schedule 1 indicate that the recipient intends to use part of the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act; and
  - (2) that part is the same part as that being used as a principal place of residence at the time of the supply under this agreement,
- then the references in subclauses 16.3 and 16.4 to "the property" shall be deemed to mean the remainder of the property excluding that part and the references to "the supply under this agreement" shall be deemed to mean the supply under this agreement of that remainder.

**17.0 Supply of a Going Concern**

- 17.1 If there is a supply under this agreement to which section 11(1)(mb) of the GST Act does not apply but which comprises the supply of a taxable activity that is a going concern at the time of the supply, then, unless otherwise expressly stated herein:
- (1) each party warrants that it is a registered person or will be so by the date of the supply;
  - (2) each party agrees to provide the other party by the date of the supply with proof of its registration for GST purposes;
  - (3) the parties agree that they intend that the supply is of a taxable activity that is capable of being carried on as a going concern by the purchaser; and
  - (4) the parties agree that the supply made pursuant to this agreement is the supply of a going concern on which GST is chargeable at 0%.
- 17.2 If it subsequently transpires that GST is payable in respect of the supply and if this agreement provides for the purchaser to pay (in addition to the purchase price without GST) any GST which is payable in respect of the supply made under this agreement, then the provisions of clause 15.0 of this agreement shall apply.

**18.0 Limitation of Liability**

- 18.1 If any person enters into this agreement as trustee of a trust, then:
- (1) That person warrants that:
    - (a) the person has power to enter into this agreement under the terms of the trust;
    - (b) the person has properly signed this agreement in accordance with the terms of the trust;
    - (c) the person has the right to be indemnified from the assets of the trust and that right has not been lost or impaired by any action of that person including entry into this agreement; and
    - (d) all of the persons who are trustees of the trust have approved entry into this agreement.
  - (2) If that person has no right to or interest in any assets of the trust except in that person's capacity as a trustee of the trust, that person's liability under this agreement will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount"). If the right of that person to be indemnified from the trust assets has been lost or impaired, that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

**19.0 OIA Consent Not Required**

- 19.1 The purchaser warrants that the purchaser does not require OIA Consent.

**20.0 Counterparts**

- 20.1 This agreement may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same agreement. A party may enter into this agreement by signing a counterpart copy and sending it to the other party, including by facsimile or e-mail.

## FURTHER TERMS OF SALE

### 21.0 Title - Registered Interests

21.1 The purchasers acknowledge they have been advised that any interests noted on the search copy of the title to the property whether by way of covenant, easement, caveat or memorial or otherwise should be referred to a lawyer or an expert trained in law and experienced in property law, for independent advice, prior to bidding on or buying the property.

### 22.0 Legal Advice

22.1 The purchasers acknowledge they have been supplied in advance with copies of this agreement and search copies of title documents and recommended to seek legal advice in respect of any documents supplied and allowed sufficient time to obtain that advice prior to either: i) First signing this contract (if an Agreement for Sale & Purchase of Real Estate) or; ii) Bidding on or accepting bids on the property (if a Sale of Real Estate by Auction Agreement).

### 23.0 Purchaser Acknowledgement & Waiver

23.1 The purchaser acknowledges that either the vendor or the vendor's agent have made them fully aware that the vendor has during their period of ownership carried out works on the property, being the enclosure of a deck to create a conservatory ("the works"); however these works are not shown on the flats plan nor included in the Lease, and may or may not have required a Building Permit or Consent from Council. The purchaser accepts the title on an "as is" basis and will not make any objection or requisition in relation to the Certificate of Title nor require the vendor to rectify or change the plan to include the aforementioned works, nor will the vendor be under any obligation to the purchaser whatsoever to achieve compliance with the Building Code or the Building Act or procure a Certificate of Acceptance for such works, nor will the vendor be liable for any expense, loss or liability suffered by the purchaser in relation to non-compliance. The purchaser further acknowledges, that the provisions of Clause 9.2(5) are expressly subject to this additional Clause 23.1







### MEMORANDUM OF CONTRACT

**Date of Memorandum:**

At the auction of the property, or prior to, or subsequent to, the auction (*delete as applicable*),

**PURCHASER'S NAME:**

and/or nominee ("the purchaser")

became the purchaser of the property by being the highest bidder, or by agreeing with the vendor to purchase the property.

The vendor agrees to sell and the purchaser agrees to purchase the property and the chattels included in the sale for the purchase price stated below in accordance with these Particulars and Conditions of Sale, General Terms of Sale and Further Terms of Sale (if any).

Purchase price: \$ **Plus-GST** (if any) OR **inclusive of GST** (if any).

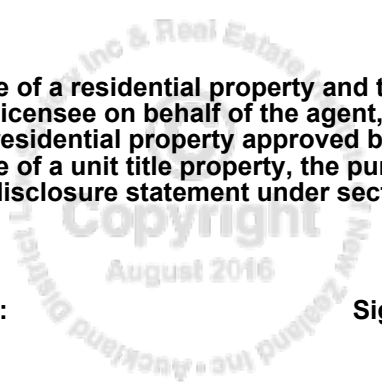
If neither is deleted the purchase price includes GST (if any).

Deposit: **\$10% of purchase price payable to the Megan Jaffe Real Estate Ltd Trust Account**

**Acknowledgements**

Where this agreement relates to the sale of a residential property and this agreement was provided to the parties by a licensed real estate agent, or by a licensee on behalf of the agent, the parties acknowledge that they have been given the guide about the sale of residential property approved by the Real Estate Agents Authority.

Where this agreement relates to the sale of a unit title property, the purchaser acknowledges that the purchaser has been provided with a pre-contract disclosure statement under section 146 of the Unit Titles Act 2010.



**Signature of purchaser(s) or auctioneer:**

**Signature of vendor(s) or auctioneer:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
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## BEFORE BIDDING AT THE AUCTION

If you are the successful bidder or you sign this agreement before or after the auction this sale will be legally binding on you.

If you are the successful bidder, the auctioneer may sign the Memorandum of Contract on your behalf if you should fail or refuse to do so.

- It is recommended you seek professional advice before bidding or, if you sign this agreement before or after the auction, before signing. This is especially so if:
  - there are any doubts.
  - property such as a hotel or a farm is being sold. The agreement is designed primarily for the sale of residential and commercial property.
  - the property is vacant land in the process of being subdivided or there is a new unit title or cross lease to be issued.
  - there is any doubt as to the position of the boundaries.
  - you wish to check the weathertightness and soundness of construction of any dwellings or other buildings on the land.
- You should investigate the status of the property under the Council's District Plan. The property and those around it are affected by zoning and other planning provisions regulating their use and future development.
- You should investigate whether necessary permits, consents and code compliance certificates have been obtained from the Council where building works have been carried out. This investigation can be assisted by obtaining a Land Information Memorandum(LIM) from the Council.
- You should check the title to the property because there is no right of objection or requisition.
- You should compare the title plans against the physical location of existing structures where the property is a unit title or cross lease. Structures or alterations to structures not shown on the plans may result in the title being defective.
- In the case of a unit title, before you enter into the agreement:
  - the vendor must provide you with a pre-contract disclosure statement under section 146 of the Unit Titles Act 2010;
  - you should check the minutes of the past meetings of the body corporate, enquire whether there are any issues affecting the units and/or the common property, check the body corporate's long term maintenance plan and enquire whether the body corporate has imposed or proposed levies for a long term maintenance fund or any other fund for the maintenance of, or remedial or other work to, the common property.
- Both parties should ensure the chattels list on the front page is accurate.
- You should ensure that you understand the GST position, and whether or not GST is payable in addition to the price at which you are bidding.
- Both parties should seek professional advice regarding the GST treatment of the transaction. This depends upon the GST information supplied by the parties and could change before settlement if that information changes.
- You should read the Conduct of Auction in clause 2

**THE ABOVE NOTES ARE NOT PART OF THIS AGREEMENT AND ARE NOT A COMPLETE LIST OF MATTERS WHICH ARE IMPORTANT IN CONSIDERING THE LEGAL CONSEQUENCES OF ENTERING A BID AT THE AUCTION**

**PROFESSIONAL ADVICE SHOULD BE SOUGHT REGARDING THE EFFECT AND CONSEQUENCES OF BECOMING THE SUCCESSFUL BIDDER AT THE AUCTION.**

## PARTICULARS AND CONDITIONS OF SALE OF REAL ESTATE BY AUCTION

© This form is copyright to the Real Estate Institute of New Zealand Incorporated and Auckland District Law Society Incorporated

### DATE:

#### Address Of Property:

3/7 Grand View Road, Remuera, Auckland

#### VENDOR:

Kenneth Kingsley Comins, Earlene Roberta Comins and Tanner Fitzgerald Trustees (2005) Limited as trustees of The K K & E R Comins Family Trust  
Contact Details:

#### VENDOR'S LAWYERS:

Firm: Tanner Fitzgerald

Individual Acting: John Campion

Contact Details: PO Box 95 Waikato Mail Centre Hamilton 3240

Phone: 07 839 4983

Fax: 07 839 4927

Email: johnc@tfglaw.co.nz

#### PURCHASER:

Contact Details:

#### PURCHASER'S LAWYERS:

Firm:

Individual Acting:

Contact Details:

#### Auctioneer: Wayne Maguire

Licensed Real Estate Agent Listing Property:  
Megan Jaffe Real Estate Limited - (REAA 2008)  
a Member of Ray White Real Estate

Manager: Megan Jaffe

Salesperson: Richard Lyne (021 687 000)

Contact Details: 369 Remuera Road Remuera  
AUCKLAND  
1050

Phone: 09 520 9100

Fax: 09 520 9101

Email: remuera.nz@raywhite.com

**Licensed REAA 2008 MREINZ**

# New Zealand Residential Property Sale and Purchase Agreement Guide

This guide has been prepared and approved by the Real Estate Agents Authority



## Important things to know:

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1. A sale and purchase agreement is a **legally binding** contract.

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2. The real estate agent is **working for the seller** of the property, but must treat the buyer fairly.

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3. You need to understand the difference between a **conditional** and an **unconditional** agreement.

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4. You can **negotiate** the conditions you require in a sale and purchase agreement.

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5. Make sure you **read** and **understand** the sale and purchase agreement before signing it.

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6. It is recommended that you get your **lawyer to check** the sale and purchase agreement before you sign it.

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# Introduction

Buying or selling a home is one of the biggest financial commitments you will ever make. There are several relatively complicated stages to negotiate and there are a number of things to look out for.

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When you are buying or selling residential property you should always have a written sale and purchase agreement. This is the legal document that forms the contract between the buyer and the seller.

This guide provides information about sale and purchase agreements, tells you where you can get more information, what to expect from a real estate agent<sup>1</sup> and what to do if there is a problem.

**This guide only relates to the sale of residential property.**

This guide is just that – guidance. You should not rely on it for legal advice. It’s been prepared by the Real Estate Agents Authority (REAA), a Crown entity established by the Real Estate Agents Act 2008.

**This is a guide to the sale and purchase agreement that you will be asked to sign if you wish to buy or sell residential property.**



<sup>1</sup> Real estate agent or agent are general terms that refer to an agent, branch manager or salesperson.

Whether you are a buyer or a seller, the agent must provide you with a copy of this guide before you sign a sale and purchase agreement, and ask you for written acknowledgement that you have received it. If you require more information, you can consult your lawyer. Information is also available on the REAA's website:

**[www.reaa.govt.nz](http://www.reaa.govt.nz)**



## Why do I need a sale and purchase agreement?

A sale and purchase agreement provides certainty to both the buyer and the seller as it sets out in writing all the agreed terms and conditions. It is a legally binding contract.

## Can I negotiate?

The seller and buyer can negotiate, through the agent, on price and conditions until they both reach agreement.

### **Important things to know:**

- ✓ You should have a written sale and purchase agreement.
- ✓ Always read the sale and purchase agreement before signing it.
- ✓ Have your lawyer check the sale and purchase agreement before you sign it.
- ✓ Both the buyer and seller can negotiate changes to the price and conditions.
- ✓ A sale and purchase agreement is a legally binding contract.



# The sale and purchase agreement

Your agent will probably use the Auckland District Law Society and Real Estate Institute of New Zealand form (the ADLS form).

Your sale and purchase agreement should include the following:

- ✓ The name(s) of the seller(s) and buyer(s).
- ✓ The address of the property.
- ✓ The type of title (freehold, leasehold etc.).
- ✓ The chattels that are to be sold with the property (e.g. whiteware, drapes, television aerial etc.).
- ✓ The price.
- ✓ The rate of interest that the buyer must pay on any overdue payments.
- ✓ Any deposit that the buyer must pay.
- ✓ Any conditions the buyer wants fulfilled before the contract is agreed.
- ✓ The date on which the agreement will become unconditional if there are conditions.
- ✓ The settlement date (the date the buyer pays the remainder of the amount for the property, usually the day when the buyer can move into the property).



### Conditions in the document

The buyer will usually want to have some or all of the following conditions fulfilled before the contract is agreed:

- ✓ **Title search** – this is done by the buyer's lawyer to check who the legal owner of the property is and to see if anyone else has any claim over the property.
- ✓ **Finance** – this refers to the buyer arranging payment, normally a loan, by a specified date.
- ✓ **Valuation report** – normally required by a lender, this report is an estimate of the property's worth on the current market.
- ✓ **Land Information Memorandum (LIM) report** – provided by the local council, this report provides information on things such as rates, building permits and consents, drainage and planning.
- ✓ **Building inspection report** – these help determine how sound the building is and what might need to be repaired.
- ✓ **Engineer's report** – similar to the above but more focused on the section and structure of the property.
- ✓ **Sale of another home** – the buyer may need to sell their home in order to buy another.

### General or standard clauses

A sale and purchase agreement also includes clauses that set out general obligations and conditions. It helps to understand what these mean as you will need to comply with them. Examples may include:

- **Access rights** – what access the buyer can have to inspect the property before settlement.
- **Default by buyer** – the buyer may have to compensate the seller e.g. interest payments.
- **Default by the seller** – the seller may have to compensate the buyer e.g. accommodation costs.
- **Insurance** – makes sure the property remains insured until the settlement date and outlining what will happen if any damage does occur.

Your lawyer will explain these clauses.

# When does the buyer pay the deposit and the full amount?

When the seller and buyer have agreed on all aspects of the sale and purchase agreement, any deposit is usually paid to the real estate agent by the buyer. This money is initially held in the agent's trust account.

The agent usually takes their commission from the deposit when the contract becomes unconditional. This is agreed between the seller and the agent as set out in the agency agreement<sup>2</sup>. The seller should make sure that the deposit is large enough to cover the agent's commission.

The buyer pays the remainder of the amount for the property on the day of settlement, usually through their lawyer. The settlement day is usually the date when the buyer can move into the property.

Before the sale and purchase agreement becomes unconditional and if the sale doesn't go ahead because some of the conditions haven't been met, the buyer may be entitled to have the deposit refunded in full.

However, once the offer becomes unconditional you won't be able to get your deposit back if you change your mind for any reason.

## What is the difference between a conditional and an unconditional agreement?

- ✓ **Conditional** refers to the sale and purchase agreement having a set of conditions that are to be met, such as the buyer's current house being sold, a building inspection being carried out, or finance being secured.
- ✓ **Unconditional** refers to when all conditions in the sale and purchase agreement have been met and the transaction is ready to proceed to a change of ownership.

<sup>2</sup> Refer to the Real Estate Agents Authority's *New Zealand Residential Property Agency Agreement Guide*.

## Can I cancel the agreement if I change my mind?

You cannot cancel a sale and purchase agreement just because you have had second thoughts about buying or selling the property concerned.

In general, once you have signed a sale and purchase agreement and the conditions set out in it have been met, you will have to go ahead with the sale/purchase of the property.

## What can I expect from an agent?

The agent works for and is paid by the seller. The agent must therefore carry out the seller's instructions (as set out in the agency agreement) and act in the interests of the seller.

Agents also have clear responsibilities to buyers even though they are representing the seller.

When you are buying a property, ask the agent questions. Be specific about what you want to know.

**All agents are bound by the Code of Professional Conduct and Client Care, issued by the REAA. Under the Code, agents have to deal fairly and honestly with all parties.**





A copy of the Code of Professional Conduct and Client Care is available from [www.reaa.govt.nz](http://www.reaa.govt.nz) or by calling **0800 for REAA** (0800 367 7322).

## What if my agent or someone related to them wants to buy the property?

If your agent, or anyone related to them, wants to buy your property, they must get your written consent to do this.



More information on this situation can be found in the Conflict of Interest Information Sheet, available from [www.reaa.govt.nz](http://www.reaa.govt.nz) or by calling **0800 for REAA** (0800 367 7322).



It is important to consult your lawyer throughout the buying and selling process.

## Who pays the agent?

Real estate agents in New Zealand work on behalf of sellers and it is the sellers who pay the agents. An agent who is marketing a property on behalf of a seller cannot ask a buyer to pay for their services.



**The agent is acting for the seller and does not have the same duty to a buyer as they do to the seller.**

## What is a buyers' agent?

Buyers' agents are common in some other countries. They are agents who are employed by buyers to locate properties and sometimes to negotiate purchases on the buyer's behalf. If you employ a buyers' agent you should still have a written agency agreement and will have to pay for their services.



More information on buyers' agents can be found in the Buyers' Agent Information Sheet, available from [www.reaa.govt.nz](http://www.reaa.govt.nz) or by calling **0800 for REAA** (0800 367 7322).

## What if there's a problem?

If you are concerned about the behaviour of an agent, you should discuss any concerns you have with the agent or their manager. Agents are required to have in-house complaints resolution procedures.

If this does not work or if you do not wish to go through this process, you can contact the REAA.

The REAA has a number of ways it can help with your concerns. This includes sending the agent a compliance advice letter, arranging alternative dispute resolution or processing the matter as a complaint. When you contact the REAA they will help you identify the best way of dealing with your concern.



More information on how the REAA can help you can be found at [www.reaa.govt.nz](http://www.reaa.govt.nz) or by calling **0800 for REAA** (0800 367 7322).

## You can get more information from...


There are several places you can go for help and advice including:

- ✓ The Real Estate Agents Authority (REAA) at [www.reaa.govt.nz](http://www.reaa.govt.nz) or call **0800 for REAA** (0800 367 7322).  
The REAA can provide information and assistance on a wide range of issues and is responsible for dealing with concerns about real estate agents.
- ✓ Your lawyer.
- ✓ Community Law Centres [www.communitylaw.org.nz](http://www.communitylaw.org.nz).
- ✓ Citizens Advice Bureau [www.cab.org.nz](http://www.cab.org.nz).
- ✓ Ministry of Consumer Affairs [www.consumeraffairs.govt.nz](http://www.consumeraffairs.govt.nz).
- ✓ NZ Law Society Property Section [www.propertylawyers.org.nz](http://www.propertylawyers.org.nz).
- ✓ Consumer Build [www.consumerbuild.org.nz](http://www.consumerbuild.org.nz).

# Real Estate Agents Authority

The Real Estate Agents Authority (REAA) was established by the New Zealand government to ensure high professional standards in the real estate industry and to promote increased protection for people who are buying or selling property.



 [www.reaa.govt.nz](http://www.reaa.govt.nz)

 [info@reaa.govt.nz](mailto:info@reaa.govt.nz)

 [@reaanz](https://twitter.com/reaanz)

 0800 for REAA (0800 367 7322) or (04) 471 8930



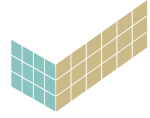
Scan to find out more about buying  
and selling property.

To the best of the Real Estate Agents Authority's knowledge, the information in this guide is accurate at the date shown below. However, the requirements on which this information is based can change at any time and the most up-to-date information is available at [www.reaa.govt.nz](http://www.reaa.govt.nz) [Version 1.2 12 February 2014].

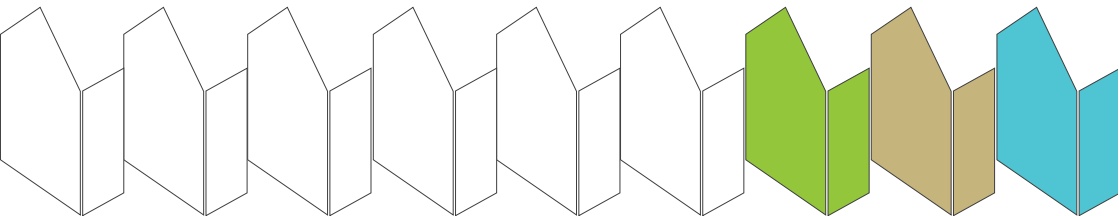




Real Estate  
Agents Authority



# Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012





## 1 Title

These rules are the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012.

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## 2 Commencement

These rules come into force on 8 April 2013.

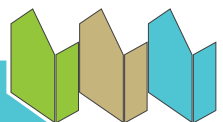
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## 3 Scope and objectives

- 3.1** These practice rules setting out a code of professional conduct and client care have been prepared by the Real Estate Agents Authority (the **Authority**). They constitute the Professional Conduct and Client Care Rules required by section 14 of the Real Estate Agents Act 2008.
- 3.2** These practice rules set out the standard of conduct and client care that agents, branch managers, and salespersons (collectively referred to as **licensees**) are required to meet when carrying out real estate agency work and dealing with clients.
- 3.3** These practice rules are not an exhaustive statement of the conduct expected of licensees. They set minimum standards that licensees must observe and are a reference point for discipline. A charge of misconduct or unsatisfactory conduct may be brought and dealt with despite the charge not being based on a breach of any specific rule.
- 3.4** These practice rules must be read in conjunction with the Act and regulations, and do not repeat duties and obligations that are included in the Act or regulations.
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## 4 Interpretation

- 4.1** In these rules,—
- **Act** means the Real Estate Agents Act 2008.
  - **customer** means a person who is a party or potential party to a transaction and excludes a prospective client and a client.
  - **prospective client** means a person who is considering or intending to enter into an agency agreement with an agent to carry out real estate agency work.
  - **regulations** means regulations made pursuant to the Act.



- 4.2** Unless the context otherwise requires, terms used in these rules have the same meaning as in the Act.
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## 5 Standards of professional competence

- 5.1** A licensee must exercise skill, care, competence, and diligence at all times when carrying out real estate agency work.
- 5.2** A licensee must have a sound knowledge of the Act, regulations, rules issued by the Authority (including these rules), and other legislation relevant to real estate agency work.
- 

## 6 Standards of professional conduct

- 6.1** A licensee must comply with fiduciary obligations to the licensee's client.
- 6.2** A licensee must act in good faith and deal fairly with all parties engaged in a transaction.
- 6.3** A licensee must not engage in any conduct likely to bring the industry into disrepute.
- 6.4** A licensee must not mislead a customer or client, nor provide false information, nor withhold information that should by law or in fairness be provided to a customer or client.
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## 7 Duty to report misconduct or unsatisfactory conduct

- 7.1** A licensee who has reasonable grounds to suspect that another licensee has been guilty of unsatisfactory conduct<sup>1</sup> may make a report to the Authority.
- 7.2** A licensee who has reasonable grounds to suspect that another licensee has been guilty of misconduct<sup>2</sup> must make a report to the Authority.
- 7.3** A licensee must not use, or threaten to use, the complaints or disciplinary process for an improper purpose.

<sup>1</sup> Unsatisfactory conduct is defined in the Act: see section 72.

<sup>2</sup> Misconduct is defined in the Act: see section 73.

- 7.4** If a licensee learns that a person is committing an offence by undertaking real estate agency work without a licence, the licensee must immediately report the matter to the Authority.
- 

## 8 Duties and obligations of agents

### *Promoting awareness of rules*

- 8.1** An agent who is operating as a business must display these rules prominently in the public area of each office or branch, and provide access to them on every website maintained by the agent for the purposes of the business.
- 8.2** A licensee must make these rules available to any person on request.

### *Supervision and management of salespersons*

- 8.3** An agent who is operating as a business must ensure that all salespersons employed or engaged by the agent are properly supervised and managed.<sup>3</sup>

### *Ensuring knowledge of regulatory framework and promoting continuing education*

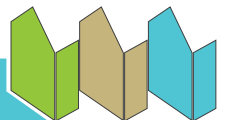
- 8.4** An agent who is operating as a business must ensure that all licensees employed or engaged by the agent have a sound knowledge of the Act, regulations, rules issued by the Authority (including these rules), and other legislation relevant to real estate agency work.
- 8.5** An agent who is operating as a business must ensure that licensees employed or engaged by the agent are aware of and have the opportunity to undertake any continuing education required by the Authority.
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## 9 Client and customer care

### *General*

- 9.1** A licensee must act in the best interests of a client and act in accordance with the client's instructions unless to do so would be contrary to law.
- 9.2** A licensee must not engage in any conduct that would put a prospective client, client, or customer under undue or unfair pressure.

<sup>3</sup>The Act defines what is meant by a salesperson being properly supervised and managed by an agent or a branch manager for the purposes of section 50 of the Act: see section 50(2).



- 9.3** A licensee must communicate regularly and in a timely manner and keep the client well informed of matters relevant to the client's interest, unless otherwise instructed by the client.
- 9.4** A licensee must not mislead customers as to the price expectations of the client.
- 9.5** A licensee must take due care to—
- (a) ensure the security of land and every business in respect of which the licensee is carrying out real estate agency work; and
  - (b) avoid risks of damage that may arise from customers, or clients that are not the owner of the land or business, accessing the land or business.
- 9.6** Unless authorised by a client, through an agency agreement, a licensee must not offer or market any land or business, including by putting details on any website or by placing a sign on the property.

#### *Agency agreements and contractual documents*

- 9.7** Before a prospective client, client, or customer signs an agency agreement, a sale and purchase agreement, or other contractual document, a licensee must—
- (a) recommend that the person seek legal advice; and
  - (b) ensure that the person is aware that he or she can, and may need to, seek technical or other advice and information; and
  - (c) allow that person a reasonable opportunity to obtain the advice referred to in paragraphs (a) and (b).
- 9.8** A licensee must not take advantage of a prospective client's, client's, or customer's inability to understand relevant documents where such inability is reasonably apparent.
- 9.9** A licensee must not submit an agency agreement or a sale and purchase agreement or other contractual document to any person for signature unless all material particulars have been inserted into or attached to the document.
- 9.10** A licensee must explain to a prospective client that if he or she enters into or has already entered into other agency agreements, he or she could be liable to pay full commission to more than 1 agent in the event that a transaction is concluded.

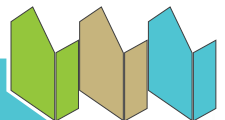
- 9.11** On notice of cancellation of an agency agreement being given or received by the agent under the agreement, the agent must advise the client, in writing, of the name of each customer (if any) in respect of whom the agent would claim a commission, were the customer to conclude a transaction with the client.
- 9.12** An agent must not impose conditions on a client through an agency agreement that are not reasonably necessary to protect the interests of the agent.
- 9.13** When authorised by a client to incur expenses, a licensee must seek to obtain the best value for the client.

### *Conflicts of interest*

- 9.14** A licensee must not act in a capacity that would attract more than 1 commission in the same transaction.
- 9.15** A licensee must not engage in business or professional activity other than real estate agency work where the business or activity would, or could reasonably be expected to, compromise the discharge of the licensee's obligations.

### *Confidentiality*

- 9.16** A licensee must not use information that is confidential to a client for the benefit of any other person or of the licensee.
- 9.17** A licensee must not disclose confidential personal information relating to a client unless—
- (a) the client consents in writing; or
  - (b) disclosure is necessary to answer or defend any complaint, claim, allegation, or proceedings against the licensee by the client; or
  - (c) the licensee is required by law to disclose the information; or
  - (d) the disclosure is consistent with the information privacy principles in section 6 of the Privacy Act 1993.
- 9.18** Where a licensee discloses information under rule 9.17(b), (c) or (d), it may be only to the appropriate person or entity and only to the extent necessary for the permitted purpose.



## 10 Client and customer care for sellers' agents

**10.1** This rule applies to an agent (and any licensee employed or engaged by the agent) who is entering, or has entered, into an agency agreement with a client for the grant, sale, or other disposal of land or a business.

### *Appraisals and pricing*

**10.2** An appraisal of land or a business must—

- (a) be provided in writing to a client by a licensee; and
- (b) realistically reflect current market conditions; and
- (c) be supported by comparable information on sales of similar land in similar locations or businesses.

**10.3** Where no directly comparable or semi-comparable sales data exists, a licensee must explain this, in writing, to a client.

**10.4** An advertised price must clearly reflect the pricing expectations agreed with the client.

### *Relationship between prospective client's choices about how to sell and licensee's benefits*

**10.5** Before a prospective client signs an agency agreement, the licensee must explain to the prospective client how choices that the prospective client may make about how to sell or otherwise dispose of his or her land or business could impact on the individual benefits that the licensee may receive.

### *Agency agreements*

**10.6** Before a prospective client signs an agency agreement, a licensee must explain to the prospective client and set out in writing—

- (a) the conditions under which commission must be paid and how commission is calculated, including an estimated cost (actual \$ amount) of commission payable by the client, based on the appraisal provided under rule 10.2;
- (b) when the agency agreement ends;
- (c) how the land or business will be marketed and advertised, including any additional expenses that such advertising and marketing will incur;
- (d) that the client is not obliged to agree to the additional expenses referred to in rule 10.6(c);
- (e) that further information on agency agreements and contractual documents is available from the Authority and how to access this information.



### *Disclosure of defects*

- 10.7** A licensee is not required to discover hidden or underlying defects in land but must disclose known defects to a customer. Where it would appear likely to a reasonably competent licensee that land may be subject to hidden or underlying defects<sup>4</sup>, a licensee must either—
- (a) obtain confirmation from the client, supported by evidence or expert advice, that the land in question is not subject to defect; or
  - (b) ensure that a customer is informed of any significant potential risk so that the customer can seek expert advice if the customer so chooses.
- 10.8** A licensee must not continue to act for a client who directs that information of the type referred to in rule 10.7 be withheld.

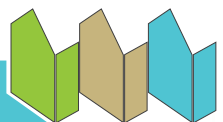
### *Advertising and marketing*

- 10.9** A licensee must not advertise any land or business on terms that are different from those authorised by the client.

### *Contractual documentation and record keeping*

- 10.10** A licensee must submit to the client all offers concerning the grant, sale, or other disposal of any land or business, provided that such offers are in writing.
- 10.11** If a licensee is employed or engaged by an agent, the licensee must provide the agent with a copy of every written offer that the licensee submits.
- 10.12** An agent must retain, for a period of 12 months, a copy of every written offer submitted. This rule applies regardless of whether the offer was submitted by the agent or by a licensee employed or engaged by the agent and regardless of whether the offer resulted in a transaction.

<sup>4</sup> For example, houses built within a particular period of time, and of particular materials, are or may be at risk of weathertightness problems. A licensee could reasonably be expected to know of this risk (whether or not a seller directly discloses any weathertightness problems). While a customer is expected to inquire into risks regarding a property and to undertake the necessary inspections and seek advice, the licensee must not simply rely on caveat emptor. This example is provided by way of guidance only and does not limit the range of issues to be taken into account under rule 10.7.



## 11 Client and customer care for buyers' agents

- 11.1** This rule applies where an agency agreement authorising an agent to undertake real estate agency work for a client in respect of the purchase or other acquisition of land or a business on the client's behalf (a **buyer's agency agreement**) is being entered into, or has been entered into.
- 11.2** Before a prospective client signs a buyer's agency agreement, a licensee must explain to the prospective client and set out in writing—
- (a) the conditions under which commission must be paid and how commission is calculated, including an estimated cost (actual \$ amount) of commission payable by the client, based on the average of the estimated price range of the land or business that the client is seeking to purchase;
  - (b) when the agency agreement ends;
  - (c) any additional services that the licensee will provide, or arrange for the provision of, on the client's behalf and the expenses relating to those services payable by the client;
  - (d) that the client is not obliged to agree to the additional expenses referred to in rule 11.2(c);
  - (e) that further information on agency agreements and contractual documents is available from the Authority and how to access this information.
- 11.3** A licensee must not undertake real estate agency work with customers, or other licensees, on terms that are different from those that are authorised by the client on whose behalf the licensee is carrying out real estate agency work.
- 11.4** A licensee must submit all offers that the licensee is instructed by the client to make concerning the purchase or acquisition of any land or business, provided that such offers are in writing.
- 11.5** If a licensee is employed or engaged by an agent, the licensee must provide the agent with a copy of every written offer that the licensee submits.
- 11.6** An agent must retain, for a period of 12 months, a copy of every written offer submitted. This rule applies regardless of whether the offer was submitted by the agent or by a licensee employed or engaged by the agent and regardless of whether the offer resulted in a transaction.

## 12 Information about complaints

- 12.1** An agent must develop and maintain written in-house procedures for dealing with complaints and dispute resolution. A copy of these procedures must be available to clients and consumers.
- 12.2** A licensee must ensure that prospective clients and customers are aware of these procedures before they enter into any contractual agreements.
- 12.3** A licensee must also ensure that prospective clients, clients, and customers are aware that they may access the Authority's complaints process without first using the in-house procedures; and that any use of the in-house procedures does not preclude their making a complaint to the Authority.
- 12.4** A licensee employed or engaged by an agent must advise the agent within 10 working days of becoming aware of—
- (a) any complaint made to the Authority against them, the decision of the Complaints Assessment Committee made in respect of that complaint, and any order made by the Committee in respect of that complaint; and
  - (b) if the matter proceeds to the Tribunal, the decision of the Tribunal in respect of the matter, and any order made by the Tribunal in respect of the matter.
- 12.5** If a licensee was employed or engaged by a different agent at the time of the conduct relevant to the complaint referred to in rule 12.4, the licensee must also provide the information referred to in rule 12.4(a) and (b) to that agent within 10 working days of becoming aware of the complaint.

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## 13 Revocation

The Real Estate Agents Act (Professional Conduct and Client Care) Rules 2009 (SR 2009/304) are revoked.

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These rules are administered by the Real Estate Agents Authority.





# Real Estate Agents Authority

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To the best of the Real Estate Agents Authority's knowledge, the information in this guide is accurate at the date shown below. However, the requirements on which this information is based can change at any time and the most up-to-date information is available at [www.reaa.govt.nz](http://www.reaa.govt.nz) [Version 1.0, 13 December 2012].

