

Havering ChangeUp

ACQUIRING A PROPERTY - PART II

Introductory understanding to the different types of property interest and the process of acquiring a property

1. Different types of property interest

- Freehold - where you own the property outright
- Long leases (e.g. 99 years) - similar to a freehold interest - typically a nominal "ground" rent is payable
- Rack rent leases (typically anything from 6 months to 25 years) - a rent is payable which (if not subsidised) is equal to the "market rent", i.e. broadly the amount that organisations who are looking for that type of space would be prepared to pay to secure the use of the premises for the length of the lease
- Security of tenure - in principle, the starting presumption is that a tenant of non-residential premises will have a right to renew its lease when it

expires unless that right is excluded or an exception applies

- Property "licences" (as distinct from leases) - these do not give the occupier an automatic right to renew. What makes something a licence rather than a lease is a complex subject
- A landowner who is not properly advised can often give its occupier a right to renew by accident

2. Surveys

- When are they vital and when are they merely useful? Consider how major a property interest you are taking (e.g. are you taking a freehold interest or 25 year lease or just a 6 month licence) and what repairing responsibilities you are taking on.
- How do they help? They can identify problems which either will be serious enough to discourage you from proceeding or will lead to a dialogue as to what you expect the landowner to put right at its own expense.
- Reliance on surveys. You need to ensure that you can legally rely on the survey (e.g. by making sure that it is addressed to you).

- Consider the dangers of shortcuts, e.g. getting a free survey from your brother-in-law.
- It is important that your surveyor works with your solicitor, but not so that you are cut out of the loop.

3. Investigating title

- Why bother? Make sure that your legal adviser advises you as to the pros and cons of (a) doing it at all and (b) doing it in detail.
- When to do it. Less important if you are renewing a lease or you are taking a short term lease or licence.
- It can cause delays and increase costs.

4. Searches and enquiries

- Why do them? Again, obtain legal advice. Do you want to know, e.g. whether there are plans to build a new road near your property or whether there is planning permission for your proposed use of the property?

- What searches / enquiries are there? The list is long, but most will not be relevant in most situations.
- Again, there is a cost and if the process can delay the deal.

5. Ancillary documents, e.g. ...

- Rent Deposit / Bank Guarantee / Personal Guarantees
- Warranties
- Indemnity insurance
- Licences to assign/sublet/alter etc
- SDLT forms and registration at HMLR

Make sure that you know what documents are going to be needed, whether as part of the main deal or the boring but necessary post-completion stamping and registration. This is relevant to time and cost.

