



Shanahans

family and property law

INFORMATION ABOUT THINGS TO LOOK FOR WHEN PURCHASING A HOUSE

Whether you're buying a home or an investment property it's critical that you do your homework because once you purchase the property, you will be responsible for the property and for any problems that it has. You should always contact your lawyer before you put in an offer to discuss the property that you are purchasing and what conditions are appropriate. It is now commonplace for agreements to be conditional on finance, a LIM report and a building inspection.

LIM Reports –

It is important to ensure that all buildings and structures have been erected in accordance with any necessary building permits or building consents and that there are no outstanding requisitions with the Council. You need to confirm that all works have a final inspection or Code Compliance Certificate (“CCC”). It is particularly important to check compliance where the house has been altered or extended, or a garage or carport erected after the construction of the main house.

A starting point would usually be to obtain a LIM from the relevant Council. In addition to providing details about Resource Management Act and Building Act requirements the LIM will also give details to any other particular features of the property (e.g. in a windy zone or flood plan etc.). Any designations or notified public works should also be detailed in the LIM together with the relevant plumbing and drainage and district plans. You must contact the Council to check timeframes before you put in your offer as the “urgent” LIM service is not available in all areas (including properties located within the old “Waitakere Council”)

Property File Inspections

One limitation of a LIM is that the Council will only report on matters that are known to it. Non permitted work of which the Council is unaware will not show up in the LIM. If you wish to be sure that there are no un-permitted works it would be necessary to contact the council to arrange for a property file inspection. The property file for the property will be made available to you (normally on a CD). That file will have a copy of all plans and work details known to the Council. You will be able to then see the plans to ensure that the works shown on the plan are in accordance with the works you have observed at the property.

Building Inspections

It is prudent to arrange for a builder to inspect the property to confirm that the building is safe and sanitary and that there are no defects of which you should be aware prior to purchasing. The builder should also provide you with a report about upcoming maintenance matters. You should ensure that you use a qualified and experienced building inspector who complies with NZS 4306:2005 and carries appropriate professional indemnity insurance. The building inspector should provide you with a written report setting out his findings. www.consumerbuild.org.nz has some excellent information about finding a good building inspector. When negotiating an agreement which is conditional on a building report, you should ask the agent to use a clause which says you can cancel the agreement without recourse to the vendor if you are unhappy about anything that you find in the report.

Houses built 1990 to 2004

A LIM and building inspection is particularly prudent for those houses built post 1990 using plaster and mono-cladding techniques so that you can be satisfied you will not have any “leaky building” issues. Further, you should find out from the Council if the CCC was issued by a private building inspector. If so you may not ultimately be able to rely upon the CCC. If the private building certifier was negligent you will not be able to sue the Council (as it has immunity in this circumstance) and while you may sue the private certifier he may be uninsured and unable to meet any judgment obtained. It is crucial to have the building inspected by a registered builder to ascertain that there will be no problems.

Multi Units

It is essential to ascertain that there is a CCC for the entire development. Interim CCC are no longer issued and there are many buildings in Auckland that have interim certificates for the individual units but no CCC for the entire development. This creates a problem for the body corporate and each owner and the vendor should be requisitioned to rectify where possible.

This information sheet is not exhaustive - it is a general guide only as to the issues that you should consider as to the quality of the house you are purchasing.

If you wish to discuss any of the matters raised here, email wendy@shanahan-solicitors.co.nz or call Shanahans on 827 2783 for a no obligation discussion about how we can help you with your purchase. www.shanahansolicitors.co.nz