

Avoid tricky situations - check your plans

Charles Haigh, broker/owner of RE/MAX Elite, cautions potential property buyers to be on the lookout for extensions, alterations or additions to dwellings. Request a copy of the plans of the property, he says.



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“An approved plan will shed some light on the age of the property, setbacks for building lines and of course whether the changes have been endorsed by the local authority for building regulations,” says Haigh. “Property buyers need to be aware that the council seeks recourse and remedy for illegal extensions to properties from the registered owner of the property at the time that the notice to comply is issued.”

Buyers can protect themselves

He notes that failure to comply will attract penalties and a stiff fine. However, there are ways that buyers can protect themselves. “Buyers who are in the process of purchasing a property can simply request a copy of the approved plans as a suspensive condition of sale. This means that unless the plans are produced, transfer will not take place and in effect will pass the responsibility of proving the legality of the structure to the seller or the current registered owner,” Haigh explains. “Agents could also be more pro-active and include a request for the plans when listing the property. If the owner does not have a copy, a letter of authorisation to council nominating the agent to extract a copy of the plans on the owner’s behalf is acceptable. A small cost to council for obtaining a copy of the plans will prevent a lot of potential unhappiness in the long run.”

According to Haigh, if the buyer is purchasing a newly constructed home, the ground rules are similar. The local authority building inspector will ‘sign off’ on the commencement and completion of the home by way of various certificates of compliance, so purchasers are safe in this regard. “There are no beetle or electrical compliance certificates, but there will be a completion and an occupancy certificate. The council will only provide an occupancy certificate once all other certificates are issued for the house,” says Haigh. “In other words, the electricity, water, sewerage and all other services will be connected and working.”

Enrolment with NHBRC

He adds that in the case where the home is being newly built, it is important to ensure that it has been enrolled with the National Homebuilders Registration Council (NHBRC) before commencement of the construction takes place. The NHBRC

is a consumer body that protects purchasers of new homes from unscrupulous builders. Provision should be made for a compulsory 1.3% levy of the building contract amount, which will need to be paid to the NHBRC for enrolling the home.

Haigh advises that when utilising the services of a builder, it is best to ensure that everything is in writing. The homeowner should also request copies of all the certificates, as well as a copy of the approved plans and the enrolment certificate. This certificate has the NHBRC standard building guarantee on it, which warrants the integrity of the structure against shoddy workmanship for five years.

“If a homeowner finds themselves in a situation where they receive a notice from council about an illegal extension on their property, they should enlist the services of a draftsman or architect. The plans for the extension will need to be drawn and submitted to the council. Be prepared to pay about double the usual fee as a penalty and/or a demolition order from the local authority for the illegal structure. Try recourse with the previous owner for non-disclosure and split the cost if all else fails,” Haigh concludes.

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