

Property snakes and ladders

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A good conveyancer assists clients through the legal process of buying, selling, financing and remedying issues with property transactions. They need to steer a transaction from beginning to end through the maze of potential hurdles, helping clients find the right property, the best deal and where to find the best advisers for surveys, mortgage funding arrangements and insurance risks.

Here are some of the most frequently encountered issues for an average domestic property transaction, which often requires jumping through hoops and overcoming occasional hurdles in order to reach a successful conclusion, on time, on budget and with as little stress as possible for all concerned:

The mortgage or bank loan facility letter

This needs to be agreed and in place at least a week before you intend to complete and move. Delays may be due to hold-ups in the application process. The valuation or survey reports need to have been carried out, along with any behind-the-scenes work before your lending bank will formally be in a position to agree your loan arrangements and make a binding offer or agreement in writing.

Advice: make this priority ONE – get the ball rolling as soon as you possibly can and allow plenty of time when agreeing proposed completion and moving dates.

Survey/Home Buyer Reports and formal Bank Valuations

In most transactions (or chains of transactions) these are vital but may often raise unexpected concerns, lead to delays or rejection of a loan offer due to a negative valuation which had previously been agreed in principle and which may then in turn result in renegotiation of the deal or even worse, total collapse.

Advice: make this priority TWO – ensure this is arranged as soon as an offer is accepted and again, allow plenty of time when agreeing suggested completion and moving dates.

Alterations

Often physical alterations which have been carried out to the property in question (often during the most recent period of ownership) may not always have been properly signed off by the local planning and building authorities. The classic examples are loft conversions, conservatories and small extensions. Formal consent may have been obtained at the time but a few years have since passed and it turns out that a completion certificate was not properly submitted by the builder/installer and is now required if the legal ownership is to change hands smoothly.

Advice: get all such things checked out, preferably when you first put your property on the market but in particular, when you accept or make an offer so that there is still plenty of time for the local authorities to approve the works.

Up- to- date Fire Regulation inspection

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This is now a legal requirement for homes of multiple occupancy which require formal approval by the Fire Department and is having quite an effect on the sales of blocks of apartments and shared dwellings or buildings. Suitable upstairs means of escape, in the event of an emergency, is something that the authorities take very seriously, especially with renovated or older properties in and around built up areas.

Advice: if you are putting your property or apartment up for sale, talk to your selling agent and the Fire Department and try to get any potential issues clarified beforehand, as this will only hold up the transaction as part of the subsequent due diligence process.

Separating your foul drainage from your surface water drainage

Again this is cropping up more and more and causing many property owners some real headaches and unexpected additional expense when trying to sell their properties. The Department for Infrastructure takes a very hard line on this nowadays and the public drainage system (especially in the built up areas) simply cannot cope with the combined volume of foul and surface water and therefore the "powers-that-be" will insist that wherever possible separate drainage pipes and/or soakaways are installed (but at the owners expense!).

Advice: if you are putting your property or apartment up for sale, talk to your selling agent, the Department of Infrastructure and a drainage contractor to try and get these issues checked out well beforehand, as again this may ultimately hold up the transaction.

Boundary ratifications, involving neighbouring or third party involvement to your contract of sale or purchase

Many people make external (as well as internal) improvements and changes to their properties, including their boundary limits or they may add something to the property that is very near to the boundaries which requires access onto a neighbouring property for future maintenance. Often, at the point of sale, this leads to the legal requirement for the status quo to be formally ratified. A letter from your neighbour, or the shake of a hand when you replaced a fence with a nice new wall 10 years ago, is not enough. The physical boundaries are written into your deeds and when they are altered, often with the best of intentions in mind, it can lead to new enclosures replacing old. Even with the passing of time, this still constitutes defective boundaries which a new owner will need to have clarified, with the formal agreement of all surrounding owners.

Advice: If things have changed since you originally acquired your property, contact your lawyers early in the process and advise them that you are thinking about putting your property on the market for sale and that you would like the boundaries verified, so as to avoid any last minute hiccups when you come to sell.

Other potential delays

Unclear possession and completion dates, unsuitable periods of notice for previous rental accommodation or required deposit funds being tied up for a fixed period and not freely available in good time for the proposed completion date can all contribute to delays further up or down the chain.

Advice: Each transaction, especially the personal circumstances of the transacting parties, is different every single time. It is crucial that honest and up-front communication exists between the selling agent, your legal advisers and most importantly the actual human beings who are hoping to move home! A period of four to six weeks between offer to completion is realistic but

this will only be achieved if as many as the above issues are resolved as early as possible in the process and where you have taken safe, sensible and pragmatic advice from experienced experts in this subject.