



# YOU AND YOUR PROPERTY

BY RESIDENTIAL PROPERTY LAWYER  
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*In last issue's article (February/March) I discussed some of the reasons why it is important to search a title before you purchase a property. That article focused on some of the more common interests that could be registered on a title to land and I primarily discussed easements and mortgages. A copy of this article can be found on our website, [www.homelegal.co.nz](http://www.homelegal.co.nz). In this issue I talk about some of the more unusual types of instruments that can be registered and the potential effect they can have on a purchaser of land.*

**L**and covenants are used increasingly, and particularly in respect of new subdivisions. The purpose of a land covenant is usually to create uniformity in respect of the subdivision. Examples of the types of covenants include restrictions on the building materials that can be used, whether or not additional structures can be built on the land, whether trade vehicles can be parked in an area visible from the road, the position of clothes lines, the colours a house can be painted, the materials in which it can be clad, and whether certain pets are allowable.

A land covenant will usually bind all of the owners in a subdivision and, as such, any of the neighbours can enforce the

requirements of the land covenants on any other owner. There can be financial penalties for failing to observe the covenants. Land covenants may prohibit you or require you to take actions a normal owner of land would not be required to observe. It is critical a buyer of land appreciates all of the terms of land covenants before they commit to a purchase.

Another common type of instrument noted on titles is a building line restriction. Historically, local authorities wished to protect the areas immediately adjacent to a road in case they wished to widen the road at a later date. Without a building line restriction, the owner of the land could build very close to the front boundary. In the event the local authority wished to exercise

its rights to widen the road, the amount of compensation payable to the owner of the land would substantially increase as a result of the need to alter the structure of properties constructed close to the street frontage. Building line restrictions prohibit any structure roadside of the building line. When purchasing a property you will want to ensure there has not been an encroachment over the building line. In the event you were looking to improve the property you will need to be aware of the limits of the building line on the property.

On occasion, a local authority may require a consent notice be registered on a title to land being subdivided. Consent notices are used to require any subsequent owner of the land to comply with conditions of the subdivision



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consent. Examples of such criteria include obtaining a geotechnical report in respect of foundations, not building over certain areas of the land, complying with some aspect of the District Plan, protecting heritage aspects or noting the protection of trees. Buyers will want to ensure that the property complies with the consent notice and that the terms of the consent notice will not affect any proposed development of the land.

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Titles often have references to legislation included on them. Rights can be retained by the New Zealand Government in respect of minerals, fencing and conservation interests. It is always important to check the applicability of this legislation as it relates to the land.

As the reader will appreciate, it is critical that any purchaser of land is aware of their rights and obligations before they complete the purchase of the property. They also need to be aware of any limitations on their proposed use of the land. For this reason, it is always critical the title to a property is searched before a contract becomes unconditional. If it is important to submit an unconditional offer for a property, a review of the title can usually be carried out by a Solicitor relatively quickly and before the offer is made.

*“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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