WAKEFIELDS
LAWYERS

FINANCIAL & LEGAL WORKSHOP

ABOUT YOUR PRESENTER

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I am the founder of Wakefields Lawyers and have over 30 years' experience delivering a broad range of legal advice to both corporate and private clients.

My particular areas of expertise include property law, where I have acted for property developers and investors, as well as trusts and succession planning, regularly advising private clients on complex trust matters.

I take pride in viewing problems through a client's lens and delivering simple, practical solutions that meet their needs and expectations. I'm also passionate about innovation and using technology to enhance the client experience. Equally important to me is fostering confident, well-rounded lawyers who work collaboratively with their clients and strive for excellence in everything they do.

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THE TRADITIONAL OPTIONS

- FREEHOLD SUBDIVISIONS
- MULTI-DWELLING TITLE STRUCTURES – ie. Cross Lease & Unit Title Developments

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FREEHOLD SUBDIVISIONS

- YOU NEED RESOURCE CONSENT FROM KCDC
- YOU WILL NEED TO SET UP SERVICES (WATER, GAS ETC.) TO EACH HOUSE ON SEPARATE CONNECTIONS
- IF THE BUILD IS OVER 70 SQM, YOU MAY ALSO NEED BUILDING CONSENT
- YOU NEED A MINIMUM AMOUNT OF LAND FOR EACH FREEHOLD SITE (DEPENDING ON THE AREA, AT LEAST 450 SQM EACH)

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FREEHOLD SUBDIVISION PROS

- MOST COMMON & STRAIGHT-FORWARD TYPE OF LAND OWNERSHIP – CLEAR SEPARATE TITLE
- ABSOLUTE OWNERSHIP & CONTROL
- SIMPLIFIED ALTERATIONS & DEVELOPMENT
- LOWER RISK OF DEFECTIVE TITLES
- HIGHER PROPERTY VALUE & MARKETABILITY
- SIMPLER GOVERNANCE & TITLE STRUCTURE
- SIMPLICITY & CERTAINTY
- BETTER MORTGAGE LENDING SECURITY

FREEHOLD SUBDIVISION CONS

- GREATER KCDC SCRUTINY & UPGRADE REQUIREMENTS
- HIGHER UPFRONT & DEVELOPMENT COSTS
- TIME CONSUMING
- FULL BURDEN OF COSTS & MAINTENANCE
- LACK OF COMMUNITY RULES & CONTROL

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CROSS LEASE TITLES

- ANOTHER TYPE OF SUBDIVISION
- YOU NEED RESOURCE CONSENT FROM KCDC
- IF THE BUILD IS OVER 70 SQM, YOU MAY ALSO NEED BUILDING CONSENT
- STILL NEED A MINIMUM AMOUNT OF LAND FOR EACH CROSS LEASE AREA

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CROSS LEASE PROS

- LOWER SURVEYING COSTS
- POTENTIAL FOR GREATER DEVELOPMENT DENSITY
- NO REQUIREMENT FOR FORMAL EASEMENTS
- POTENTIALLY LOWER KCDC DEVELOPMENT CONTRIBUTIONS

CROSS LEASE CONS

- STILL EXPENSIVE
- APPLICATION OF MINIMUM LAND AREA RULES CAN BE MORE COMPLEX THAN FOR FREEHOLD SUBDIVISIONS
- SHARED OWNERSHIP – RESTRICTED OWNERSHIP AUTONOMY
- COMPLICATED LEGAL STRUCTURE GREATER RISK OF “DEFECTIVE TITLE”
- LIMITS EACH OWNER'S ABILITY TO DEAL WITH THEIR LAND
- HINDRANCE TO DEVELOPMENT & REDEVLOPMENT
- POTENTIAL FOR DISPUTES
- LOWER PROPERTY VALUE & MARKETABILITY
- COMPLEX, “COMPROMISED” & OUTDATED FORM OF TITLE – “IRREMEDIABLY FLAWED”
- MOST PEOPLE ARE MOVING AWAY FROM CROSS LEASES

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UNIT TITLES

- ANOTHER TYPE OF SUBDIVISION
- SOPHISTICATED FRAMEWORK FOR MULTIPLE UNIT DEVELOPMENTS WITH SHARED COMMON FACILITIES
- YOU NEED RESOURCE CONSENT FROM KCDC
- NOT APPROPRIATE FOR UNCONSENTED “GRANNY FLATS”

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UNIT TITLE PROS

- ENABLES HIGH DENSITY DEVELOPMENT
- FORMAL MANAGEMENT OF COMMON PROPERTY
- SHARED COSTS & ECONOMIES OF SCALE
- STRUCTURED PLANNING & GOVERNANCE OF DEVELOPMENT'S FINANCES
- CLEAR LEGAL FRAMEWORK & IMPLIED RIGHTS OF UNIT OWNERS
- PROTECTION OF COLLECTIVE VALUE

UNIT TITLE CONS

- STILL EXPENSIVE
- LOSS OF OWNER AUTONOMY
- MANDATORY ONGOING COSTS & LEVIES
- RESTRICTIONS ON PROPERTY USE & ALTERATIONS
- COMPLEX GOVERNANCE & POTENTIAL FOR DISPUTES
- SHARED RESPONSIBILITY & RELIANCE ON OTHERS
- PRESCRIPTIVE LEGAL & FINANCIAL FRAMEWORK

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THE ALTERNATIVE OPTIONS

- RENT TO OWN
- LICENCE TO OCCUPY
- BESPOKE SOLUTION

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RENT TO OWN

- MORE FLEXIBLE
- IF THE BUILD IS OVER 70 SQM, YOU MAY ALSO NEED BUILDING CONSENT
- YOU DO NOT NEED A MINIMUM AMOUNT OF LAND FOR EACH SITE

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RENT TO OWN PROS

- LIKELY MOST APPROPRIATE FOR A FAMILY ARRANGEMENT
- PATHWAY TO OWNERSHIP
- TIME TO SECURE FINANCE
- “TRY BEFORE YOU BUY”
- LOCKING IN THE PURCHASE PRICE
- BUILDING EQUITY THROUGH RENT
- INCREASED CONTROL & OCCUPANCY RIGHTS
- FLEXIBILITY

RENT TO OWN CONS

- NO TRANSFER OF TITLE UNTIL END OF RENT TO BUY TERM & PAYMENT OF BALANCE
- HIGH RISK OF FORFEITURE ON DEFAULT
- UNCERTAINTY OF FINAL FINANCING
- MARKET VALUE RISK BORNE BY BUYER
- STRICT COMPLIANCE & ONEROUS TERMS
- LEGAL COMPLEXITY & RISK OF UNCERTAINTY
- VULNERABLE EQUITY INTEREST
- MAINTENANCE & PROPERTY CONDITION
- POTENTIAL FOR DISPUTES
- POSSIBLE ISSUES IF ‘OWNERS’ NEED RESIDENTIAL CARE

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LICENCE TO OCCUPY

- PERSONAL CONTRACTUAL ARRANGEMENT
- GRANT LICENSEE PERMISSION TO LIVE IN PROPERTY
- NO LEGAL INTEREST
- GENERALLY NO NEED FOR RESOURCE CONSENT FROM KCDC
- IF THE BUILD IS OVER 70 SQM, YOU MAY NEED BUILDING CONSENT

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OCCUPATION LICENCES PROS

- GREATER FLEXIBILITY & SIMPLICITY
- AVOIDANCE OF RESIDENTIAL TENANCIES ACT 1986 OBLIGATIONS
- RETENTION OF CONTROL BY OWNER
- SUITABILITY FOR SPECIFIC NON- TENANCY RELATIONSHIPS – LIKE FAMILY OR INFORMAL ARRANGEMENTS

OCCUPATION LICENCES CONS

- NO LEGAL INTEREST IN LAND
- LACK OF SECURE TENURE
- EXCLUSION FROM RESIDENTIAL TENANCIES ACT 1986
- NO RIGHT TO EXCLUSIVE POSSESSION
- NO RIGHT OF SUCCESSION OR ASSIGNMENT
- DIFFICULTY IN OBTAINING FINANCE
- CONTRACTUAL DEPENDENCY
- POTENTIAL FOR DISPUTES
- POSSIBLE ISSUES IF ‘LICENSEES’ NEED RESIDENTIAL CARE

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BESPOKE SOLUTION

WE CAN CREATE A SOLUTION TO SUIT YOU, YOUR PROPERTY, AND YOUR POTENTIAL NEIGHBOUR'S CIRCUMSTANCES

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OUR SERVICES INCLUDE:

- PROPERTY LAW
- TRUSTS & SUCCESSION
- CHARITIES & NOT-FOR-PROFITS
- CORPORATE & COMMERCIAL LAW
- ELDER LAW
- EMPLOYMENT LAW
- ESTATES
- FAMILY LAW
- IMMIGRATION LAW
- INSOLVENCY & DEBT RECOVERY
- LITIGATION
- RURAL LAW

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