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PROPERTY GUIDE

Buying or selling flying-freehold property

Whether taking your first step on the property ladder, buying an investment property or downsizing, buying or selling property can seem a daunting task. This essential guide has been put together to give you an insight into what we do as lawyers and the process.

Buyers

Before putting in an offer it is always advisable to ensure that you have sufficient funds. Mortgage advisors and banks can assist you in providing offers in principle which give an indication of how much you can borrow. We work closely with a number of mortgage advisors and are always happy to provide recommendations.

If the property is a first-time buyer property or you are relying on being a first time buyer to take advantage of the stamp duty concession then you must ensure you do fall within the criteria. Property developments classed as “First Time Buyer Schemes” may have different criteria to that of the stamp duty concessions and so it is always best to check with your lawyer if you are unsure.

You must also ensure that you are entitled to buy property in Jersey by obtaining a registration card from The Population Office. If your card lists, you as “Entitled” or “Licensed” then you are eligible to purchase freehold property in Jersey.

TIMESCALE

We strongly recommend leaving yourself (and us) 6 weeks as this is usually the time it takes for lending banks to process their paperwork and instruct surveyors etc. As a buyer, it is important that you keep in constant contact with the bank and provide them with all the paperwork as soon as possible to avoid any delay.

Sellers

It is important to find an estate agent that can market your property in such a way as to achieve the best price possible. Some agents deal in high end property while others specialise in land or flats. Again, for any recommendations, we are always happy to assist.

REACHING AN AGREEMENT

Once an offer has been accepted the estate agent will write to your lawyer (if you have not done so already, now is the time to call different law firms for quotes) to advise of the sale with the completion date agreed between both parties.

SELLERS

Once instructed, things tend to go quiet. This is normal and should not cause you concern. We are working behind the scenes liaising with the buyer’s lawyer, your lending bank and the estate agent with a view to complete on the agreed date.

THE CONTRACT

Once we have received your instructions, we draft your contract of sale. This involves updating information from the neighbouring properties, fusing together subsequent contracts passed and, if you bought prior to 2006, translating the contract from French to English.

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Buyers

It is important at the outset to let us know of any special requirements you may have with the property. There may be restrictions on pets, buildings, parking, use etc which may ultimately cause you to walk away from the purchase. We will provide you with a questionnaire upon instruction, which we recommend you complete and return as soon as possible.

TITLE

We check title to the property to establish what clauses or restrictions affect the property. This involves checking all of the previous owners' contracts for a minimum of 40 years from the date you instruct us. This is recited in your contract to show you have good title to the property. The search also establishes whether the owners of the property have good title to sell to you. We also cross check with the neighbouring owners' contracts to ensure everything ties in together.

SITE VISIT

Once we have completed our title investigations, we attend on site to check the property to make sure the draft contract reflects what is actually there. We check the boundaries by taking measurements or checking physical structures and check the property against the information we receive from our Statutory Searches. Jersey property is also largely governed by "Customary Law" (laws created by use over time) and so we also check that the property complies with all customary rules.

LAW SOCIETY QUESTIONNAIRE (LSSQ)

You will receive a completed LSSQ from the vendor of which you can rely upon the warranty's given, and have a claim for up to 3 years for any breach of warranty from the date of completion. You will also receive a completed Part 2 from the Association Representative which will given you information in relation to service charge and the development, to include budget, past minutes, building insurance and any other relevant information.

STATUTORY SEARCHES

We make enquiries of Jersey Electricity, Jersey Water and Department of Infrastructure to determine the location of the services and their routes to the property so as to ensure they comply with the contract and the relevant laws that govern them. We also write to Planning to ensure that all works that required permission received it and were signed off. Finally we write to the Parish to check whether there are any plans which may affect the property e.g. road widening etc. These searches are imperative in assisting us conduct our title check and site visit.

Sellers

MORTGAGE REPAYMENT

We check the Public Registry for any mortgages secured against your property and write to your lending bank for a redemption figure. We then repay your borrowings directly out of the sale proceeds and cancel the charges registered against your names in the Public Registry (£75 stamp duty per charge cancelled).

LAW SOCIETY QUESTIONNAIRE

Within LSSQ there is a part 2 for the Association Representative. We require their contact details and will liaise with them directly on Part 2. Most Association Representatives charge a fee for completing this document and providing the Association documentation requested therein. This is a 3rd party charge that we cannot quote for but will advise you once known.

MONIES

Once the sale has taken place, the buyer's lawyers are required to send the monies to the seller's law firm two working days after completion. We endeavour to send the monies to you as soon as possible and in most cases your money is deposited in your account on the Tuesday following the sale.

COSTS

Please email **propertyteam@lgl.je** or call **760760** to obtain a free quote.

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Buyers

OWNERSHIP

Property in Jersey may be held two different ways:-

1. Joint Owners:- Meaning you own the property together and cannot sell or mortgage the property without the other owner's consent. Upon death the property automatically passes to the survivor of the two which cannot be amended by any provisions in your Will.

2. Owners in Common:- Meaning you own the property half and half and so can sell and mortgage the property without the other's consent. You can also leave a Will stating who you wish to inherit your share of the property.

Therefore depending on how you choose to own the property, you may require a Will. Please contact us to obtain a free quote.

EQUITY AGREEMENTS

If you and your partner are planning on paying different amounts towards your mortgage or if you are not sharing the deposit equally you may wish to have an equity agreement drawn up which states how the contributions are to be paid and how the proceeds of sale will be split should the property be sold. The agreements are also particularly useful in dealing with cases where one party cannot legally own property due to their qualification status. Please contact us to obtain a free quote.

SURVEY AND BUILDING INSURANCE

You are responsible for arranging a survey should you require one. If you are taking a mortgage the bank will arrange a basic valuation for you . The survey must be arranged in good time as the bank's loan documents only get issued upon receipt of the valuation on the survey.

MORTGAGE

We advise you on loan documentation provided by your banks lawyers. Please note that whilst you may have paid the bank an arrangement fee, the lending bank's lawyer's fees will be deducted from the loan monies as will the stamp duty on the borrowing. To calculate the stamp duty on your borrowing, please ask, we can provide you with this information.

STAMP DUTY

To calculate the stamp duty on your purchase, please ask, we can provide you with this information. Stamp duty is dependent on our first time buyer status, and that of the property value, and whether or not the property is to be owner occupied.

Completion for Buyers and Sellers

APPORTIONMENTS

Rates: Whoever owns the property as of the 1st January of the year in which the property is sold are legally responsible to pay the property rates for the whole of that year. However, a clause is contained in all contracts which states that the rates will be apportioned between the seller and the buyer for their respective periods of ownership. Therefore, the seller has the right to claim from the buyer the buyer's share of the rates. As a seller you are required to pay the full sum required, and to contact the purchasers directly with a copy of the rates receipt stating the rates have been paid and request their apportionment. (This is not a service provided by us).

Service Charges: This will be apportioned prior to completion and arranged between both parties lawyers.

COURT

Court sits every Friday at 2.30pm. If you are unable to attend Court a Power of Attorney can be executed which allows one of the Jersey qualified members of Le Gallais and Luce LLP to attend Court on your behalf. There is no cost for the Power of Attorney save £75 the stamp duty to register it in the Public Registry. Remember to let us know if you are going away as you need to sign the Power of Attorney before you go.

The dress code for Court is formal attire. Men are required to wear a suit with jacket and tie and ladies must be in smart dress. If you attend Court in anything else the Court can refuse to pass your contract!

KEYS AND VACANT POSSESSION

A set of keys is handed over in Court and vacant possession of the property will be negotiated through the Estate Agent and lawyers. It is usual to have possession delayed until Saturday lunchtime / afternoon depending on the length of the transaction chain and or removal arrangements.

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At Le Gallais & Luce we are always happy to assist with any queries you may have. If you would like to call to make an enquiry or request a free quote, then please do not hesitate to email **propertyteam@lgl.je** in the first instance..



Paul Scally
Partner - Head of Property

T. 01534 760734
E. pscally@lgl.je



Laurie Nehwati
Legal Support Manager

T. 01534 760718
E. lnehwati@lgl.je

For further information visit www.lgl.je