

YOU AND YOUR PROPERTY

BY RESIDENTIAL PROPERTY LAWYER
MICHAEL HOFMANN-BODY



Like most solicitors, I receive several calls a week from prospective clients seeking to engage my services. Unless they were referred to me by a third party, the first question they usually ask relates to the cost of my services. In a shrinking economy, cost is a significant factor in all of our decision-making. Sellers usually seek to reduce the commission payable to a real estate agent or in some instances they will sell the property privately. Buyers may seek to take short cuts in respect of their due diligence by not obtaining a LIM report, looking for a cheap building inspection, or they may attempt to negotiate the contract themselves all in an effort to reduce costs.

It is my belief attempts to save money by carrying out tasks yourself ordinarily provided by professionals or by omitting to carry out standard due diligence on a property usually results in additional and unexpected costs.

Possibly the greatest false economy is selling a property privately. Whilst real estate agents may appear to be expensive, in my experience a quality real estate agent will always create value for a seller. When selling privately, buyers consciously discount the price they are prepared to pay in the knowledge there is no commission to be paid by the seller. Not only is the price discounted by the buyer, the seller

takes upon themselves all responsibility for marketing the property, dealing with prospective purchasers and negotiating the sale. A good real estate agent will take away the emotional aspect, not to mention the significant time investment put into marketing the property. When I sold my last property, the real estate agent's first piece of advice, in my view, substantially increased the value of my property. Her appraisal of the property was that it was worth substantially more than the rateable valuation and explained how I could market the property to a higher level. She quickly sold my property for the figure at which she had appraised the property

(which was more than I had initially anticipated receiving for the property). The agent's fee paled into insignificance compared to what I believe the agent added to the sale price.

Buyers are often reluctant to seek a full building inspection on a property because of the cost. A seller will make it a condition of their agreement that a copy of the builder's report be provided to the seller if the agreement is not confirmed. Sellers are now obliged to declare if an agreement has been cancelled based on a building report condition. In fairness, a seller is entitled to know what was wrong with the

Continued on page 10...



HomeLegal
Taking care of the detail

We make buying and selling a home easy

When buying or selling your home you need to know that the detail has been taken care of - efficiently and professionally.

HomeLegal is a team of specialist property lawyers. You can be assured HomeLegal will provide the highest quality advice and service backed by years of experience in property law.

We care about getting it right - first time!



For more information contact HomeLegal today on 0508 HOMELEGAL

HomeLegal is a division of Gillespie Young Watson

www.homelegal.co.nz

...continued from page 9

building report that led to the agreement being cancelled. This change, in practice, has encouraged buyers to be more vigilant. Buyers are now seeking written reports rather than engaging a friend or a relative to visit the property to give them a thumbs up or thumbs down. While the more informal inspection reduces costs, what if the friend or the relative gets it wrong? It would be very unpleasant to have to decide if you are to sue a friend or relative for negligence if you suffer a substantial loss.

Some of the more robust building inspection companies have a poor reputation among the real estate agent community. Because they prepare such robust reports, they are viewed as catalysts for cancelling agreements. In my view, this is unfortunate. A robust building report should always be obtained by buyers of property. The report, however, should be read with one important consideration in mind: in 95 per cent of instances a buyer is purchasing a second hand good. Inevitably there will be some issues with each house. The purpose of a building report is to identify issues which would cause significant loss. A builder's report should not be used by buyers as a tool to chisel a seller on price or as an excuse to release themselves from an agreement they no longer wish to proceed with for other reasons. There are well-established principles of law that a person cancelling a contract for non-satisfaction of a condition must only cancel in good faith.

Purchasing property will, for the greater majority of us, be the most significant financial decision we make in our life. Most conveyancing transactions proceed smoothly and will not result in any unforeseen or costly issues. However, when issues arise, the costs can be very significant. The purpose of due diligence is to identify those issues before you commit to the purchase. Due diligence should be conducted in consultation with professionals you can trust to provide you with the best information regarding your prospective purchase. Why take a risk with such a significant financial decision?

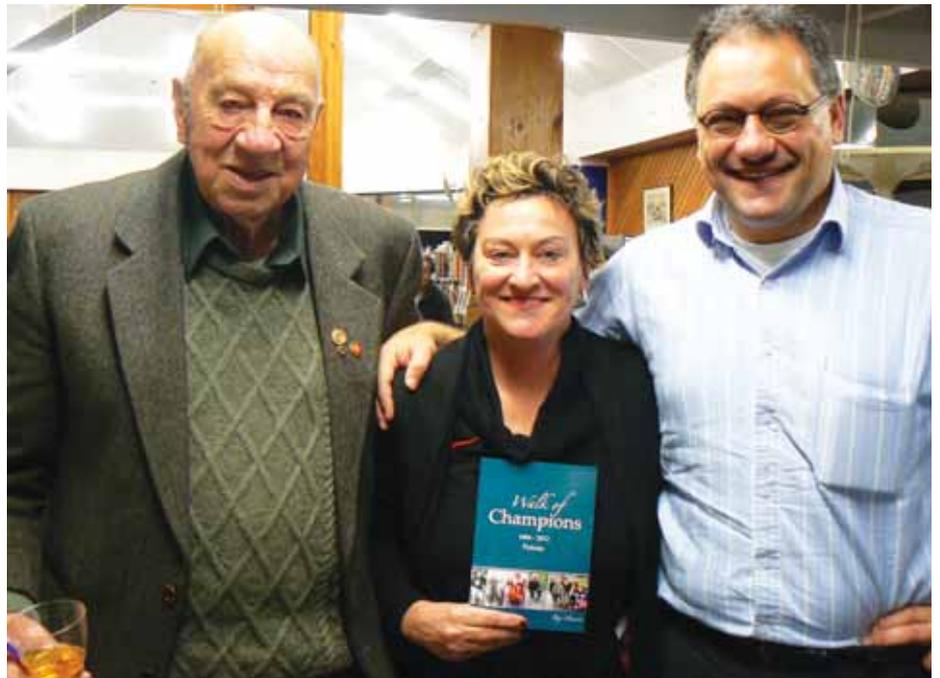
"If you would like a copy of previous articles on property written by Michael email him on michael@homelegal.co.nz."

Michael Hofmann-Body is a principal of specialist residential property lawyers HomeLegal, Westfield Tower, Lower Hutt. For more information see www.homelegal.co.nz

HomeLegal is a division of Gillespie Young Watson.

If anyone still needs convincing Petone has for centuries been the *Cradle of Sport*, they need only read historian and author Roy Hewson's latest update of Petone *Walk of Champions* to discover what a unique little place it is – and the only one in the country to so honour its own homegrown national sporting heroes.

To buy a copy – or make a donation towards more plaques to ensure the Walk continues to grow – ring 568 6449.



At the launch at the Petone Heritage Centre with historian and author Roy Hewson were JSP Petone chair Leonie Dobbs, (JSP see the Walk as a great drawcard for visitors) and (right) newly-elected President of the Petone Historical Society, Nik Zangouropoulos, who is keen to build support for the society from Petone people past and present.



Apex Print owner Stuart Tyrer (Apex printed the update) with Hutt City Mayoress Lynda Goss and Allan and Pauline Hewson.