



BY RESIDENTIAL PROPERTY LAWYER  
MICHAEL HOFMANN-BODY

# YOU AND YOUR PROPERTY

*First, let me start by congratulating Leigh and her team on the recent 10 year anniversary of the magazine. It is a magazine the team at Gillespie Young Watson and HomeLegal are delighted to be associated with. It has an excellent history, a vibrant look and feel and beautifully reflects the Hutt Valley community it serves.*

I have been writing articles for *Vibrant Hutt* for several years now. Those articles have sought to educate and inform readers on the perils and pitfalls of buying property. I have always sought to be constructive and solution-focused, but for once I am going to use this article as an opportunity to have a bit of a whinge.

The Taxation (Land Information and Offshore Persons Information) Act 2015 has just been passed into law. It was processed under urgency and will be in force by the time you read this article. The legislation is, in my view, a ridiculously misguided attempt to resolve a problem better solved using other means.

From 1 October 2015 all buyers and sellers of property now need to provide their Inland Revenue numbers and to sign a tax statement which needs to be retained by their solicitor for a period of 10 years. At first glance, this may not appear to be problematic. However, the effects of this legislation are likely to be as follows.

First, legal fees for buying and selling property are likely to increase. With added compliance comes added time and as a result added cost. Those costs will be passed on to every seller and buyer of property.

Second, solicitors are now going to become a repository of information about taxpayers for the Inland Revenue Department. This will add to lawyer's storage costs and will result in further additional costs to clients.

Third, IRD details need to be provided to Land Information New Zealand at the time of settlement. Failure to provide the Inland Revenue details in a timely manner will result

in the settlement not proceeding until the Inland Revenue details are provided. This may well result in significant additional costs and delays for the parties. Further, if one party in a chain of sales fails to provide their Inland Revenue details in a timely manner,

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it is possible none of the parties in the chain will be able to settle until those details are provided.

Fourth, there are estimated to be hundreds of thousands of “passive” trusts in New Zealand. All of those trusts which own land (or intend to own land) will need to obtain an IRD number before they can buy and sell land. Once a trust is IRD registered it will be necessary for the Trust to file annual tax returns recording nil income. The advice we have received from Inland Revenue is that when a trust applies for an IRD number, it will also need to file tax returns for every year from the date of the establishment of the trust to the date of the application for an IRD number. This will likely require an accountant's assistance which will result in further additional costs to individual taxpayers. At the time of writing this article this problem had only just been identified by Parliament and they were considering a fix to the legislation to release non income earning trusts from the need to file nil returns. I am sure IRD does not want to be bothered with hundreds of thousands of nil returns every year.

Fifth, in order to get an IRD number it will be necessary to provide the IRD numbers for all of the trustees of a trust. If a trustee is not presently IRD registered (such as a corporate trustee) it is likely a separate application will need to be made for that trustee for its own IRD number. That IRD number will need to be processed prior to an application being submitted for the Trust. IRD is going to be besieged with requests for IRD numbers for entities which will never have to pay any tax.

Sixth, Inland Revenue currently advise the expected timeframe for obtaining an IRD number will be eight to 10 days. It is more than likely that timeframe will be extended with the additional burden placed on the Department as they see a surge in the number of parties requesting registration with Inland Revenue.

Accountants have an ability to fast-track applications for IRD numbers. However, engaging an accountant to obtain the IRD number at short notice will cost. We have already made contact with a number of firms of accountants to determine the process. It is likely that their speedy turnarounds will also be extended if the volume of requests for IRD numbers dramatically increases.

If the Inland Revenue Department is not adequately resourced there will be delays in getting Inland Revenue numbers and therefore there will be delays in the transfer of land.

There will be no added value to the taxpayer for all this additional compliance. Rather, it will create a significant burden on an already overworked government department, thereby distracting them from more valuable activities such as recovery of unpaid tax or tax avoidance.

The express purpose of the legislation is to get better tax information from people dealing in land. This is a classic example of Parliament using a sledgehammer to crack a nut. This legislation will result in a massive compliance cost for owners of land, has the potential to impact the timely transfer of land in New Zealand and there is no obvious benefit to us other than some amorphous "information gathering exercise" which is likely to tell us what we already know. That foreigners buy NZ land, that some people trade in property and that the market is over heated particularly in Auckland.

The increased pressure on Inland Revenue will no doubt be to everyone's detriment as it will require additional resources (resulting in additional costs) and become less responsive to individual taxpayers' needs.

This legislation has not been well thought through and needs significant change if not repealed.

*"If you would like a copy of previous articles on property written by Michael email him on michael@homelegal.co.nz."*

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*HomeLegal is a division of Gillespie Young Watson.*

# PULSE of THE HUTT

BY LOWER HUTT MAYOR  
RAY WALLACE



*There are many significant projects underway across Lower Hutt, and my Deputy writes on some of the financial considerations of this in this edition of Vibrant Hutt.*

**W**e are fortunate to be in a strong financial position, so we can afford to invest.

People are at the heart of this investment. We are investing in our communities and in our future.

We are providing top facilities for sports, arts and other recreation. Through education initiatives like Hutt Science, Taita Computer Clubhouse and the STEMM Festival we are creating opportunities for our young people – and a skilled future workforce.

We can enjoy our beautiful parks and gardens, and attract visitors to the region with venues such as the new events centre. And, of course, all the while we keep this city functioning, with our water, roads and other infrastructure and planning.

We do this because we all want a community in which people have the opportunity to reach their full potential.

We all want a safe and caring community in which to live and to raise our young people and a society where we support one another.

I was privileged to meet some of the remarkable people who are active in creating this kind of community when I presented the Civic Awards in September.

These are all volunteers, who give their community their time, their energy and their talent.

Star Olsen was awarded an honour for Cultural Affairs. Among much other service, Star's the Chair of Wainuiomata Marae and works at Kokiri Marae, including the Tamaiti Whangai programme that encompasses support for people from birth to 25.

Elaine Curry was recognised for Educational Service. She established the Canine Friends Pet Therapy Programme,

which now has 450 members bringing dogs to visit people in hospices, hospitals and rest homes.

William (Bill) Sharpe was recognised for Youth Activities. Bill has run a programme for young men at Wainuiomata College for over 20 years, teaching fitness, academics and life skills twice a week before school.

Robert (Bob) Rowell who was recognised for Community Services, is a creative and committed person who has long been involved in Hutt City Musical Theatre, the Hutt City Community Concert and Rotary – including running the fabulous fire sculptures at Petone Winter Carnival.

Youth Awards went to Thomas Maharaj who's established a community project 'The Knowledge Bank'. This project provides free educational resources to Lower Hutt's most vulnerable children. So far, he has collected more than 3000 books and ensured they are effectively distributed.

Dylan Singh also received a youth award for his advocacy for youth including serving on the Vibe Advisory Group that provides free confidential health and support services to Hutt Valley young people aged 10 to 24.

My thanks to them all, it is a real privilege to be able to acknowledge their remarkable contributions.

Lower Hutt is a wonderful city with wonderful people who give so freely of their time, energy and commitment.

We are blessed,  
**Ray Wallace**  
Mayor – Lower Hutt

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