



YOU AND YOUR PROPERTY

BY RESIDENTIAL PROPERTY LAWYER
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One of the most common conditions contained in any Agreement for Sale and Purchase is the buyer's solicitor's approval of the title to the property. For most buyers, there is a perception that searching the title is important. However, the reasons why a solicitor should search the title are not well understood. In this article I comment on two of the most common types of interests recorded on land titles and identify some of the reasons why searching land titles is important.

All interests in land in New Zealand are recorded on a register maintained by Land Information New Zealand. The purpose of the register is to provide confidence to all New Zealanders that all interests in land throughout New Zealand are documented. Buyers are entitled to rely upon "guaranteed searches" of the land title register. In the event that a party has an interest in land which is unregistered and a buyer acquires that land without being aware of that interest, that interest in the land will be lost. For this reason, it is critical all interests in land are registered with Land Information New Zealand. Once registered, the world is deemed to be aware of the existence of the interest.

The most common form of interest in land is a mortgage. Mortgages are registered by lenders to ensure the owner of the land meets his or her obligations to the lender. In the event that the person (or persons) do not meet all their obligations to the lender, the lender has the right to sell the land and buildings to repay any indebtedness owing to the lender. Major lenders will always secure their lending by virtue of a mortgage. Smaller lenders will on occasion register caveats to protect themselves. Caveats prohibit anyone from registering any further charges to the title without the consent of the person or entity who registered the caveat. Agreeing to allow a third party to register a caveat is more often than not a breach of the terms of any prior mortgage and legal advice

should always be taken before agreeing to a registration of a caveat.

It is important a buyer's solicitor searches the title to a property to determine whether or not there are securities registered in respect of financial obligations to third parties. In the greater majority of situations, a seller will have no difficulty obtaining a discharge of mortgage on sale of the property. However, on some occasions there will be multiple interests registered on a title relating to financial obligations of the seller. In these situations, it is prudent for the purchaser's solicitor to enquire of the seller's solicitor whether the seller will be in a position to clear all of those interests on payment of the purchase price. Where a seller is under financial pressure, great care



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should be taken before paying a deposit as the deposit may be lost if the seller cannot settle.

The second most common type of interest noted on titles is an easement. Easements can comprise rights-of-way, the ability to transmit electricity, drainage, stormwater, sewage, telecommunications or other services across another party's land.

"...it is critical all interests in land are registered with Land Information New Zealand."

It is important to know who has rights in the land that the buyer is proposing to purchase, what obligations the buyer has to others and what rights the buyer has in neighbouring land. Some years ago one of my partners identified a pedestrian right-of-way on the title that allowed neighbours to walk immediately alongside the buyer's house. Pedestrians would see into parts of the kitchen, living room and bedrooms of the house when they passed.

The areas over which easements are registered are usually well defined on the survey plans. Buyers need to be aware of the exact areas the easements affect and any limitation on the use of the land in those areas. For example, there are often restrictions on what can be built above underground services. If you are planning to develop land you are purchasing you will want to be confident there are no restrictions on such development registered on the title.

In the next issue I will discuss other types of interests in land which can be registered which have the potential to cause great difficulties for buyers if not adequately understood.

"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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LG ANDERSON TRANSPORT

CELEBRATES 60 YEARS OF TRADING

From RTs to GPS

From carting the forerunners to the modern computer for Burroughs to a fleet managed and tracked by computers, Gracefield-based L G Anderson Ltd Transport's proud 60-year history is an integral part of the Hutt's history of commerce and industry.

Started up in 1951 by the late Les Anderson (wife Betty used to help him deliver furniture at nights) it was the beginning of a family business now into its third generation, with son **John [pictured]**



learning the ropes as a youngster from the passenger seat and now his sons Clinton and Chris are sharing the company's driving.

Les started out as part of the Kiwi Carriers' owner-driver co-operative formed by servicemen returning from the Second World War. Kiwi also spawned other carrier companies well known in the Hutt – the likes of Bill Baker and son Peter, who set up Peter Baker Transport and LG Anderson's sister company Anderson and Flowers. Keeping

with the family theme, John Anderson is a partner in joint-venture company AF Transport Group.

While 60 years ago the original firm started in Wadestown, a contract with Burroughs in Waterloo enticed them to the Hutt in 1957. In those days one early computer would fill up an entire articulated trailer, says John.

At that time many of the country's most important secondary industries were Petone-based or in the Gracefield-Seaview area – four large car and bus factories, Woollen Mills, two freezing works, Griffins biscuits and Shell oil were their clients, along with McKenzie's chain stores. Also in the area were a carpet factory, Railway Workshops, paint factories and, covering 58 acres themselves alone, the Dominion Laboratories (later DSIR), Ministry of Works and Government store sheds. Interestingly, LG Anderson's head office is now in a former MoW yard at Gracefield.

Ongoing from the mid '90s, the core business is now container oriented with a modern fleet of 14 canopy trucks and vans, 10 swinglifts and seven container/trailer combinations.

Today they have a staff of 38, including the first full-time driver John Backman, who has just notched up 50 years' service, workshop manager Dave Maddock (36 years) and John's brother Les (36).

To quote John Anderson at the 60th Celebrations: "What a Ride" – and it isn't over yet!



Family dynasty: (Left to right) Clinton and Chris Anderson (third generation) with Mum Dallas Anderson, Transport Manager Craig Harris (nephew of John and Dallas) and Dad John Anderson (son of founder Les).