

## First Home Buyers

Purchasing a property can be daunting and a decision not to be made lightly, be it your first, a new family home or an investment property. To make the process simpler we have outlined the elements of a house purchase.

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### Your Offer

If you are unfamiliar with the property market, do some research. Take a look at the rateable valuation on your local Council's website and check the E-value for comparable sales data in the neighbourhood. This will provide a general indication of value and enable you to be better informed in your decision making, particularly when setting your offer price. For many, a house is the largest purchase they will make in their life time and getting a valuation can be very useful to assess the property and the market.

An offer by you to purchase the property is made using a standard form Sale and Purchase Agreement ("Agreement"). It will specify the price you offer and is usually made subject to some conditions (discussed below).

It is likely that you will discuss your offer with a Real Estate Agent before contacting a lawyer - keep in mind the Real Estate Agent acts for the person selling the property. We recommend you check with your lawyer before you sign the Agreement. Your lawyer can advise you on appropriate conditions to include in an offer to be sure you have the ability to thoroughly check the property before committing to the purchase.

### Conditions

If the person selling the property ("Vendor") accepts your offer, the offer becomes a conditional contract and the conditions in the contract become your 'homework' before you confirm you will purchase the property. The conditions will have a time frame attached and, as a general rule, you must confirm you are satisfied with the results of your research on those conditions within the timeframe specified for each condition, or the contract may end. If you haven't already, you should speak with your lawyer about the timeframes and process.

Common conditions to include in your offer are set out below:

- Land Information Memorandum (LIM);
- Building Report;
- Ability to obtain finance (and/or KiwiSaver and HomeStart Grant);
- Ability to obtain Insurance; and
- Electrical condition of the property

These can each be separate conditions in your offer, or your lawyer might provide you with a wide 'Due Diligence' condition which includes some or all of these.

### LIM

A LIM report is prepared by the local Council and contains all information the Council holds about the property. This should include relevant resource consents, building permits and compliance records, water and sewage connections and other information related to the property and neighbouring land, including potential hazards and consented activities that may affect the property.



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This enables you to compare the Council's records with the current state of the property and where issues arise to negotiate a solution with the vendor that best suits your needs or in certain situations, end the contract.

### Building Report

A building report should be completed by a suitably-qualified building inspector and should identify any issues with the structure and quality of the property. It is important to know what a building report does not include, so you understand the limits of the information you have been provided. The standard terms of the Agreement provide timeframes you must comply with and a right of reply from the Vendor if you choose not to purchase based on the building report.

### Finance

If you are in the market for property, it is possible you have finance pre-approved. If not, there are two general avenues to pre-approval.

**Your existing bank:** It is likely you already have a relationship with your bank, and your bank will have an understanding of your financial situation. The first port of call will often be your existing bank manager, however it can be worth shopping around for the best deal. A few dollars a week on loan repayments can mean a big difference in overall cost.

**Mortgage brokers:** Provide a valuable service. A mortgage broker generally receives a commission from the bank (rather than from you) and will work with different banks to secure you the finance required on the best possible terms.

In approving finance the bank will consider the Loan to Value Ratio ("LVR"). The LVR is the ratio between the amount you borrow and the value of the property. As a general guide, first home buyers require a 20% deposit, second home buyers (e.g. rentals) require a 40% deposit.

Your bank may require you to have confirmation you can withdraw your KiwiSaver or are eligible for a HomeStart Grant before they approve your finance.

### KiwiSaver

If you are part of a KiwiSaver Scheme you may be entitled to a first home purchase withdrawal, and you may also be entitled to the Housing New Zealand HomeStart Grant.

We recommend assessing your eligibility for KiwiSaver withdrawal and a HomeStart Grant if you are a first home buyer BEFORE you make an offer. The process for withdrawal can be lengthy – and the HomeStart Grant is free money if you are eligible. Get those dates wrong and you could miss out on the house, or end up unable to settle on the day.

**KiwiSaver Scheme Withdrawal:** As a member of a registered KiwiSaver Scheme, you may be eligible to withdraw your funds to purchase your first home. The criteria for withdrawal are generally:

- 1 You have been a contributing member of the KiwiSaver Scheme for at least three years;
- 2 You intend to live in the home; and
- 3 You have not previously made a withdrawal.

It is important you get this process underway as soon as possible as it can take up to a month to complete.



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### Housing New Zealand HomeStart Grant

You may also be entitled to a Government contribution known as the HomeStart Grant. The criteria for this is more complex and we recommend seeking advice from your lawyer.

### Insurance

It is important that you have insurance on your home, particularly when obtaining a mortgage. It is sometimes necessary to include this as a condition, particularly for older or sub-standard properties, or properties in areas which have been hazard affected e.g. by earthquakes or floods. However as it is a bank requirement insurance may be covered under your finance condition. If you are purchasing an older home, your insurer may require an electrical report to determine whether or not the wiring and electrics meet current safety standards. Your insurance company may not agree to insure the house if significant work needs to be done.

### Overall Due Diligence

Deciding which conditions to include in an Agreement can be difficult. We can provide the wording for a 'Due Diligence' condition that covers some or all of those conditions for you. Just give us a call to discuss.

### Confirming the Contract

When you have completed your investigation and obtained all the information you need to make an informed decision to purchase, your lawyer will 'confirm the contract' with the vendors lawyer.

Once confirmed, you have contracted to purchase the property, the deposit is payable and generally speaking both you and the person selling, must complete the sale (known as "settlement").

### Post-Confirmation

In the period between confirming and settlement, your lawyer will prepare and help you sign the various documents required to complete the purchase, including the drawdown of bank funds, KiwiSaver and HomeStart funds and any other associated documents. Once complete and your lawyer has all the money needed for you to buy, we are ready to proceed.

### Settlement

Settlement is the process of settling the deal. The contract will specify the 'settlement date' and, the payment of funds and the transfer of ownership to you will occur on this date. In the days before settlement you should carry out a pre-settlement inspection of the property, chattels and fixtures which are included in the sale. This is an opportunity for you to check that everything is in the same condition as when you agreed to purchase.

Settlement can occur any time between 9am and 4pm on settlement day. Once the vendor's lawyer has received the money from your lawyer, the Certificate of Title is transferred to your name and the keys to the property released to you. Your lawyer will notify you once settlement has taken place and the keys are available for collection.



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## What happens next?

### On-selling within 2 years

On 1 October 2015 the Government introduced legislation affecting capital gains. Known as the Bright-Line Test; these changes provide for an income tax to be paid on gains from short-term ownership of some types of property.

While your main home is exempt from these changes, understanding the Bright-line test is important if you are buying a second property, buying into a partner's property or where there is a possibility of selling the property within two years of purchase.

For more information on the Bright-line test, potential tax liability and penalties, seeking advice is strongly advised; getting it wrong could prove costly.

### Ownership and estate planning

Buying a home with someone else introduces other considerations. Joint ownership can take different forms for different situations, and introduce potential issues for estate planning and protection of personal property.

Some things to think about include:

- Protecting money lent by relatives to enable a purchase
- Transferring ownership to a trust
- Written Agreements recording relationship property
- Joint tenancies or tenancies in common
- Personal liabilities risking your equity

## Questions?

As Lawyers it is our job to make this process as smooth as possible for you. If you have further questions about this process or wish to enquire about making an offer on a property, please feel free to contact us and one of our friendly staff will provide you "Solutions with Flair".



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