

Buying a home

Buying a home will probably be the most expensive thing you ever do, so it's important to understand the process and take time to get to know the market. With so much to think about and so much money at stake, every decision counts.

The sale contract

By law, an agent cannot put a residential property on the market until a sale contract has been drawn up. You have the right to examine the contract at any time once a property is on the market. If a particular property interests you, get a copy of the sale contract as soon as possible so you can ask your solicitor or conveyancer to review it. You should have this done before signing a sale contract.

Paying an expression of interest

Once you have made an offer on a property, you may be asked to pay an initial deposit for an expression of interest. This won't mean that the property is yours or that it gets taken off the market. It only proves to the seller that your offer is serious. The seller or agent can take as many initial deposits as they like for the one property.

However, when you pay this deposit, the agent must provide you with a receipt and tell you in writing that:

- the seller is not obligated to sell you the property
- your deposit will be refunded if you do not enter into a contract to buy the property.

The agent must inform you if another offer is received and give you the opportunity to increase your offer if you wish.

Pre-purchase inspections

A pre-purchase inspection report is one of the different types of building inspections you can get done. As the name suggests, this report is the one you get before you buy a property. It is a written account of the condition of the property and should tell you about significant building defects or problems.

A pest inspection report is a different thing. While a pre-purchase inspection should identify any visual damage that may have been caused by termites it usually won't identify if they still exist. It is advisable to get a pest report done as well. For more information, get a copy of the publication *Building inspections – a home buyer's guide*.

Gazumping

Gazumping occurs when you have a verbal agreement with an agent or seller to buy a property at an agreed price but the property is sold to someone else for a higher price.

The seller is entitled to get the best price for the property and the agent's job is to help them. Unfortunately, this could mean that you lose out if the seller decides to offer the property to another purchaser. This is because until you exchange contracts, there usually is no legally binding agreement between you and seller.

If you are gazumped, neither the agent nor the seller is obliged to compensate you for any money you may have spent on legal advice, inspection reports, finance application costs and other enquiries.

To avoid being gazumped and losing money, you could arrange for your pre-purchase reports and enquiries to be done during the 5 day cooling-off period after exchanging contracts. However, if you find something wrong and decide not to proceed with the sale, you will be liable for some costs. The owner is entitled to keep 0.25% of the price you agreed to. You will need to consider the potential costs before deciding when to get your reports done.

Exchanging contracts and paying a deposit

Exchanging sale contracts is the legal and binding part of buying a home. After your conveyancer or solicitor has reviewed the contract; after all the necessary inspections and enquiries have been made and after all the financial arrangements are in

place, you will be ready to exchange contracts. There will be two copies of the sale contract: one for you and one for the seller. You each sign one copy before they are swapped or exchanged. This can be done by hand or post and is usually arranged by your solicitor, conveyancer or the agent. At the time of exchange you will be required to pay a deposit, usually 10% of the purchase price. At this point, you have a financial interest in the property so it's wise to get it insured.

Cooling-off period

After you have exchanged contracts, you usually have 5 business days to get out of the contract if you change your mind. If you do this, the owner is entitled to keep 0.25% of the price you agreed to.

It is possible to waive, reduce or extend the cooling-off period with the consent of the seller. If your solicitor or conveyancer has examined certificates from the appropriate authorities, a pest and building inspection has been done and your finance has been approved, then deciding to waive the cooling-off period could make your offer more attractive to the seller.

Settlement

Settlement usually takes place about 6 weeks after contracts are exchanged. This is when you become the legal owner of the property. The balance of the purchase price and other adjustments are paid on this date.

Buying at auction

Buying at auction can be a nerve-racking experience so it's a good idea to familiarise yourself with the process by attending an auction or two as a spectator.

Take the time to find out what prices properties in the area have sold for, so you have a guide to the market value of the home you want.

It is important to have your solicitor or conveyancer examine the sale contract before the auction to make sure everything is in order. It is also important to have your finance arranged and pre-purchase inspections completed prior to the auction. Unlike when you buy a house that is for sale, there is no cooling-off period when you buy at auction.

You must be registered in order to bid at an auction of residential property. All you need to do is give your name and address and show proof of identity to the selling agent at the auction. You will be given a bidder's number which you must display when bidding.

If you want someone else to bid on your behalf, they must give the auctioneer a written authority from you, before the auction starts. For more information about bidding at property auctions, get a copy of the Fair Trading fact sheet *Bidder's guide*.

Before auctioning a property, the seller will nominate a reserve price which is usually not told to the interested buyers.

The reserve price is the lowest price that the seller is willing to accept. If the highest bid is below this price, the property will be 'passed in'. The seller will then either try and negotiate a price with interested bidders or put the property back on the market.

If the bidding continues beyond the reserve price, the property is sold at the fall of the hammer. If you are the successful buyer, you must then sign the sale contract and pay the deposit on the spot (usually 10%). Remember there is no cooling-off period if you buy at auction.

If the property is passed in at auction but you end up exchanging contracts on that same day, the cooling-off period still does not apply.

www.fairtrading.nsw.gov.au
Fair Trading enquiries 13 32 20
TTY 1300 723 404
Language assistance 13 14 50

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