

inbrief

GLAISTER ENNOR BODY CORPORATE UPDATE

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TRUE VALUE OF REPAIRS

Reinstatement schemes under section 74 of the Unit Titles Act 2010 (**UTA**) are commonly used to facilitate the comprehensive repair of unit title developments that are either leaky (defective) or in need of substantial repair following a prolonged period of deferred maintenance. Reinstatement schemes are a valuable tool in enabling building work to all parts of a building to be carried out at the same time to the same standard under a single contract – despite the division of repair and maintenance responsibilities in the UTA (see sections 80 and 138). A decision of the High Court in late 2017 usefully sets out the reasons why reinstating a building is of value to all owners (see *Body Corporate 328392 v Kim* [2017] NZHC 3113 at paragraph [10]):

“Importantly, the scheme includes within the scope of authorised work any repairs that are found to be necessary once the remedial work begins. It is very common once repairs begin for damage to a complex to be more significant than is originally contemplated. In addition, the scheme recognises the importance of achieving code compliance for the complex. It expressly authorises the body corporate to incur costs that are necessary to meet code compliance, engineering and other building regulation standards. The importance of this provision flows from the fact that it is necessary for the remedial work to achieve code compliance if value is to be restored to the complex. It is not uncommon for the repair process to reveal that existing insulation, electrical or drainage facilities do not meet current code compliance standards. As a result, the body corporate requires the power to rectify these issues so that the remediated complex can achieve code compliance.”

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MATTERS ADVISED ON

We have recently advised bodies corporate, unit owners, and body corporate managers on the following matters:

- granting licences over common property;
- non-payment of ground rent;
- controlling and managing the use of common property;
- termination of building management agreements;
- unit title disputes; and
- unpaid levies.

CONTACT US

For specialist legal advice and assistance, please contact Vicki or Paul.



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