

Rights affecting property land

It is usually the case that if there are rights affecting a property, the rights in question will be shown on the property's title. Such 'express' rights are, therefore, readily identifiable and a buyer of the property will be aware of them.

We shall be reporting to you to about whether there are 'express' rights affecting the property you are buying, as disclosed by the property's title.

Such rights might include the right for someone to drive over land or a roadway belonging to the property you are buying, and/or a right to have drainage running though a drain or sewer belonging to the property you are buying, and/or the right to have light and air reach a house from over land you are buying.

Property can however be subject to rights and interests that are not mentioned on the property's title. Such rights and interests are varied, but may include such things as:

- the right for someone to exercise a right of way (on foot or perhaps by car)
- the right for someone to exercise sporting rights over land (for example shooting game, birds or fishing in a river)
- an obligation to contribute to the cost of repairing embankments, sea and river walls
- an obligation to contribute to the cost of repairing the chancel of a church in the parish
- the right for someone to mine/take minerals from the land
- certain rights of people in occupation of the land/property
- short leases
- the right for someone to exercise rights of light and air, and/or rights of drainage, and/or rights of support, and/or rights of access to repair buildings, and/or service media.

We shall be asking questions of the seller's solicitors that are designed to disclose if there are, or may be, such rights affecting the property you are buying. However sellers do not always provide fully comprehensive replies to such questions and indeed they may actually be unaware that such rights exist.

As the buyer of the property you do need to make a careful inspection of the property you are buying, including boundaries and means of gaining access to it. We need, in effect, to 'compare notes' with you concerning:

- what rights and interests affecting the property are disclosed by the title
- what you may have seen or discovered by inspecting the property.

Please remember that we do not visit and inspect property being bought by our clients, unless special arrangements are agreed in this respect.

You need to tell us if you have seen or become aware of something that suggests the property you are buying is subject to rights or interests that are not referred to in the title. You will need to do this once you

have our contract report. However, do not hesitate to let us know earlier if you think the property is affected by any of the matters described in this information sheet.

By this course of action we can make sure that you are as fully informed as possible on the question of the rights and interests that others can claim over the property you are buying.

In addition, the government has introduced legislation whereby the buyer of the property is under an obligation to tell the Land Registry if he/she is aware of rights and interests affecting the property/land they have bought where these rights and interests are not mentioned on the title. This 'disclosure' will be dealt with after completion of the transaction, when we register your title to the property with the Land Registry.

You are under an obligation to 'disclose' such interests and rights that are known to you and you are expected to carry out a reasonably careful inspection of the property.

Prior to completion we shall be asking you to provide confirmation that from your inspection of the property, you either:

- believe there are no rights or interests affecting the property other than those disclosed by the title documentation, or
- that you believe certain further specified rights, and/or obligations affect the property.

We can of course provide advice and guidance on exactly what rights and interests may exist, once you have informed us what your inspection of the property has revealed. In this respect your inspection needs to include all garden and other land belonging to the property and boundary structures.

Please note that as we are under an obligation to make sure that the paperwork being sent to the Land Registry is correct (when we register your title to the property) we shall not be able to complete the transaction until this letter has been supplied to us. It will, of course, be our responsibility to make sure that the letter is available for you to sign at the appropriate time.

Contact

For further information or advice, please contact: respropertyinfo@bllaw.co.uk

Southampton office T: 023 8090 8090

Oxford office T: 01865 248607

Portsmouth office T: 023 9222 1122

This publication is not a substitute for detailed advice on specific transactions and problems and should not be taken as providing legal advice on any of the topics discussed.

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