

COPY OF LETTER SENT TO INDUSTRY BODIES ON 24 NOVEMBER 2004

Requirement for Residential Property Developers to Obtain Code Compliance Certificates

I am writing in regard to the implementation of section 364 of the Building Act 2004 which relates to the sale of household units by residential property developers.

Section 364

One of Government's key policy objectives behind the new legislation is to strengthen the protection afforded to consumers. Section 364 is an important measure in improving consumer protection.

Section 364 makes it an offence for a residential property developer to complete the sale of a household unit, or allow a purchaser to take possession, before a code compliance certificate (CCC) is issued for the property. Although this section commences on 30 November 2004, the requirement will have effect from 31 March 2005. It applies to all sale and purchase agreements signed before or after that date, where the settlement or possession takes place on or after 31 March 2005.

A person who commits an offence under section 364 is liable to a fine up to \$200,000.

The developer and purchaser may contract out of this provision but only by using a form prescribed under regulations. This form makes the consequences of buying a property without a CCC clear to consumers. It also advises them to obtain independent legal advice before signing. This form is available from the Building Act 2004 website, www.building.govt.nz.

A residential property developer includes any person who, in trade, builds or arranges to build a household unit for the purpose of selling it. This could include everyone from large developers, or builders through to individuals building homes on "spec".

A household unit is a building or group of buildings intended to be used mainly for residential purposes and by one household (eg: house, apartment or flat). It does not include a hostel or boarding house.

Communicating Section 364

We would be pleased to assist you in communicating or explaining section 364 to your members. This could include drafting or reviewing member communications or writing directly to your members using your database. Attached to this letter is a copy of further information on section 364 that could form the basis of a member communication.

If you would like to discuss this further, please contact Geoff Carter, at geoff.carter@dbh.govt.nz or on 04 470 1064.

Yours sincerely

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