



SPRING NEWSLETTER

We are the friendly team

We are now into spring and the real estate agents are working hard to move those properties – some have been sitting for some time whilst some have recently come onto the market.

The REINZ new sale agreement released in July will certainly provide unique challenges for vendors and purchasers (sellers and buyers). We recommend:

1. You contact one of our team before you sign your offer or accept any offer.
2. We can discuss the defects in the REINZ new sale agreement; add new clauses that will protect you.
3. Beware of "standard" conditions. These include:
 - a. finance,
 - b. builders reports,
 - c. checking Council records,
 - d. LIM reports.

No way is anything standard – we word conditions that suit our clients i.e. so that you get what you want.

4. Be careful with deposits. There are different consequences, depending on whether you are buying or selling.
5. We try to work alongside the real estate agent in putting together agreements. We see this as one of the many cogs in the wheel, i.e. a good real estate agent will see the advantage for all parties in allowing the seller or buyer to see their legal advisor first.

MORTGAGEE SALES

During these turbulent times we have seen an increase in mortgagee sales, with an all time high of 201 recorded in New Zealand for March 2009.

There are 3 stages to this process:

- ❖ It is recommended that all borrowers talk to their lenders. Keeping an open dialogue with your bank is crucial and this may lead the bank to discuss alternative

ways of funding the mortgage payments, such as interest only or extending the term of the loan to decrease the payments.

- ❖ If there is no solution the lender (mortgagee) must serve a section 119 Property Law Act Notice before proceeding to a sale. It is important your lawyer obtains a copy of this Notice to ensure that the contents and method of service complies with the law. Section 120(1) allows the borrower (mortgagor) 20 working days after service of the Notice to bring the outstanding payments up to date.
- ❖ After that time the mortgagee can commence sale. Section 176 of the Property Law Act imposes a statutory duty on the mortgagee when exercising a power of sale to obtain the best price reasonably obtainable as at the time of sale.

This is a stressful time for all concerned and we are here to help you with this process.

PROBATE NEWS

On 29 June 2009 the amount, before obtaining a Grant of Probate is required has increased from \$11,000.00 to \$15,000.00.

Therefore if an estate has assets of more than \$15,000.00 a Grant of Probate must be obtained from the High Court.

However if assets are held as joint assets, these are transferred by way of survivorship to the surviving party.

If the estate is modest and just over this threshold of \$15,000.00, the cost of obtaining a Grant of Probate can be high. It is worth discussing costs and ways around this with your lawyer.

WILLS

Every client ought to have a current Will.

We do not apologise for reminding clients of this as over many years of experience we have noticed dire consequences for clients who have died without a current Will. Some of these examples are:

- ❖ Died while in a new relationship but never dissolved their marriage.
- ❖ Recently married which revoked their existing Wills.
- ❖ Dissolved their marriage but did not complete new Wills.
- ❖ Claims by children against relationship assets.
- ❖ Overseas clients purchasing property in New Zealand.