

PRESENTER



Joanna Pidgeon, Partner, Pidgeon Law, Auckland

Joanna is a property specialist with a particular interest in leasing, unit titles and property development. She appears as an expert witness in property litigation cases.

CONTENTS

1. INTRODUCTION	1
BACKGROUND	1
PROBLEMS WITH CROSS LEASES	2
<i>Insurance</i>	3
<i>Alterations and Additions</i>	4
<i>Restrictive Covenant Areas</i>	4
<i>Ability to Rebuild</i>	5
<i>Cross Leases are a Clog on the Ability to Redevelop</i>	5
<i>Lack of Understanding</i>	5
WHEN DEALING WITH PROBLEMS THIS CAN BE AN OPPORTUNITY	5
2. LAW COMMISSION'S RECOMMENDATIONS	7
3. ADVANTAGES OF CONVERTING CROSS LEASES TO FREEHOLD OR UNIT TITLE... 11	
AUTONOMY	11
CONTRACTUAL TERMS	11
DEFEAT OF A LESSEE'S SHARE IN THE ESTATE	11
DISPUTES	11
VALUE	12
4. BENEFITS OF RETENTION OF CROSS LEASE TITLES..... 13	
5. THE DECISION TO CONVERT	15
6. WHEN FREEHOLD OR UNIT TITLE IS THE BEST OPTION..... 17	
UNIT TITLE DEVELOPMENTS.....	17
FEE SIMPLE DEVELOPMENT	18
<i>Planning</i>	18
<i>Services</i>	18
<i>Contributions</i>	19
7. CONVERTING TO FREEHOLD WITH AGREEMENT	21
8. CONVERTING TO FREEHOLD WITH OBJECTING NEIGHBOURS – PARTITION UNDER THE PROPERTY LAW ACT 2007..... 23	
LEGISLATION	23
CASES	24
<i>MACKENZIE V SMYTHE</i>	24
<i>NICHOLSON V DUNICK</i>	26
<i>ROZEE V ZHANG</i>	28
SUMMARY.....	28
9. CONVERTING TO UNIT TITLE..... 31	
10. CONVERTING COMPANY LEASE OR LICENCE SCHEMES	35
11. CONCLUSION..... 39	
12. BIBLIOGRAPHY	41
13. LEGISLATION APPENDIX	43
PROPERTY LAW ACT 2007.....	43
UNIT TITLES ACT 2010.....	44
UNIT TITLES REGULATIONS 2011	49