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Good people to have on your side

VIBERTS
Property Guide

Viberts Property Team

Our team is passionate about property – helping local people and newcomers to Jersey to buy and sell property with as little stress as possible. The property team at Viberts is friendly, professional and experienced. We are aware that property deals are demanding. Large amounts of money are involved and failure to attend to the details can break a long chain of related transactions. Our property team is dedicated to making the process as problem-free as we can. We are also supported by having links to the strong family and probate teams within the firm. Viberts property team has extensive experience in dealing with all property related transactions, both domestic and commercial. We take pride in making sure that deadlines are met.

Property Ownership in Jersey

There are a number of different types of residential property ownership in Jersey

Freehold Property

This is the most common form of ownership of homes and land in Jersey. Perhaps better described as outright ownership, the purchase of freehold property gives an individual a legal entitlement to a property. Conveyancing takes place by the swearing of a contract before the Royal Court which is then recorded in Jersey Public Register of land contracts.

Flying Freehold Property

The laws governing private ownership of property in Jersey were amended in 1991 the development of purpose built blocks of apartments comprising a number of private dwelling units. As with freehold purchases a buyer acquires an exclusive legal entitlement to the private unit but with an associated percentage interest in the land on which the collective property is established.

Under this mode of ownership the private dwelling unit is ultimately the responsibility of the owner. The collective property however, is governed by an association of the various co-owners responsible for the building and the land on which it is situated. Share Transfer Property

This mode of ownership normally applies to properties divided into a number of private dwelling units. The collective property is owned by a property holding company and the individual acquires a block of shares in the company having ownership of the building and land.

Company law and the articles of association of the company govern the buyer's entitlement to the private dwelling unit which is matter of company record, rather than being set out in a contract passed before Court.

Contract Lease Property

A contract lease is a lease of 9 years or over passed before Court, often for a period of 99 years. Subject to the terms of the lease the lessee will usually receive the same benefits as if they were the owner of the private dwelling unit but without receiving absolute ownership.

Jersey Housing Law

The laws, procedures and regulations governing the buying and selling of property in Jersey are quite different to those that apply in the United Kingdom.

The Housing Law and associated policies have been in place since 1949 and are not only comprehensive but also fairly complex.

Under the Housing Law there are a number of regulations governing who is entitled to own and occupy residential accommodation. These are categorised according to circumstance. Those most relevant to the majority of transactions are summarised as follows:-

I (I) (a) – This regulation applies to persons born in the Island who have been Jersey resident for an aggregate period of 10 years. Having attained and confirmed 10 years residence this is a permanent qualification that can never be revoked.

I (I) (f) – This regulation presently applies to individuals who have attained a period 11 years continuous residence in Jersey. They enjoy the right to purchase or lease property in Jersey, subject to remaining continuously resident in the Island. In general continuous residence precludes any absence from the Island of more than three months, with the exception of one period of absence up to 5 years.

I (I) (j) – This regulation applies to a person who has been licensed by the Housing Minister as being essentially employed in the Island. During the period of employment as an essential employee the individual will receive the same benefits as those qualifying under other regulations and can lease and purchase residential accommodation. This is a granted concession associated with employment that is subject to other constraints and controls.

I (I) k – These complicated rules have been subject to review and there are proposals in hand for them to be replaced with a simpler system.

Who May Buy and Occupy Property in Jersey

Share Transfer

Any individual whether locally qualified or resident outside of the Island can purchase property by way of share transfer as the purchase of shares in a company is not restricted. However, the occupation of such properties is subject to the same conditions as freehold properties and regulated by the States of Jersey Population Office. Only those benefiting from locally qualified status will be approved to occupy these premises.

Freehold and Flying Freehold

Freehold and Flying Freehold properties can only be purchased by those residentially qualified under conditions I (I) (a) – I (I) (k) and the individual must receive the consent of the Population Office before any purchase or occupation of qualified accommodation is permitted.

Essential employees approved by the Population Office as being qualified under regulation I (I) (j) may only occupy more expensive properties. The purpose of differentiating between properties categorised as either (a)-(h) or (a)-(j) is to offer protection to the locally qualified market and ensure cheaper dwellings are reserved for the local population.

The category applicable to a particular property can result from historic conditions or conditions imposed on the land on which the dwelling is established. For example, a developer establishing a block of Flying Freehold properties may be granted a concession to have a portion of the units specified as (a)-(j) but the remainder of the units as (a)-(h) irrespective of the market value of these properties. The imposition of (a)-(h) conditions therefore acts as an encouragement to the developer to provide more modest dwellings than would otherwise be provided

In the case of Freehold property, under the current policy if the market value is in excess of £250,000 it will automatically be categorised as being available for persons qualified under regulation I (I) (a)-(j).

Company Acquisition of Property

With the exception of I (I) (j) category essential employees the Population office will not generally issue consent for a company to purchase residential property in Jersey.

Corporate acquisition of property is restricted to companies carrying out a property development or the purchase of buildings divided units. If property is acquired by a company for development purposes the consent issued is restricted to the period of development and once complete the property must be sold or transferred to residentially qualified individuals.

J Category Essential Employment

The success of Jersey's economy firms has been dependant on the Islands ability to provide a home for individuals with appropriate skills, qualifications and experience. The Island benefits from individuals whose expertise compliments the skills of the existing workforce.

The grant of I (I) (j) category essential employee status is at the discretion of the Population Office Housing Minister and is usually judged by reference to certain criteria, as follows:-

- The contribution made to the Island by the employer in terms of tax revenues, service provided, etc;
- The significance of the post in question to the making of that contribution;
- The track record of the employer in the recruitment and training of local people;
- Evidence that there is no satisfactory local candidate for the post in question.

Depending on the industry and post for which an application is made the consent granted under this regulation can be permanent or may be restricted to a period of 3 years or 5 years. In addition, some consents may only grant the individual to lease qualified accommodation for the duration of the their employment.

Essentially employed Nurses and Teachers

As a concession Nurses and Teachers, being generally lower paid than finance industry workers are entitled to occupy I(I)(a)-(h) accommodation.

J Category Essential Employee Purchase of Property

Approved I(I)(j) essential employees will be able to occupy property owned by a company, beneficially owned by the employee for the duration of such full time essential employment.

To avoid conflict with the Housing Regulations certain undertakings must be completed by the employee before the company is granted consent to acquire any specific property.

Where an essential employee wishes to purchase a property owned by the employer company, or wishes to acquire a property already beneficiary owned by another essential employee through a company, it is possible for the purchase to be effected by way of transfer of shares. This requires a formal request to the Housing Minister for a revised consent relating to that property.

Where an employee completes a continuous period of ten years essential employment in the Island the Housing Minister accepts that employee as having residential status in his or her own right under regulation I (I) (e). Their status is no longer dependent on continued essential employment but at this point any property held in a company name must be transferred into their own name.

The Work we do to Help You Buy or Sell Your Home

Property transactions are often complex and can become stressful. We aim to give clear legal advice and helpful practical advice.

When you instruct Viberts to conduct your property transaction we will:-

- Ascertain whether or not an application has been made to the Housing Department and the Department of Agriculture and Fisheries for consent to the transaction and, if not, put steps in hand to ensure that such applications are made.
- Liaise with the vendor's/purchaser's lawyers to ensure that contract documentation is produced with the minimum possible delay.
- Liaise with the lender to ensure that most lenders insist their borrower secure any mortgage proceeds in line with completion deadlines (please note that life insurance cover a matter which can only be attended to by you). As soon as you apply for a mortgage we recommend enquire about life insurance. You should ascertain whether or not medical reports are needed and if so ensure that they are produced. Buildings insurance is also required. Delays in contract completion are often caused by delays in obtaining life cover or adequate buildings insurance.
- Check title to the property (if purchasing) or update title (if selling) and provide a draft contract of sale to the purchaser's lawyers. In all purchases we will attend on site to check the boundaries and to identify any problems which might interfere with your enjoyment of the property or adversely affect its value.
- Request reports from the Planning and Environment Committee, Public Services Department, Jersey Electricity Company, Jersey New Waterworks Company, Jersey Gas, parochial and other authorities. The utility companies and States authorities charge a fee for these searches for which you should budget about £321.06 as at December 2009. We also advise that any property to be purchased should be properly surveyed and all drainage, electrical, wiring, water supply, plumbing and other services thoroughly checked by the appropriate tradesmen. The services to a property are its very lifeblood and should be examined carefully by persons with the appropriate expertise.
- Prior to passing contract or completing a Share Transfer we will meet with you to advise you on the terms of the documentation, provide you with copies of all statutory consents or reports and written details of any aspects of the transaction which warrant special note.

Freehold property transactions require attendance at Royal Court on Friday afternoons at 2.30pm. A member of our conveyancing section will be able to represent you as your attorney at no extra charge save for £25 stamp duty for the registration of a Power of Attorney. If you wish to attend Royal Court personally, formal dress is required - a jacket and tie for men, for example.

Parties conveying land listen for their names to be called and stand up when so required, in order to raise their right hand and swear an oath to comply with the terms of the contract they are entering. It is by this simple ceremony that land is conveyed in Jersey.

Other Points of Importance

Surveys

If you are borrowing money, your lender is likely to insist upon a survey of the property before agreeing to lend the money. The three main types of survey are as follows:-

Valuation

- The most basic survey where the surveyor provides a report giving an estimate of the value of the property.

Home Buyers Survey

- The middle option. A survey which gives the purchaser information on the general condition of the property as well as that contained in a valuation.

Full Survey

- The most extensive survey where the surveyor will provide a report on structural and cosmetic features of the property.

Naturally the cost of the survey will depend upon how extensive it is.

Please ask for the survey to be addressed to you rather than the lender as this will provide you with greater rights if a mistake is made.

Services and Statutory/Parish notifications

You should ensure that you obtain the necessary forms to have utility accounts for a property transferred into your name. It is normal practice to apportion Parish rates (fonciers and occupiers) between vendor and purchaser on a time basis. Dog licences, firearm licences, driving licences and vehicle registrations also need to be transferred or amended. If in doubt check with your Parish Secretary. If you own land bordering on a public road notices will appear in the Evening Post, usually in July and September of each year reminding property owners of their duty to trim hedges or trees, etc. which encroach over public highways.

Insurance

It is imperative that you insure your property as of the moment you acquire ownership of it. If you are buying a house freehold the structure must be insured for a realistic value. This is, in most instances, a requirement of your lending bank. If you are buying by share transfer or by flying freehold the company or association will insure the structure, but you should insure contents and items such as internal decoration as these are your responsibility.

Payment

The person selling a freehold property on a Friday afternoon does not receive the money for the property from the buyer's lawyer until the Tuesday after the passing of the contract in the Royal Court, even though the buyer normally takes possession immediately. A buyer must, however; ensure that his or her lawyer has the money for the property in cleared funds on the morning of the day that the contract is passed in the Royal Court.

General

This guide is intended merely to be an introduction to a potentially complicated subject. Please contact Advocate James Lawrence or the Conveyancing Department at Viberts if you would like to receive further information

Contact Details

Date

To Remember Before Moving

This is not an exhaustive checklist but may be a useful reminder of things to do before you move.

- Car registration documents and driving licence - you have 7 days in which to notify the Driver and Vehicle Standards Department and the Parish Hall (of the Parish to which you are moving) of your new address. Forms may be found on the Parish website www.parish.gov.je or any Parish Hall.
- Services - have you remembered to apply to the water gas, telephone and electricity companies to connect your new home or transfer?
- Insurance - have you told your insurers (including life and car insurance) of your new address?
- Share Holdings - have you advised the company administrators of your new address. In the case of public limited companies they are often administered by a central registry.
- Dog licence - have you notified the Parish authorities of the change of address?
- Employer/children - have you remembered to tell your employer and your children's school of your new home address?
- Mail re-direction - have you completed a form and sent it to the post office?
- TV licence - have you informed the TV Licence Authority of your new address?
- Pensions - have you notified your pension trustees of your new address?
- Wills - have you made new Wills?
- Clubs and Societies - have you told the secretary of any clubs and societies of your new address?
- Doctor and Dentist - have you reminded them of your change of address?
- Social Security Department & Income Tax Department - have you advised them of your change of address?
- Parish Rates - from 1st January 2004 you must notify the Constable of the Parish in which the land is situated of the change in ownership.