

Apartment developer takes iwi to court

By LYN HUMPHREYS

THE developers of a large central city residential apartment building say a carpark roof attached to their building is a "catastrophe waiting to happen".

As a result, Liardet Apartments has taken the adjacent building owners, Te Roopu O Te Atiawa, to court in an attempt to force them to remove the canopy.

In the civil court in New Plymouth yesterday, Liardet Apartments company director Gregory McCarthy said his company was developing the former Tasman View rest home into 25 residential apartments.

To do so, another two storeys are being added.

But an "unlawful encumbrance", a carpark canopy, was built between Liardet Apartments, at 22 Liardet, and the former Hayton's plumbers building on Gill St, now owned by Te Roopu O Te Atiawa Trust, Mr McCarthy said.

A series of meetings held with Te Atiawa to discuss having the canopy removed had no effect. The trust had advertised the carparks under the canopy for lease.

One of the trust's letters stated the canopy did not encroach on Liardet Apartments, "but is merely supported by your building".

In the meantime, Liardet Apartments had sold 13 of the 25 apartments, the contract requiring them to be free of all impediments and encroachments.

Mr McCarthy said engineering had now started on the apartments, which had binding agreements requiring the work to be completed by October 2006.

If the development was not finished in time, his company would be in default and risked incurring considerable penalties and exposing it to a considerable loss of money.

Mr McCarthy said he was concerned the engineering work might cause damage to or the collapse of the canopy. The area beneath it was often used by elderly people and others visiting the trust.

"If it is not removed there is potential for catastrophe," Mr McCarthy said.

For the trust, Tim Brewer asked Mr McCarthy if the canopy was taken into account when applying for building consent.

Mr McCarthy replied that the New Plymouth District Council was made aware of the existence of the canopy.

Mr Brewer said the trust lawyers had made a counter offer in October last year that the canopy remain for the next eight years and a rental of \$1300 was paid after which the canopy would be removed or independently supported.

Mr Brewer asked Mr McCarthy if he refused the offer and gave the go-ahead for proceedings to begin and applied for an urgent hearing. Mr McCarthy agreed: "That's correct."

"There was always an issue for me to have clear title," Mr McCarthy responded.

The hearing, before Justice Rodney Hansen, Auckland, is expected to end today.