

MURDOCH PRICE

Barristers & Solicitors

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SELLING A HOUSE?

INFORMATION SHEET FOR VENDORS

For further information contact our Registered Legal Executives:

Lyn McCarthy

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MURDOCH PRICE LIMITED

INFORMATION SHEET FOR VENDORS

(Selling a house property)

1. DEPOSIT AND REAL ESTATE AGENT'S COMMISSION

The deposit is paid to a stakeholder on trust for the parties (e.g. the vendor's solicitor or agent). When the sale becomes unconditional the stakeholder pays to us the balance of the deposit after deduction of the selling agent's fees.

If the sale does not proceed because the conditions of the agreement are not satisfied then the deposit is refunded to the purchaser. This does not apply if the purchaser defaults after all conditions have been satisfied.

2. PURCHASER'S INSPECTION (PRE-SETTLEMENT)

The purchaser is entitled to inspect the property on one occasion prior to settlement on giving reasonable notice in writing.

If anything is required to be remedied as a result of that inspection then the purchaser is entitled to a further inspection of the remedial work.

3. SETTLEMENT

The settlement date is usually also the possession date and is often a Friday. On the settlement date the purchaser's solicitors pay us the balance of the purchase price in exchange for a clear title to the property.

4. POSSESSION AND KEYS

Possession is given by vacating the property and making the keys available to the purchaser.

Under the Agreement possession is to be given on the settlement day at the moment the purchase moneys are received by us unless there is an arrangement with the purchaser for another time or another day.

Possession day is usually a Friday but if you and the purchaser are agreeable, can be some time over the weekend.

A common arrangement is for the vendor to vacate by midday on the Saturday leaving the key to the property at a pre-arranged hiding place.

Another method is to lock all except one of the keys inside the house and give the other key to the selling agent. The selling agent should be instructed not to hand over the keys to the purchaser until he/she has confirmed with us as to payment of the balance of the purchase price.

It is best to avoid any difficulties by arranging in advance direct with the purchaser a mutually acceptable time and day for vacation of the property and transfer of the keys.

Possession should not be given to the purchaser until the balance of the purchase price is received by us from the purchaser's solicitors.

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5. REPAYMENT OF MORTGAGES

We repay any mortgages secured against the property from the sale proceeds on the day of settlement.

6. COSTS AND EXPENSES

We deduct our fees and expenses from the proceeds of sale. If the sale does not proceed we send an account to you for work to date and expenses.

The base fee covers all matters normally incidental to a sale. If any extensions to dates or any disputes or problems arise then we reserve the right to charge an additional fee.

7. TAX ON HOUSE SALES

(a) Everyone – Bright Line Test

If you purchased a property between 1 October 2015 and 28 March 2018 and enter into a sale agreement within 2 years of the purchase then the tax will be payable on the profit even if the settlement date is after the 2 year period.

If you purchased a property after 29 March 2018 and enter into a sale agreement within 5 years of the purchase then the tax will be payable on the profit even if the settlement date is after the 5 year period.

There is an exemption if the house is your main home but that cannot be claimed if you have claimed it more than twice in 2 years.

The bright line test is in addition to all other tax rules e.g. if you purchase a house with the purpose of re-sale at a profit then tax is payable even if you sell it after the relevant period.

You will need a current passport and personal attendance at our office to sign an IRD form to prove you are not an off-shore person. Additional requirements apply to trusts and companies.

(b) Off-shore Persons – Residential Land Withholding Tax (RLWT)

If you are classed as an off-shore person and the bright line test applies then the main home exemption does not apply and RLWT will have to be paid by your solicitor to IRD from the sale proceeds.

IRD has first claim and that may not leave enough to repay your mortgages, agent's commission and legal costs. That could prevent your sale from taking place and you would be in default. You need to discuss this with us immediately.

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The definition of an off-shore person is wide and can include a NZ citizen living abroad or a trust or company in which a beneficiary or shareholder is a NZ citizen living abroad. The rules are complex. Discuss with us immediately.

8. PAYMENT OF BALANCE OF SALE PROCEEDS

We account to you for the balance of the sale proceeds after repayment of mortgages and deduction of costs and expenses. We provide you with a statement accounting for all moneys received and paid by us on your behalf.

9. RATES

We attend to payment from the sale proceeds of the balance of rates payable for the current rating year/instalment and recover the purchaser's share on settlement.

10. WATER RATES

We arrange a special reading of the water meter (if any) and attend to payment of the final account.

11. POWER

You should contact the power board to arrange a final reading for as close to the possession date as possible.

12. TELEPHONE

You telephone Telecom or call at their office to arrange a transfer of your telephone number to your new destination or termination of your account if you are moving out of the district.

13. HOUSE INSURANCE

You should not cancel your house insurance until after settlement in case settlement is delayed. We can arrange cancellation should you wish us to. In which case you need to tell us the name, branch and preferably policy number of the insurance cover.

14. CONTENTS INSURANCE

You arrange with the insurance company for the transfer of the cover to your new home or cancellation as the case may be.

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15. TRANSIT INSURANCE

If this is not covered by your removal contractor (or is inadequately covered) then obtain an extension to your contents insurance to cover transit to your new destination.

16. CHATELS

The chattels that must be left in the property for the purchase are as stated in the Agreement for Sale and Purchase. These are usually the stove, TV aerial, fixed floor coverings, blinds, drapes and light fittings.

It is not permissible to change any of the chattels between the date of inspection by the purchaser and the date of possession e.g. the curtains.

Chattels and fixtures are to be in the same state of repair as they were at the date of the sale agreement and to be in working order (fair wear and tear excepted). If this is not the case then the purchaser can claim compensation, but cannot refuse to settle.

17. FIXTURES

Fixtures must be left in the property for the purchaser as they form part of the property. In broad general terms a fixture is fixed to the house or land and a chattel is movable but the difference between a fixture and a chattel can sometimes be difficult to decide.

If in doubt contact us before removing anything or alternatively obtain the consent of the purchaser.

18. USE OF THIS INFORMATION SHEET

We have provided this information sheet as a client service and have tried to anticipate the most common questions that arise in this type of transaction.