

PropertySpeaking

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GAWITH BURRIDGE
LAWYERS

Enjoy reading this early spring edition of *Property Speaking*. We hope you find these articles both interesting and useful.

To talk further about any of the topics covered in this e-newsletter, please don't hesitate to contact us – our details are on the right.



Guiding your offspring into flatting

Going flatting for the first time is an exciting step for your adult children. They get to live with people their own age and you have your freedom. How can they make the most of this new-found independence with the least risk to them?

They will need to know about residential tenancy agreements, what all flatties' responsibilities are in paying the rent, the bond, insurance and much more.

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The great lawyers' fee debate

Lawyers' fees are often a difficult subject to discuss. They shouldn't be.

When setting a fee we need to consider many things but, ultimately, the fee we charge to you must be fair and reasonable – for us both. We need to be paid for the expertise we give to provide you with a trouble-free property transaction and you need to know what we do to ensure this happens for you.

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Warmer homes for Kiwis

Low-income homeowners or homeowners in low-income areas could be eligible for the new government grant to assist in keeping their homes warm in winter

Meth contamination – update

Since we had two articles on meth testing in 2016, the Prime Minister's Chief Science Advisor has released a report on the risk levels in residential properties and the news that the threshold for meth testing will be lowered.

Foreign residential investment

Housing may be freed up with the new foreign buyer screening process being introduced in the Overseas Investment Amendment Bill.

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Property Speaking
will be published
in the Summer.

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Guiding your offspring into flatting

Going flatting for the first time is an exciting step for your adult children. They get to live with people their own age and you have your freedom. How can they make the most of this new-found independence with the least risk to them?

Residential tenancy agreements

Flat leases are really 'residential tenancy agreements'. Agreements should be in writing, however, an unwritten agreement can sometimes be enforced. A written agreement makes the obligations clear for both a tenant and their landlord. Your child and their flatmates should talk with their landlord about what the agreement contains. You should remind them to read the agreement through before it's signed – no one wants nasty surprises.

Residential tenancies can be for a fixed term or 'periodic'. Fixed term means that the tenant rents the property for a fixed time such as 12 months. This means rent must be paid for the full term, even if the flatmates go home for the university holidays.

A periodic agreement runs until either the landlord or tenant decides to end it. The

tenancy ends when the landlord or tenant gives notice in writing to the other. A tenant must give three weeks' notice in writing and a landlord must give 90 days. The landlord's notice period can be reduced to six weeks if they sell the house and their purchaser wants the tenants out, or if they need the house for their own family.

Joint and several liability

A group of people renting together are all tenants. Tenants are usually 'jointly and severally liable'. 'Several' means that each tenant is responsible for all of the obligations under the lease. 'Joint' means the group as a whole is also responsible. So if one flatmate (or their visitor) damages the property, all the flatmates may be asked to pay for the damage.

It's a similar scenario for rent. It can be a surprise to tenants that they may have to chip in to pay each other's rent if one flatmate doesn't pay. It pays to be careful choosing flatmates as they all need to care for the property and pay their rent on time.

Sometimes parents are asked to guarantee their child's lease. Watch for this – you may be guaranteeing all the tenants and any damage to the property.



Getting started with flatting

The first step for flatmates is to choose a flat and talk to the landlord. You must all agree who the tenants are, how long you will stay, the rent, the bond, and whether smoking or pets are allowed, and if any furniture is included. Before moving in, the agreement must be signed.

Do carry out an inspection of the property before you move in. Do this with the landlord, and record (video on your mobile works well) the state of the property. This is how the house should look when you leave.

Bond

The landlord must pay the bond to Tenancy Services. Tenancy Services will return the bond to the tenants once they and the landlord both notify Tenancy Services that the lease has ended and there is no damage to the property or unpaid rent. A bond is usually two to four weeks' rent.

Insurance

Only the landlord can insure the house. Each flatmate should have contents insurance, even if they don't own much. Do consider personal liability insurance. This can



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Lawyers' fees are often a difficult subject to discuss. They shouldn't be.

When setting a fee we need to consider many things but, ultimately, the fee we charge to you must be fair and reasonable – for us both. We need to be paid for the expertise we give to provide you with a trouble-free property transaction and you need to know what we do to ensure this happens for you.

Remember to ask us for a GST-inclusive cost estimate. Our cost estimate will usually have three components:

1. Our fee
2. The disbursement cost, and
3. Office services charge.

Fee and value

For you to have a smooth and trouble-free property purchase, we undertake a great deal of behind-the-scenes work for you. There's certainly more to it than a 15-minute meeting where we get your instructions and later on you sign various papers.

We search the title and advise you of the registration of any legal documents registered against the title which may affect the property.

We will review the agreement for sale and purchase for you as well as drafting any specific conditions you want included in the agreement. The wording of these conditions is important and we'll advise you on the most appropriate way to protect yourself through the conditional stage. We will help ensure the conditions are fulfilled by the required date and handle any negotiations or cancellations resulting from those conditions.

Once the contract is unconditional, we will prepare all of the documentation your lender needs to register your mortgage and for Land Information New Zealand (LINZ) to transfer the property to your name.

On settlement day, we will handle all of the funds required to purchase your property and will complete the transaction on your behalf.

Disbursements

A disbursement is a cost that we incur on your behalf. For example, when purchasing a property, a fee of \$80 must be paid to LINZ

to register the transfer document which puts the property into your name. We pay another \$80 on your behalf when we register a mortgage against your new property in favour of your lender. These costs become disbursements on your invoice so we can be reimbursed for the fees we have paid for you.

Office service fee

In addition to disbursements, sometimes we charge an office services fee. This generally covers IT and software licensing costs, and so on.

At all times in this process, we must act in accordance with your instructions, advise you on the law and the process of the transaction, and keep you up-to-date with information relevant to your purchase. Once your purchase is settled, we send you a formal reporting letter. Unless our fee has been deducted at the time of settlement (which is the more common method), we will also include an invoice for our fees, disbursements and office services, if charged.

If you would like to know more about the cost estimate for your property transaction and the behind-the-scenes work we do, please be in touch with us. 

Property Briefs



Warmer homes for Kiwis

Low-income homeowners or homeowners in low-income areas could be eligible for the new government grant to assist in keeping their homes warm in winter.

On 1 July 2018 the new four-year government programme, Warmer Kiwi Homes, came into effect. Under this initiative the government will cover up to two-thirds of the cost

of underfloor and ceiling insulation or, if you have a concrete floor, ground vapour barriers. Warmer Kiwi Homes only applies to homeowners who have a Community Services Card, however, funding help no longer stretches to landlords.

Warmer Kiwi Homes replaces the previous Warm Up New Zealand initiative that provided grants for 50% of the cost of ceiling

and underfloor insulation for homeowner/occupiers who had a Community Services Card, or for landlords whose tenants had a Community Services Card.

In addition to Warmer Kiwi Homes, starting in July 2019 another government grant will be made available to cover two-thirds of the cost of installing heating appliances.

To find out if you are eligible for a Warmer Kiwi Home grant, click [here](#), or don't hesitate to contact us. ●

Meth contamination – update

We have covered meth testing in *Property Speaking's* Summer 2016 (no 23) and Winter 2016 (no 22) editions. However, since the release of the Gluckman report, it looks as though the threshold for meth testing in properties will be lowered.

The Prime Minister's Chief Science Advisor, Professor Sir Peter Gluckman, released a report in May 2018 on *Methamphetamine contamination in residential properties in New Zealand, risk levels, and interpretation of standards*.

The report highlights a distinction between the use and the manufacture of the drug, and the differing levels of contamination of each. New Zealand legislation currently targets meth use with the current regulation in New Zealand being a clean-up level of

1.5 µg/100 cm², whereas a meth lab will generally have a reading of 30 µg/100 cm² or more. The report suggests the precautionary approach would be to use a much higher testing level to identify areas contaminated from very high levels of [meth] smoking, which might justify cleaning for reassurance purposes. This would still ensure public safety and reduce a significant burden on property owners.

As a result of Sir Peter's report, the government intends to review the current legislation around meth contamination and testing requirements later this year. The report calls for change in the current testing regime threshold to 15 µg/100 cm² which the report suggests is highly unlikely to cause adverse effects where people are exposed to residual meth.

If you would like to know how the report may affect your property, please don't hesitate to be in touch. ●

Foreign residential investment

Housing may be freed up with the new foreign buyer screening process being introduced in the Overseas Investment Amendment Bill.

The Bill is currently before the Committee of the whole House; following this, it will return to the House for its final

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Guiding your offspring into flatting

give protection for accidental damage to the house and the landlord has to make a claim on their insurance. Flatmates are responsible for their visitors' behaviour; if they damage anything you might have to pay!

What if something is broken?

Accidents happen; flatties should not try to cover it up. The landlord must be told straight away. Their insurer is more likely to help them if a problem is reported quickly. If any flattie notices things such as a leak, let the landlord know – small leaks can cause big damage to a property. Helping the landlord look after the house may help keep your rent down next year.

Leaving the flat

When the tenancy ends all flatties will want their bond repaid. Everyone must move out with all their belongings, rubbish removed, and the property left clean and tidy. Check the video made at the start; that is how the property should look as everyone leaves. It's a good step to ask the landlord over to check the property together.

There's more information on renting at [Tenancy Services](#), or we're always happy to help. ●

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Property Briefs: Foreign residential investment

reading. Once passed, the Bill will prevent people who are not New Zealand, Australian and Singaporean citizens or residents/resident visa holders, from investing in residential land without first obtaining consent.

This restriction includes all 'transactions' with residential property, not limited to purchasing but including entering into residential tenancy agreements for a term of five years or more, or entering into periodic leases that offer a certainty of term for three years or more.

The three grounds for consent will be granted where the investor can show the investment will:

1. Increase housing in New Zealand: this will be applied where investors build new apartment complexes off the plans or purchase hotel units and lease those units back to the hotel
2. Benefit New Zealand: this will apply where the foreign investment creates jobs or investment opportunities in New Zealand, or
3. The investor shows a commitment to New Zealand: investors must normally reside in New Zealand and have spent at least 183 days out of the last 12 months in New Zealand.

The Bill will not have retrospective effect, so any overseas investor who already owns land in New Zealand or those who already have a transaction (an agreement to purchase or an existing lease) in place at the date of commencement will fall under the restrictions of the current Act where residential land is not sensitive land.

For guidance more information on how this legislation could affect you buying or selling property – either now or in the future – please give us a call. ●

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