

osbornes

All about Osbornes

Osbornes has been in and around the Camden Area for nearly 40 years, during which time we have grown to become one of the largest private client firms in North London. Our down to earth and unstuffy approach to providing legal advice have seen us become the private client firm of choice.

Our solicitors have the experience and specialist knowledge to provide all clients with the expert advice and continued high level of care.

Osbornes operates the following specialist departments:

- Family Law - including accredited mediators
- Collaborative Law
- Residential Property
- Commercial Property - including enfranchisement
- Property Litigation and Dispute Resolution
- Wills, Probate & Disputed Estates
- Social Housing
- Personal Injury

To speak to any of our experts in these departments please call us on 020 7485 8811

www.osbornes.net
020 7485 8811

BULLETIN osbornes

APRIL 2011
Issue 1

Welcome to the first issue of our
property law bulletin.

Osbornes quarterly bulletins will keep
you up to date on important issues
and changes in property legislation
which may affect you.

We also have a Q&A section where
your property related questions
will be answered.

PRO
PER
TY

Contents

Mia Casa is not your Casa · Osbornes 5 tips on how to protect property from fraudsters
News Update · Conveyancing Quality Scheme · Home Information Packs (HIP)
Capital Gains Tax (CGT) · Planning Enforcement Reform · Stamp Duty Land Tax (SDLT)
Q&A · Introducing Osbornes Property Team

Mia Casa is **NOT YOUR** Casa

Your property is usually the biggest financial investment you will make. In these difficult financial times, therefore, it is even more important that steps are taken to protect this asset. Property is an attractive target for fraudsters.

We, as conveyancers, together with the Land Registry and mortgage lenders, have safeguards in place to minimise the risk of fraud. However, most home owners are probably not aware of the risk to their property and will be surprised at how resourceful and to what lengths fraudsters will go in order to achieve success.

The Land Registry have identified that it is important for homeowners to protect their property in the same way that they would protect other things they own. In 2010 the Land Registry launched the "Protect your Property" campaign to help protect homeowners most at risk of property fraud.

Anyone who has an interest in property can be a victim of property fraud, but the Land Registry considers the following situations create greater risk:

- Where a relationship breaks down.
- Where a property is empty or is bought to let.
- Where the owner is abroad or absent.
- Where the owner is infirm or in a home.

Below are our top 5 suggestions on what you should do to prevent property fraud or forgery:

1 Register your title. If your property is not registered it is advisable to apply for voluntary first registration at the Land Registry. This can be done fairly simply by submitting a form with a fee to the Land Registry together with the title deeds showing evidence of your ownership of the property. By registering the title there will be an official record held at the Land Registry and anyone dealing with the property would need to check this register to confirm who the owner is. State-backed registration gives the property owner greater security, as any losses suffered as a result of fraud would be compensated by the Land Registry.

2 Keep your name and address of the register up to date. If you own registered property you are required to provide an "address for service". This is an address to which the Land Registry will send letters and notices if they need to contact the property owner. It is important that the Land Registry holds the correct name and address of the property owner. An incorrect name or address may mean that the property owner

does not receive any letters and notices sent by the Land Registry. You can apply to change your name on the register by writing to the Land Registry asking for the name on the register to be altered enclosing proof of any change of name, for example, a copy of a marriage or civil partnership certificate or a change of name deed. You can apply to change or add an address if you are a property owner by downloading, completing and returning the Land Registry form available from their website www.landregistry.gov.uk/propertyfraud. There is no fee for changing the name or address on a register.

3 Have three addresses for service on the register. If you own property and are concerned that you may become a victim of property fraud, you should consider having more than one address for service.

4 Put a restriction on your title. If you or your conveyancer think that you are particularly at risk of an attempted fraudulent transfer, mortgage or discharge you can apply to the Land Registry to enter a restriction on the property register. A restriction is an entry in the register that places limits on how the property owner can deal with the property, for example, that the property cannot be sold or mortgaged unless a solicitor checks the identity of the seller or mortgagee. Although this does mean that to satisfy the Land Registry you would need to have your identity checked by a solicitor if you wanted to transfer, sell or mortgage your property, it would also mean that any fraudster trying to deal with your property would need to do the same.

5 Be careful if you are asked to sign documents. Take care when signing any documents in relation to your property and always seek advice from a solicitor if you are at all unsure as to what you are signing.

If you would like advice in implementing the above suggestions contact Justine Simms at justinesimms@osbornes.net who will be able to help.

You should also be aware that where property fraud has taken place, the property details or your personal details may also be used for identity or credit card fraud.

You can protect your personal credit details by registering them at CIFAS (www.cifas.org.uk) or if you are a company by joining the Companies House PROOF scheme (www.companieshouse.gov.uk).

If you think or know that you have been the victim of property fraud you should contact a solicitor or the Citizens Advice Bureau and the police. You may also want to consider the protection steps recommended by the Home Office identity fraud website (www.identity-theft.org.uk).

All the information supplied in this article is taken from the Land Registry's Public Guide 17 (How to safeguard against property fraud). Further information and guidance can also be found in the Land Registry's Public Guide 2 (Keeping your address for service up to date) and Public Guide 8 (registering title to land – the characteristics and advantages) on their website www.landregistry.gov.uk.





News Update

CONVEYANCING QUALITY SCHEME

The Law Society launched its new Transaction Conveyancing Quality Scheme at the Property Section annual conference on Wednesday 20th October 2010 at the Hilton Hotel, London.

The Law Society's Transaction Conveyancing Quality Scheme is a quality standard for residential conveyancing practices. The scheme is intended to enhance the reputation of conveyancing solicitors, provide reassurance about their integrity, and introduce practice standards to create a trusted conveyancing community that will deter fraud and provide a more effective service for clients. Conveyancing solicitors will also be required to sign up to a new conveyancing protocol, although the existing protocol forms will remain in place.

Osbornes fully supports the scheme and hopes that it will increase the consumer's awareness of the importance of using a qualified conveyancer for property transactions and also help in the fight against fraud in the conveyancing sector.

Our conveyancers believe that achieving this conveyancing quality kitemark will only strengthen the existing reputation of Osbornes' conveyancing department.

HOME INFORMATION PACKS (HIP)

The requirement for a HIP has been suspended, but an EPC is still required. The obligation to have an Energy Performance Certificate (EPC) is a requirement of EU law and so will remain but it will only be necessary to have commissioned an energy performance certificate to be prepared before marketing a property rather than actually be in possession of one.

An EPC certificate provides 'A' to 'G' ratings for the building, with 'A' being the most energy efficient and 'G' being the least, with the average up to now being 'D'. They give information about insulation, boilers and the nature of the lightbulbs. They come with a report which suggests improvements to make a building more energy efficient.

CAPITAL GAINS TAX (CGT)

Changes were announced in the 2010 budget to increase CGT for higher rate tax payers from 18 to 28 per cent, with effect from 23 June 2010. Basic rate tax payers will continue to pay CGT at 18 per cent.

PLANNING ENFORCEMENT REFORM

The current law prevents planning authorities from taking enforcement action 4 years from the date of completion of any building works, 4 years from the date of any change of use and 10 years for breach of a planning condition from the date of the breach.

A new planning enforcement regime is being proposed which would allow planning authorities to enforce a planning breach at any time after they become aware of the breach and require a property owner to remedy that breach.

These reforms could have a serious effect on both residential and commercial markets, with property owners becoming liable for the actions of a previous owner.

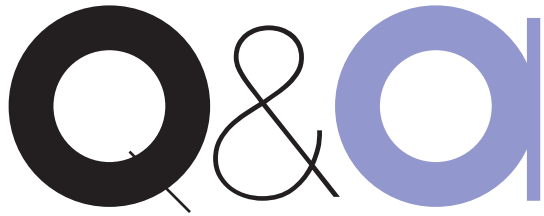
BUDGET 2010 STAMP DUTY LAND TAX

Last years budget saw two important changes to Stamp Duty Land Tax (SDLT). These are:

- A SDLT exemption for first time property buyers until 25 March 2012; and
- From 6 April 2011 a new rate of SDLT of 5% for properties where the purchase price exceeds £1 million.

The following must apply for first time buyers to qualify:

- The property being purchased must be wholly residential,
- The purchase price is between £125,000 and £250,000,
- The buyers intend to occupy the property as their only or main residence,
- The Buyer has not previously purchased such an interest or its equivalent anywhere in the world and
- Completion of the purchase is before 25 March 2012.



- Q** *I am buying a property. Do I still need to obtain searches now that the Home Information Pack (HIP) has been suspended?*
- A** Before the HIP requirement was suspended, the HIP was obtained and paid for by the Seller and contained a local and water and drainage search. Once an offer had been accepted, the HIP was sent to the Buyer's solicitors. This meant that the Buyer was in receipt of a local and drainage search at no cost to him. So long as the searches were still valid and acceptable to any mortgage lender, it was not necessary for the Buyer's solicitors to obtain a further local or water and drainage search. Now that the requirement for a HIP has been suspended, your solicitors will not receive these searches and will now have to obtain these at your cost.
- Q** *I am purchasing a property for £260,000 and to save on Stamp Duty Land Tax it has been suggested that I ask the Seller if they will agree a purchase price of £250,000 with £10,000 payable for chattels in the Contract. Is it possible to do this?*
- A** Stamp Duty Land Tax (SDLT) is payable on the purchase price. At £250,000 SDLT is payable at 1% (unless the first time buyer conditions are met), but at £250,001 SDLT is payable at 3%. Therefore, if you were to apportion part of the purchase price as you have suggested, you would make a considerable saving because SDLT is not payable on the chattels. It is perfectly acceptable to apportion part of the purchase price for chattels. However, a list of the chattels should be attached to the Contract and the price payable for the chattels must be an accurate reflection of their true value. Any over inflation of the value of the chattels in order to reduce the SDLT payable could be seen as SDLT avoidance.

If you have a question that you would like to put to Osbornes Property Team, please email them to Justine Simms at justinesimms@osbornes.net, and we will pick two questions to answer in our next quarterly bulletin. Please note that we will not be able to provide personal replies to your questions.

Introducing our Property Team



Jan Atkinson
Partner
Head of Residential Property
janatkinson@osbornes.net



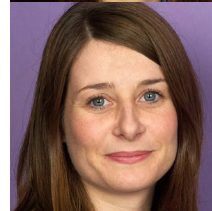
Guy Osborn
Head of Commercial Property
Partner
guyosborn@osbornes.net



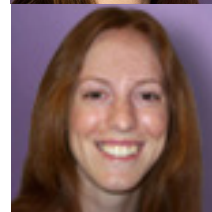
Shilpa Mathuradas
Partner
Head of Housing
shilpamathuradas@osbornes.net



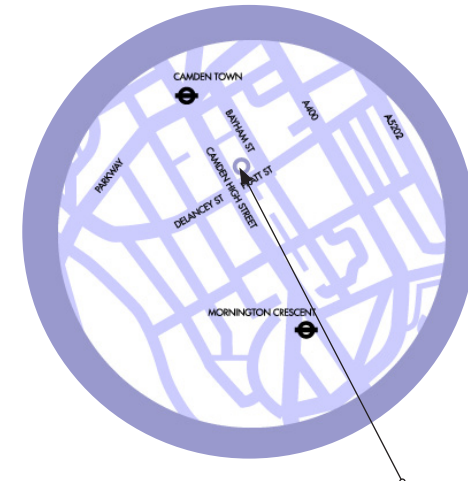
Maria Elliot
Associate
mariaelliot@osbornes.net



Justine Simms
Associate
justinesimms@osbornes.net



Emily Lund
Solicitor
emilylund@osbornes.net



Osbornes Solicitors
Livery House
9 Pratt Street
London
NW1 0AE

Telephone
020 7485 8811

Facsimile
020 7485 5660

DX Number
57053 Camden Town

www.osbornes.net