Off-the-plan Properties

There is a lot of talk these days about selling and purchasing properties “off-the-plan”. There are loads of horror stories that you can read about in the press and there are just as many satisfied purchasers who can tell their tales of success. I for one have purchased three properties off-the-plan and haven’t been disappointed in any way.

NSW Fair Trading has listened to the complaints of those purchasers who have not had the positive experiences that I have had and taken up the cause. The NSW Government has launched a survey to identify and address potential issues regarding buying property off-the-plan. Fair Trading, with the support of NSW Land and Property Information (LPI) will look at concerns regarding sunset clauses, where vendors can potentially delay a project’s completion so that they can rescind a contract with a current buyer. The government is concerned that such a practice enables vendors to break a contract specifically to resell the property in question for financial gain. However, the flip side is that the property market may not decrease and when it is time to settle on the completed property, the initial purchase price is significantly higher than the current market value, and the purchaser may be unable to settle.

It is presumed that the many sides of this argument will be where the government needs to focus in its research into these types of property sales.

Any interested party can complete the survey as part of the consultation process. This can be accessed on the NSW Fair Trading website until 14th October 2015 and by going to the “Buying property off the plan” page.

The following information is very useful and has been taken from the NSW Fair Trading website. It gives a clear insight into the off-the-plan style of property sales.

What actually is buying and selling property off the plan?

Buying off the plan refers to buying property in a plan of subdivision that has not been registered or a unit that hasn’t been built. Buyers enter into a contract with the developer to buy a property in a development which may not be completed for some years.
Marketing and selling property off the plan can enable land to be developed in an efficient, cost-effective way. Buying this property allows buyers to future plan their housing. However, there are particular risks in this type of sale.

Contracts between the buyer and seller usually contain a number of conditions. These generally outline:

- the agreed timeframe for the developer to complete the project
- the agreed standards to which the project should be delivered
- how the contract can be varied or terminated, and by who.

**Emerging issues for buyers**

An emerging concern is that certain developers may be lawfully terminating contracts specifically for financial gain through ‘sunset clause’ provisions.

A sunset clause can be used by either party to end the contract if the project is not completed on time. These clauses can support buyers by giving them the right to end a contract and pursue other property options if the building project is delayed.

There may be instances however where a developer deliberately delays a project to activate the sunset clause. In this situation, the deposit is returned to the buyer. However, the same property is sometimes then on-sold by the developer for a profit. This creates uncertainty for would-be buyers, who may have been waiting to settle the purchase for many months or years.

If you are involved in marketing and selling properties off-the-plan, ensure that you are fully informed by the developer in relation to all of the contractual issues, the fixtures and fittings that are included within the contract, and particularly the lot sizes and common area inclusions. This will enable you to provide the best level of information to your purchasers, whilst still meeting the needs of your vendor.

Til next time,
Wishing you every success in your business ventures,
Rosy Sullivan

Check out our website
and the new photos of
the ACOP team.

Click here to Meet the Team
With the cold, windy and wet weather returned, we have had a number of the ACOP team struck down with sickness in the past fortnight, which has meant a depleted number of people in the office and much less laughter. Our trainers have been soldiering through the sickness level and in addition to training occurring every day in our head office training rooms in the CBD, they have been travelling around to Melbourne, Newcastle, Gosford, Liverpool, Northmead, Bella Vista, Castle Hill, Penrith, Wentworth Falls, Wollongong, Campbelltown, Dee Why and Manly.

Of greatest importance in the past fortnight has been the wedding of our fabulous Trust Accounting trainer, Jane Morgan. We wish her and Jerome every happiness in their “finally” married life together. And, like any good finance person, she is committed to the task at hand and she’ll be training next Monday………….the honeymoon just has to wait!

We have also seen Dom take off for a week in Thailand to celebrate a friend’s wedding, and the return of our German beauty Charlotte, who has returned to us after a 3 month stint of working in the regional areas of NSW. As usual, ACOP has seen 2 more cakes this past fortnight, with Braden turning 20 last week, and amongst his busy university schedule, he still seems to be at the office a great deal – particularly when cake is involved. And then another cake today for the birthday of our fearless Financial Director, John Sullivan – and apparently we aren’t supposed to make jokes about him being so old.

We are looking ahead to the next fortnight bringing warmer weather and much less sickness in the ranks of the ACOP office.

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