

## 亚洲客户服务 GST 商品服务税与房地产开发

**Knight Coldicutt 事务所在物业法领域有超过 50 年的专业经验。我们曾经代表过新西兰最大的开发商，协助完成新西兰最大的开发项目；我们也曾经代表过新西兰最小的开发商，完成最小的项目。简单来说，我们通晓房产业务。**

**GST 商品服务税** 在过去的几年中，我们发现，一些客户以及一些市场上其他的人士，并没有完全地理解 GST(商品服务税)的影响。首先，在进行项目可行性分析时，没有从销售价格中扣除 GST，从而错误估算实际利润。这将可能对可行性分析产生重要影响。实际上，如果计算正确的话，发展商的 GST 成本应该仅仅为利润部分的 GST。比方，你的物业售价为 100 万，由此产生并应该交付给税局的 15 万 GST 并不意味着最终 GST 成本。如果这个项目获得了 30 万的利润，那么我们可以说在这个项目上发展商的 GST 总成本应该为 30 万的 15%，也就是 45,000。

**各类许可** 我们还发现部分客户并不重视在施工前认真审核资源许可、土地许可和分割许可中包含的要求。可能产生的后果是，这些许可里的规定条款没有被列明到与第三方（比如买家、承建商、服务商等）的合同中，或者没有登记到产权上，从而产生问题。

**卖方责权** 最后我们注意到由于无法履行部分重要合同条款，某些开发商的声誉遭受严重的负面影响。有些是由于没有按照预售合同中的建房明细施工，有些是由于根本没有履行，或者没有及时在交割后履行合同中的保修责任。类似这些疏忽，甚至蓄意造成的违约行为，让发展商在市场上留下了不佳的名声。我们都知道奥克兰（包括新西兰）是个很小的市场，消息一旦传出，一定会对将来的销售造成影响。

**贷款保障** 另外，房产放贷人一般对抵押保障（mortgage security）比较熟悉。但是，不是所有的放贷人对 2 级抵押（2nd mortgage）有足够了解。放贷人可以同时考虑其他形式的保障，比如一般保障合同（GSA），买卖保障以及个人财产保障法案下的债权登记（PPSR charge）。此外，贷款合同、担保合同和保障文件的各项条款的制定必须精准，才能确保涉及各方正确理解各自责权义务，最终使得合同得到有效执行。

我们 50 多年的经验证明我们精通这些事务，我们知道买方的需求，知道如何起草优质的合同。我们同时也认为好的法律服务并不意味价格昂贵。无论您是新老开发商，我们都乐意配合协助您熟悉相关法律，保障好您的权益，对每个项目进行正确规划。

欲知更多详情，请随时与本公司的**黄琳**联系。 **直线**：09 306 1129； **电子邮件**：lin@kclaw.co.nz

>> LEGAL EXPERTS IN COMMERCIAL SOLUTIONS

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## Asian Client Services GST & Property Development

**Knight Coldicutt has specialised in property law for over 50 years. During that time we have acted for the largest developers and worked on the largest projects in New Zealand. We have also worked for small developers and on small projects. Quite simply, we understand property.**

**GST** Over the past few years we have had clients, and know of others, who do not fully understand GST. In the first instance their project feasibilities do not deduct GST from the sale price to determine a real and correct profit. Feasibilities show the expenses as being GST exclusive but, for some reason, omit to take GST off the proposed sale price of each unit. This can have a significant impact on feasibilities. In fact, if a project feasibility is completed correctly the GST cost to a developer is only the GST component on the profit. For example, on a \$1 million sale, \$150,000 has to be accounted for and paid to the IRD - it doesn't necessarily mean that the GST cost is \$150,000. For example, if the project made a \$300,000 profit then one would expect that the only GST cost is the GST on \$300,000 profit, which is \$45,000 (15% of \$300,000).

**Consents** Another issue that we encounter is the review of resource consents, land use consents and subdivision consents before works commence. Clients often do not review these consents and they are not included in either contractual terms with third parties or title registration. Resultant problems arise.

**Vendor Contracts** The reputations of some developers are being eroded because of their inability or failure to perform essential obligations under contracts as vendors. These can amount to not completing a property in accordance with the specifications as a standard set of specifications have been used in respect of a sale of land and building package without being checked thoroughly. Or the maintenance obligations in a contract are not being complied with, either at all or in a timely manner. As a result of these breaches (whether inadvertent or deliberate) some vendor developers are getting a bad name in the market. Bear in mind that Auckland (and New Zealand) is a very small market so the word gets out and has a negative impact on future sales.

**Security** For potential lenders against property, mortgage security is well understood. However, not all migrants are fully aware of the risks associated with second mortgages. Lenders can also consider other forms of security, such as General Security Agreement (GSA) supported and by security of sale and purchases (i.e. security over pre-sales), a registered Personal Property Securities Act charge (PPSR). Loans, guarantees and security documents need to be thoroughly drafted and reviewed to ensure that they can be fully enforced and everyone is aware of the lending amounts and terms.

We understand the issues; we understand what funders require; we understand what purchasers want; and we understand how to draft contracts. We are also aware that good legal advice does not need to cost a huge amount of money. If you are a new developer, or are new to the country embarking on a development (or even if you have already carried out a number of developments) we are very willing to spend whatever time it takes to ensure that you comply with your obligations and assess your projects correctly.

Please contact **Lin Huang** at Knight Coldicutt Limited, **phone** 09 306 1129, **email** lin@kclaw.co.nz for further information.

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