

### **'First Home' KiwiSaver rules – building on a pre-owned section**

Louie wanted to use his KiwiSaver funds to build a new home. The problem was whether he qualified as a first-time homebuyer. The complaint centred around a decision by the Scheme Member declining to release KiwiSaver funds on the basis that Louie did not meet the 'First Home' criteria.

Prior to starting his KiwiSaver account, Louie purchased a vacant section. After commencing with KiwiSaver, he requested a withdrawal of his KiwiSaver funds to assist toward the construction costs of his house on his section. From Louie's perspective, he had always intended to build a home on the land he purchased and did not consider the build to be separate and distinct from the land purchase.

In this case, the adjudicator determined that the Scheme Member was correct in declining to release the KiwiSaver funds. The 'KiwiSaver Scheme Rules' found in the KiwiSaver Act 2006 confirm that funds cannot be released under the 'first home' criteria when one already holds an estate in land prior to the application to withdraw the funds. Simply put, owning the vacant section was an estate in land as defined in law, and therefore KiwiSaver funds could not be released under the 'first home' criteria.

The Scheme Member's decision was confirmed, and the complaint to FDRS dismissed.