



YOU AND YOUR PROPERTY

BY RESIDENTIAL PROPERTY LAWYER
MICHAEL HOFMANN-BODY

The property market always moves in cycles. The market at present can only be described as incredibly hot. There is a lot of interest in properties and there are not many properties available. One of my real estate agent colleagues recently advised me 65 tenders were received for one property. It would take several hours to process all of those offers to determine which was the best. This is great news for sellers but terrible news for prospective buyers.

Hot markets are fantastic for sellers because they create an environment which achieves premium prices and favourable terms. For buyers, hot markets can be very difficult to navigate. The more interest in a property there is, the harder it is to secure the property.

This article focuses on giving advice to prospective buyers of property so they can put themselves in the best possible position when making offers.

The most important considerations for a seller when considering an offer are the price achieved, the number and type of conditions attached to the offer and the time of settlement. Buyers need to be aware that the cleaner an offer is, the more attractive it becomes to the seller. A cash unconditional offer is always going to be more attractive to a seller than a

conditional contract. This may even be true if the conditional contract is for a higher price. A cash unconditional offer cannot be withdrawn once it is accepted by the seller. Once it is accepted by the seller, the seller has certainty they have sold their property. A cash conditional offer is almost equivalent to cash.

When buying a property it is critical you undertake due diligence on the property to ensure you are not buying a problem. The four most important elements of any due diligence investigation are the title, finance, a builder's report and obtaining a LIM Report or searching Council records. The first two items (checking the title and obtaining finance) do not usually result in significant costs to the buyer however, the latter two (obtaining a LIM Report and a builder's report) can involve significant cost. The cost of obtaining LIM Reports and builders'

reports results in an economic disparity between prospective buyers. The wealthier a prospective buyer is, the more likely they are to have obtained these reports prior to making their offer. It is very difficult for a first home buyer to justify the cost of multiple reports when there is a probability they will not be successful buying the property. In each and every case a judgement call needs to be made as to whether or not the reports should be obtained before submitting an offer for a property.

Before starting the process of buying a property a buyer should know exactly what their financial position is. They should hold a preapproval from a lending institution, be aware of the amount available to them through KiwiSaver withdrawals, understand whether or not they will have an ability to access the government's home start grants and have clear understandings with family



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members who are going to support their purchase. Once the buyer is aware of their financial constraints they can start the process of making offers on properties with more certainty.

A Lawyer can usually review the title to a property within one working day unless the title is very complex. With the first two conditions satisfied a buyer can then make a more informed decision as to whether they will obtain the LIM Report and builder's report prior to submitting their offer or if their offer will be conditional upon satisfactory reports being obtained. For each and every property this will be a judgement call.

I am often asked who should prepare a builder's report. I have concerns about family members providing the reports. If something is missed in the building report it can be very difficult to discuss that matter with the family member who prepared the report. Obtaining a report from a qualified building inspection company is more prudent as you will not feel the same way about the inspection company as you might do with a family member. It is easier to call a third party to account. Great care should be taken with builders' reports provided by sellers. Those builders' reports are likely to contain provisions saying they are not responsible to third parties including buyers.

Another common question is whether or not a LIM Report is necessary. In my experience, LIM Reports do not often disclose issues but when they do, the issues are significant. It is my recommendation that every buyer obtain a LIM Report as the risks of buying a non-compliant or un-consented property are potentially very expensive. An alternative may be to simply visit the local authority and check their records yourself. I have some misgivings about this approach as it would be quite possible to miss something relevant. A LIM Report is designed to provide all the relevant information a buyer would wish to review.

It is critical you surround yourself with professionals who can provide timely advice to ensure offers have the best possible chance for success and accurately reflect your capacity for risk.

"If you would like a copy of previous articles on property written by Michael email him on michael@homelegal.co.nz."

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PULSE of THE HUTT

BY LOWER HUTT MAYOR
RAY WALLACE



Our Council is here to represent our residents

The consultation on the city's draft annual plan, which runs until April 29, is one of the most important times to hear our residents' views.

As we consult on our draft annual plan for 2016/17 it's good to revisit the vision and commitment we have to make Lower Hutt a vibrant city, now and into the future.

We know we need to re-invest to see this city grow and I am immensely proud of the bold decisions we have made as a Council and as a community.

The scope of our Annual Plan for 2014/15 set us on an ambitious programme of work. We have a lot of work underway in strategy and planning; in economic growth; in developing excellent facilities; and in community health and wellbeing.

We are in a very privileged position to be able to invest in our future, and we are very aware of the importance of retaining our financial strength.

The draft Annual Plan includes a draft budget and update on the projects underway. We can afford to continue this programme of rejuvenation with the lowest expected rates increases in the region, of 2.7 per cent, and we will meet our debt targets, as set in our Long Term Plan.

We are responsible for stimulating growth and private investment, and an example of this is the Town Hall and Events Centre. This project is going to transform our Civic Precinct and provide a very functional facility for community events and corporate, multi day conferences. The operator will lease this Centre from us - a great arrangement that sees buildings that were a financial drain now become positive

income. It also means we do not carry the operational risk. This operator has decided to develop a four-star plus hotel in Lower Hutt. This is an example of the role Council can have in attracting private investment. Economic indicators show the net present value benefits of the Town Hall and Events Centre are \$100 million+ over 20 years of operation. More than 100 jobs will also be created. The hotel and Events Centre will also stimulate our hospitality, accommodation and retail sector.

In this draft Annual Plan we are also asking about additional projects, which are not currently in the draft budget.

The Stokes Valley Hub is one, the current building requires seismic strengthening and we propose combining the facilities to create a community centre. This combining of facilities makes sense in terms of efficient use of resources, and also creates a great centre for a more vibrant and connected community.

Free parking in time restricted parks in the central business district is being considered. We want to know if you'd like to see it put in place and, if so, how should we cover that lost revenue - targeted rates, or spread across all ratepayers?

There's more in this plan, and I encourage you to be well informed.

You can pick up the consultation document and draft Annual Plan 2016/17 from any of our libraries, off our website or by getting in touch with us. Get your submission in by April 29.

Till next time, enjoy everything Lower Hutt has to offer.

Ray Wallace