

Maude & Miller

BUYING A HOUSE – An overview of the conveyancing (legal) process

Buying a house can be stressful, especially if the process is new and unfamiliar. To help you better understand what will happen and to ease any concerns you may have, these notes give you a basic overview of the steps involved:

Step 1 Talk to us first. You should have your lawyer check the Agreement for Sale and Purchase (“contract”) to confirm it is in order before you sign it. Good agents will happily fax or email it to us. The process is more involved if you are buying an apartment. We can advise you further on that if required.

Step 2. Once the contract has been checked you can sign it. We will receive a copy after your offer is accepted. We then send you more detailed information about the purchase process.

Step 3. Most contracts are subject to conditions such as arranging finance, insurance or a search of title or Council records. A conditional contract stops the owner selling to anyone else while you make further enquiries before being fully committed to buy. We will work with you on this as required. Sometimes issues arise at this point that can add to the legal costs. For instance, your building inspection may reveal problems and you want to negotiate a lower price before proceeding with the purchase. Sometimes the agent resolves this, but if a problem is referred to us we will discuss the cost implications with you first.

Step 4. Once the conditions are satisfied, a deposit is usually payable to the agent. This is part of the purchase price, and it may or may not be the same as the full amount of cash you are contributing.

Step 5. We receive from the seller’s lawyer a “settlement statement” showing the exact amount to be paid on settlement. This sets out the price, less any deposit paid, and an adjustment of Council rates.

Step 6. We will receive mortgage documents from your bank and arrange for you to sign them a few days before settlement (“Settlement” is explained below). The bank will pay the mortgage funds to our trust account.

Step 7. Close to the settlement date we will send you our draft invoice and let you know the final amount of money you will need to pay into our trust account (if any) to make up the total we require to complete settlement.

Step 8. “Settlement”. This happens when we have received your mortgage funds and any other amounts from your Kiwisaver or directly from you, and paid the balance of the purchase price to the vendor’s lawyer. From that time you own the property and are entitled to move in. Title is transferred to you as well. We will notify you as soon as settlement has happened. This is often around the middle of the day but the exact time is outside our control. If settlement happens quite early in the day, the vendor may be still moving out as you are starting to move in. Everyone needs to be patient and work around each other in that case.

Step 9. After settlement we will send you a detailed statement showing all receipts and payments through our trust account, including our fees and expenses.

Please note this is only a basic overview of the purchase. It is not a complete description of the conveyancing process. Not every transaction will follow these steps exactly. Part of our role is to identify issues at an early stage and take appropriate steps to resolve them.