

## Buying a Property in Jersey

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### Frequently asked questions:

#### Can I do the work myself?

The law in Jersey requires that all contracts concerning houses, flying freehold flats and land (known as real property) are presented to the Royal Court by either a Jersey qualified Advocate or a Jersey Solicitor.

#### At what stage should I instruct BCR Law to act in my purchase?

As soon as you have made an offer on a property, which has been accepted. You usually make the offer to the Estate Agent who will ask you for our details so that they can write to us in order to confirm the details of the transaction. Make contact with us either by telephone or in writing, to inform us of your proposed purchase and so that we can arrange an initial appointment to meet with you to talk the process through.

#### Do I need a survey?

Even if the property is new, we recommend that clients have a survey carried out to ensure the property is structurally sound and to identify any defects. If there are any defects then you will need to consider whether you wish to withdraw from the purchase of the property or alternatively, renegotiate the price.

Your lender will usually require a satisfactory survey before loaning money for a mortgage. This often takes the form of a valuation rather than a survey. If there are any doubts about the structure of the property you are buying, you should obtain a structural survey. You should first discuss the costs with your surveyor.

Try to ensure that the survey is addressed to you as the purchaser, rather than to the bank as the lender, since this will give you greater rights against the surveyor, should they make a mistake. We recommend that you ensure that both and your lender are satisfied with the survey report before we start work on your purchase. Once we start work, costs will be incurred and you may, following receipt of an unsatisfactory survey, decide to withdraw from the purchase.

#### Can I leave my lawyer to deal with all aspects of the purchase?

Although we will look after all legal aspects of the transaction, we cannot deal with all related matters.

If you are borrowing money, you will need to liaise with a bank or other lender to agree the terms of the mortgage. Once the terms have been agreed and you have signed an offer letter, please tell us and we will deal with your bank's/lender's lawyer.

You will also need to deal with a number of practical matters before the contract passes before the Royal Court. For example, you will need to arrange insurance for the property with effect from the date the contract passes. You will also need to transfer the utility services, such as telephone and electricity supplies. It helps to give the service companies as much notice as possible.

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### What will BCR Law do for me as my lawyer?

Most importantly, it is our responsibility to ensure that you get good title to the property. We will also:

- Check the title to the property, to ensure that the Vendor (seller), actually owns the property and has the right to sell it.
- Ensure that there are no existing mortgages on the property or other charges registered against it. If there are any, we will ensure that when you acquire the property, all those mortgages and charges will be repaid in full and cancelled.
- Visit the property to check that the boundaries are as described in the contract.
- Check to see that your property does not encroach on the neighbour's property and vice versa.
- Ensure that your property has all rights to enable you to enjoy it as a private residence. For example, we will ensure you have any necessary rights of way to get to and from the property and that it has any required service rights so that, if the drains, water pipes or electricity cables go under any other property, there are contractual rights for them to do so.
- Advise you in relation to any restrictions the property may have which might impact on your enjoyment of the property. For example, whether there are any building restrictions which your neighbour may be able to exercise over the property.
- Ensure that both you and the Vendor have the right to enter into the transaction pursuant to the Contract of Housing and Work (Jersey) Law.
- Ensure that you agree the inventory of the contents that you will be purchasing with the property.
- Write to a number of States and Parochial authorities to ensure that they know of no matters which could prejudice your enjoyment of the property. For example, we will ascertain that there are no road widening schemes in the vicinity.
- One of our team will meet with you and take you through your contract of purchase, explaining it to you in detail and explaining to you all the rights you have. If you are borrowing money, we will also explain the mortgage documentation.

### Preliminary agreements

You may be asked to sign a Preliminary Agreement to purchase on a particular date. We strongly suggest you do not sign this until:

- We are happy with all the checks we have to carry out.
- Your mortgage has been confirmed.
- If you first have to sell another house, that the purchaser of that house is similarly bound to complete.

It is normal for Preliminary Agreements to provide for the payment of substantial damages if one party pulls out. The damages are usually one-third of the purchase/ sale price.

### How does the purchase happen?

You can buy freehold property in Jersey without signing any paperwork. The purchase and sale of such property is dealt with on Friday afternoons in the Royal Court. The Vendor and the Purchaser attend Court, either personally or represented by an Attorney, and swear an oath to uphold the contents of the contract.

### Do I have to go to court?

No. If you wish, you can sign a Power of Attorney, which will authorise another person (often your lawyer) to attend Court on your behalf.

### Who keeps my house deeds?

There are no house deeds as such. We will normally have a copy of your contract. However, the important document is the copy which is kept in the Public Registry of the Island.

Upon completion, you will be provided with final copies of the purchase contract, your search enquiry letters and any loan documentation.

### How long will it take?

Much depends on whether or not difficulties are encountered. If there are no issues, you should allow at least one month between first instructing us to start work and the contract being passed before the Royal Court. If there are problems, then matters can take longer. If the transaction needs to be completed within a shorter timeframe, then this can usually be achieved.

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### **What happens if difficulties arise?**

We will advise you of any such difficulties and try to resolve them. For example, if there is a boundary problem, it may mean that the neighbour may have to be brought in as a party to the contract, usually at the cost of the Vendor. Sometimes insurance can be taken out against a problem. If the difficulties cannot be rectified, we will advise you of the consequences of proceeding with the purchase and of acquiring a property which is blighted with those difficulties.

### **Are there any matters I should think about after I have made the purchase?**

It is very important to make a Will, if you have not already done so, as your property is an important investment and you would want to ensure it is properly dealt with.

You will need to notify various organisations of your change of address. Do not forget to notify the Parish which issued your driving licence of your change of address and the Vehicle Registration office so they can amend the registration particulars of any vehicle that you might own.

### **What is the cost?**

There are two areas of cost to consider. Firstly, there are legal fees. We will give you a quotation prior to instructing us to act in your sale or purchase. There will also be certain expenses such as the enquiries made with the local authorities, who charge a fee to respond. In addition, if you are purchasing, there is stamp duty which is payable to the States of Jersey which is calculated on a sliding scale. If you are borrowing money, further stamp duty will be payable. We will advise you in more detail as to the precise costs of the transaction.

Instructing an Advocate is not something most of us do regularly, but our team are approachable and easy to talk to. Our lawyers and conveyancer have many years of experience in dealing with residential property. Every client will have direct access to a senior member of the team.

We will clearly outline the timeline for proceeding and set reasonable deadlines with you. We will meet these deadlines and work hard to achieve the desired end result.

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