

TERMINOLOGY IN MORTGAGES

BRIDGING LOAN

A loan taken out to 'bridge' the gap whilst waiting for the sale of a property or the receipt of a mortgage

BUILDING REGULATION CONSENT

Approval by the local authority of the design and materials used in building work

CAPITAL GAINS TAX

A government tax on the sale of assets, including property. Generally speaking, a person's principal private residence is exempt.

CAVEAT EMPTOR

The legal rule which means the buyer is responsible for finding out the condition of property and matters affecting the legal title using surveyors and solicitors.

CHAIN

A series of transactions that are dependent on one another. One person can only exchange on their purchase when they exchange on their sale and so on.

CHANCEL REPAIRS

A liability affecting some properties to contribute to the upkeep of the chancel of an ancient parish church. Special searches can be carried out to ascertain such liability *

CHAPS PAYMENT

A method of bank transfer of funds which ensures the money is transferred the same day.

CML HANDBOOK

Extensive instructions to Solicitors on the requirements of Lenders for residential mortgages. Covers technical matters such as searches, title, leases and if the deeds of a property do not comply with the Handbook, the property may be un-mortgageable.

COAL MINING SEARCH

A special search to ascertain whether any issues might affect a property These will be carried out in designated areas.

CONSERVATION AREA

Area protected by Local Authorities. Properties may be subject to planning restrictions particularly relating to the exterior of the property.

CONTAMINATED LAND

Land affected by contamination arising from a past use or by the storage of things on the land in the past.

CONTRACT

This is the agreement to buy or sell that sets out all the terms. It is prepared in duplicate. One copy is signed by the buyer and the other by the seller.

CONVEYANCING QUALITY SCHEME

Law Society scheme to improve and standardise conveyancing procedures create greater transparency and reduce property fraud.

COMPETENT PERSONS SCHEME

Certification Scheme for building works as alternative to Building Regulation Approval for certain work.

COMMONHOLD

New form of legal title to property giving owners joint control over common areas and facilities.

COMPLETION

The day when the property is transferred to the buyer.

CORGI CERTIFICATE

See Gas Safe Certificate.

COVENANT

Legal obligations in a deed requiring someone to do something e.g. maintain a fence (positive) or not to do something e.g. not to carry on a business (restrictive).

DEMATERIALISATION

The process introduced by the Land Registry whereby evidence of title is recorded electronically thus doing away with paper title deeds.

DEPOSIT

This is part of the purchase price and is due for payment on exchange of contracts. 10% is payable although a reduced deposit is often negotiated. If you are selling, we can often use the deposit from your sale. A buyer may lose the deposit if they fail to complete the purchase.

DISADVANTAGED AREA RELIEF

A reduction in Stamp Duty Land Tax for properties in certain designated areas, in view of the increase in the lowest threshold for duty.

E-CONVEYANCING

Proposals not yet in force for all aspects of property transfer to be handled electronically; a true paperless transaction. Although full e-Conveyancing is still some way in the future, many aspects of a sale or purchase can be handled electronically already including most searches, money transfer and some aspects of registration.

EARLY REDEMPTION CHARGE(ERC)

The repayment of a mortgage early where penalties apply.

EASEMENT

A right given to a property owner over adjoining property. This could for example be a right of way or drainage or a right to a water supply.

ELECTRONIC FUNDS TRANSFER

Intended to be part of e-Conveyancing, the aim is to make payments up and down the chain simultaneous.

ENERGY PERFORMANCE CERTIFICATE

Conveyancing requirement enabling the Government to comply with a European Directive. Now required for all properties being let or sold including commercial properties.

ENVIRONMENTAL SEARCH

A special search used to ascertain whether there are any environmental issues affecting a property. These may include flooding, radon gas or landfill

EQUITY

The value left in a property after deducting the mortgage outstanding on the property.

EXCHANGE OF CONTRACTS

This is the point at which the agreement to buy or sell becomes legally binding. If you are buying, your deposit is paid to the Sellers solicitors at this stage. The buyer becomes responsible for insurance on the property.

FENSA CERTIFICATE

An alternative to building regulation approval for installation of windows or glazed doors.

FITTINGS AND CONTENTS FORM

A detailed list of items to be included in or excluded from the sale/purchase.

FLYING FREEHOLD

Where a part of one freehold property is built over part of another so that it does not touch the ground.

FREEHOLD

A type of title to property that goes on for ever.

GAS SAFE CERTIFICATE (formerly Corgi)

An alternative to building regulation approval for gas installations.

GAZUMPING

The practice of sellers to accept an alternative, higher, offer for the property even though they have been dealing with another sale. The practice is not illegal.

GAZUNDERING

The opposite of gazumping where a Buyer reduces his offer at the last moment in order to secure the property at a lower price. Again, this is not illegal.

HOME INFORMATION PACK

Pack of information introduced by the Government in 2007. Failed to fulfil their promise and suspended in May 2010.

HOME CONDITION REPORT

An optional form of survey which the Government had originally intended would be a compulsory part of Home Information Packs.

INCENTIVE DISCLOSURE

A process whereby any incentives offered by a Seller have to be disclosed to the Lender so that the true price of the property is known.

INDEMNITY INSURANCE

Special type of insurance to support e.g. possessory title, buying freehold or defective title or breach of covenant or lack of building regulation consent.

INHERITANCE TAX

Tax payable on death on the value of the deceased's estate which will include property. The value of previous gifts may have to be taken into account.

JOINT TENANCY

Method of owning property jointly where the share of a deceased owner passes automatically to the co-owner.

LAND REGISTRY

The Government agency responsible for registration of title in England and Wales.

LEASEHOLD

A title that exists only for a fixed period, perhaps 99 or even 999 years. Restrictions and obligations will be contained in the lease and, usually, an annual ground rent is payable. Almost all flats are leasehold and in some parts of the country many houses are as well.

LENDERS REQUIREMENTS

Much of the process of conveyancing is dictated by Lenders who impose stringent conditions as to what is or is not acceptable. This can lead to delays and additional cost especially as Lenders are unwilling to "take a view" on the issues which often arise in the course of a transaction.

LISTED BUILDING

A building considered to be of sufficient historic or architectural interest to merit special protection. The property will be subject to special planning restrictions.

MANAGEMENT COMPANY

Company often owned by tenants, responsible for maintenance and insurance of common parts of buildings and grounds.

MONEY LAUNDERING CHECKS

Checks that lawyers and banks have to carry out to identify clients before acting for them.

MORTGAGE

A loan to help the buyer purchase. It is also the name of the document that gives the lender security over the property.

MORTGAGE OFFER

The formal document setting out the amount of a loan, the terms of it and the method of repayment. May contain specific conditions that have to be complied with. A prerequisite to exchanging Contracts.

MORTGAGOR

The borrower in a mortgage.

MORTGAGEE

The lender on a mortgage.

NEIGHBOURHOOD SEARCH

Sometimes called Plan Search or Know Your Neighbour, an optional search giving details of the character and statistics for the area including planning applications on adjoining properties.

NEW HOMES CONSUMER CODE

Rules introduced in April 2010 designed to give greater protection to buyers of new homes.

NHBC

A warranty scheme for new properties providing cover against major structural defects for 10 years. An alternative was provided by Zurich but this is no longer available but existing commitments will be honoured. There is a comparable scheme offered by Premier.

NLIS

A system allowing most searches to be made electronically speeding up the conveyancing process.

OVERRIDING INTERESTS

Rights which exist over land and which still bind a purchaser even if they are not registered Examples include public rights and rights of persons occupation.

PARTY WALL

Generally a structure which divides buildings special rules apply if work is to be done to, on in the proximity of, a Party Wall.

PERMITTED DEVELOPMENT

Minor items of building work which meet certain criteria and, as a result, do not require planning permission.

PLANNING PERMISSION

Approval by the local authority to the building or change of use or extension to an existing property*

POSSESSORY TITLE

Title acquired by a trespasser after a number of years. Also called title by adverse possession.

PROPERTY FRAUD

May include theft of legal title by deception, mortgage fraud where Borrowers obtain higher loans by false statements, tax evasion or money laundering.

PROPERTY INFORMATION FORMS

A questionnaire about the property. These are completed by the Sellers.

PROTOCOL

Law Society Scheme designed to standardise the process of Conveyancing.

RANSOM STRIP

A piece of land separating a property from the public highway or public services which can thereby prevent access or development.

REDEMPTION

Repayment of an existing mortgage.

REGISTERED LAND

Property whose title is registered at the Land Registry. Following a purchase, the title of unregistered properties must be compulsorily registered.

RENT CHARGE

Sum payable to a third party even though the property is freehold. Common in some parts of the country as a means of income for a former owner or, more recently, to enable covenants to be enforced.

SALE STATEMENT

A compulsory part of the now suspended Home Information Packs giving details of the seller and title of the property.

SEARCHES

A check through the records of public authorities for information about the property and include

- Local Authority Search to check status of roads, planning permissions, compulsory purchase orders, new road proposals, tree preservation orders and similar matters.
- Water Authority Search to check if property is connected to main drainage, water and proximity of nearest adopted sewer.
- Land Registry Searches to check if the title is registered; whether there are any third party interests registered whether any of the parties are bankrupt.
- Sometimes additional searches may be necessary with the Commons Registration Authority, Companies Registry, Coal Authority, Environment Agency and so on.

SERVICE CHARGE

Payment under a Lease of other deeds to the Landlord or Management Company to cover the cost of maintenance, insurance and other services.

SHARED OWNERSHIP

Scheme allowing the purchase of a property jointly with a housing association which will put up a share of the money and allow you to purchase an enhanced share in due course. The Government has plans to extend the scope of this scheme.

STAMP DUTY LAND TAX

A tax paid by the Buyer to the Government on a property.

STATUTORY DECLARATION

Statement made under oath in support of certain facts e.g. use of a right of way or occupation of property.

STATEMENT OF TRUTH

An alternative to a Statutory Declaration for use in connection with Registered land.

SURVEY

Inspection carried out on behalf of a buyer. Goes far beyond a valuation that is usually carried out for a lender just to assess the property for loan purposes. Is strongly recommended.

TENANCY IN COMMON

Method of owning property jointly where the share of a deceased owner passes under the terms of his or her will and not automatically to the co-owner*

TITLE DEEDS

Documents that prove Ownership of the property (see also DEMATERIALISATION).

TRANSFER

This is the deed which "transfers" the ownership of the property from the seller to the buyer.

UNDERTAKINGS

A commitment by a Solicitor backed by Rules of Professional Conduct. Undertakings are used extensively in the conveyancing process in connection with exchange of Contracts, completions and the discharge of mortgages. Without them the process would be almost unworkable.

UNREGISTERED LAND

Property where the title has not yet been registered at the Land Registry. Unusually more complicated to deal with than registered land. Following completion of virtually any transaction involving unregistered land, the title has to be compulsorily registered.

VOLUNTARY REGISTRATION

The process where an owner of unregistered land can seek registration of the title independently of any particular transaction. This process is encouraged by the Land Registry giving a discount on the fees payable.

What next

Contact the team at Try Financial on:

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