

## Legal Paperwork needed for sale of property in Ireland – our tips

So, you're thinking of selling your property, or maybe it's up for sale.

We are often asked what can a person do to help the legal process of the sale to go faster. Our tips are that, as soon as you have decided to put your property up for sale, then do the following:-

1.

### TITLE DEEDS

\*If you are lucky enough not to have an existing mortgage: - *Certified copy folio(s) and file plans* (i.e. file plans = maps) dated within the last 12 months need to be obtained from the Property Registration Authority of Ireland located at Cork Road, Waterford. You can order the folios and the folio maps online by visiting Landdirect.ie and doing a search to locate your property. In fact, if you go to the website, you can search for the folio relating to the property in question, and, then, order it to be posted to you.

\*If your deeds are with a bank (where you have OR had a mortgage on the property) or if your deeds are with the County Council or if your deeds are with another Solicitor, then immediately get your deeds to your solicitor. It can take up to 6 weeks for the deeds to arrive to your solicitor !

To really speed up this process, you should telephone and find out that they have your deeds. Keep the name of the person with whom you were speaking.

\*If your property is/was a County Council property, then please note that the County Council's consent will be required for the sale to proceed. The sale of County Council properties often takes longer due to this additional consent procedure.

2.

### AUCTIONEER

Inform the auctioneer (if there is one) of your solicitor's name, address and phone number. Once a deal is done, ask them to send you a sales advice sheet and send a copy to your solicitor. You should by now have agreed with the auctioneer their fees, vat, advertising expenditure and miscellaneous expenses (do so in writing).

If no auctioneer is involved, ask the Purchaser(s) to get their Solicitor to send a note of their understanding of the details of the sale to your solicitor.

3.

### MOVEABLE ITEMS

If contents and moveable items are being included in the sale, then, you should type up a full list of what's being sold. Kindly, send a copy to the auctioneer, asking that they put a value on them and they inform all parties of that valuation.

4.

### STATE CERTIFICATES

If you are not single, then please obtain your Marriage Certificate or Civil Partnership Certificate from the Registrar of Births, Deaths and Marriages responsible for the area where you "tied the knot". A religious certificate is no use. It must be a State Certificate not a religious one.

5.

PLANNING, ROADS AND SERVICES, BOUNDARY = **asap** -engage an architect/engineer/planning

(a) PLANNING: - In Ireland, its standard practice in property sales that the Vendor proves that planning and building regulations are complied with in so far as the property is concerned.

As a minimum, we would suggest you now get a Planning and Building Regs Report from an insured expert (e.g. engineer/surveyor/architect/draughtsperson) stating these appear in order.

If you have a building on the property, an expert's Certificate of Compliance with Planning and Building Regulations should be with your title documents. HOWEVER, if you carried out any further construction works/extensions since your original mortgage final drawdown, it is likely that you will now need to get an expert to certify compliance or exemption with Planning Permission and, possibly, Building Regulations.

If planning was needed, then please obtain a full copy of the Decision and Grant of Planning Permission. Speak to your engineer/surveyor/architect/draughtsperson about this. You will also need to get evidence of payment of any development charges. If you served a Commencement Notice on the Building Control Authority, after 1<sup>st</sup> March, 2014, then, you will need to get a copy of the Final Certificate of Compliance with Building Regulations as registered with that Authority and evidence that the Final Certificate is registered with them.

If you are aware of any planning issues affecting the property or you received any notices from the planning authority, then, please advise your solicitor so that they can you can amend the contract to protect you.

If the Council have your deeds, then take it that you will need a Certificate covering the Planning/Building Regulations relating to all the property from when it was first built.

**--You should now contact an engineer/surveyor/architect/draughtsperson to address planning matters.** The expert engaged by you, would need to send a copy of their up-to-date professional indemnity insurance with any certificate/letter provided by them. It may be as well to also get them to check your legal map on your deeds. They can also address roads and services.

**\*\*\*\* REMEMBER THIS = you're giving a warranty that since you became owner of the property there is no planning problems that you are aware of. \*\*\*\*\***

**So, the documents needed:**

- **Report on Planning/Building Regulations or Certificates of Compliance**
- **Certificate of exemptions for any extensions/works exempt from planning**
- **Copy of that expert's PII cert of insurance**
- **Planning permission Grant with conditions attached**
- **Commencement Notice copy**
- **Final Certificate of Compliance with Building Regulations if works after 1/3/2014**
- **Proof that development charges were paid to the local authority.**

(b) **SERVICES AND ROADS:** - In property sales, the Vendor is obliged to provide written proof regarding the provision of water/sewerage services and the access road. The easiest and quickest way is to get an engineer/surveyor/architect/draughtsperson to address this by letter. *You will definitely need to get this now. You need current proof so an up-to-date letter is required.*

Please find out the whereabouts of your water and sewerage pipes. They should not go through anyone else's property. Find out if your water is on the mains, or from a well located within the property being sold, or from a group water scheme. If it is the latter (group water scheme), find out the name of the organisation, the person who runs it and their phone number and details of any annual charge. Find out if your sewerage is on the mains or to a septic tank with percolation area located within the property being sold.

With mains services, either water or sewerage or both, you need to get proof from Irish Water that they are responsible for these. Their website has information on how to get this.

Find out if the access road, footpaths to the property are looked after by the local authority. This must be verified by way of a letter from an engineer/surveyor/architect/draughtsperson or from the local authority. It takes a few weeks at the very least to get this from the local authority whereas an engineer/surveyor/architect/draughtsperson will address everything much faster for you. Some local authorities have it on their website if you can actually find it there !!

If the access road or any of the services pass through another party's property, then, hopefully your rights to use them are registered with your deeds.

**So, the documents needed are:**

- **Expert (or council) Letter on water + sewerage + roads (perhaps with a coloured map)**
- **Copy of that expert's PII cert of insurance**
- **Also, if mains water/sewerage supply, proof of Registration with Irish Water**
- **Also, if sewerage is to a septic tank, proof the property is registered with ProtectOurWater.ie**

(c) BOUNDARY: - Most Purchaser solicitors will seek evidence that the boundary line is correct on your legal map, although it's not customary to provide. That said, it's worth asking your planning expert to address so as to avoid potential problems/delays - Confirmation that the legal map corresponds with boundaries on the ground. A copy of the legal map should be attached.

**So, the documents needed are:**

- **Letter that boundary is correct**
- **Copy of that expert's PII cert of insurance**

The issues on boundary line, access roads being public roads, services including water and sewerage can, alternatively, be dealt in one document called a "Declaration of Identity". Most experts in planning are familiar with this document.

## 6. TAXATION / GRANTS

Tax: - where you are selling property (other than the sale of your principal home), you may need an accountant to examine the Capital Gains Tax, VAT and CAT position for you. We advise all clients that you engage one **before signing** any sale contract. If you are non-resident, then, look at getting appropriate tax clearances.

Grants: - did the property receive grants that could become repayable at the happening of specified events?

## 7.

### ANNUAL OR PERIODIC CHARGES ON THE PROPERTY

- Kindly obtain details of water + refuse + sewerage charges. Please arrange to have them paid up-to-date. (and commercial rates, if applicable).
- Proof any service charges for managed estates/apartments are paid up-to-date.

If the property has a Residential portion or is wholly residential, then, you will need

- **Local Property Tax (known as LPT): -**
- A print-out of your "Property History Summary". It should be possible to get this information from the "Property History Summary" page of your online LPT account. A printout from 2013

to date needs to be shown. You must pay your LPT for the whole of this current year e.g. selling in Feb 2018, you need to pay LPT for all of 2018! The Purchaser(s) must refund the proportion of the year from the date of their occupation. If you pay by monthly, then you need to arrange to pay for the whole calendar year now.

You can visit Revenue website at [revenue.ie/en/tax/lpt/](http://revenue.ie/en/tax/lpt/)

- You will also need to get the LPT Property ID number. It should appear on the page you printed out but if not, this is available online.
- One thing to keep in mind is if you sell your house for more than what you declared the value for LPT, then, you should seriously consider if you need to make a new return to revenue based on the current price. The Purchaser(s) is under an obligation to advise Revenue of any such scenario, so maybe you need to deal with it upfront at this stage so as to avoid interest and penalties.
- If your declared value for LPT is 2 or more bands below the sale price, then you need to address this with LPT in Revenue now to ensure you don't end up paying more LPT tax, penalties and interest. If the sale price exceeds €350,000, and you under-declared the value for LPT, you now need to immediately apply to LPT Revenue for "specific clearance for your sale" at the agreed sale price.
- Even if you have yet to sign a contract for the sale, you can address the above with Revenue now.
- By the way, if the completion of sale takes place on or after 1<sup>st</sup> November to 31<sup>st</sup> December, you must pay next years LPT. This will be refunded back to you on the completion date. The law on LPT requires you to pay next years LPT in this scenario. So, perhaps consider paying it all now if it looks any way like closing post 31<sup>st</sup> October.
- **Household Charge (known as HHC): -**
- Evidence of payment and a certificate of discharge for your payment of the Household Charge for 2012. More than likely, it will appear as paid on the LPT print-out of your "Property History Summary". If it doesn't you can request a discharge by emailing the relevant authority – see the household charge official site at web address [householdcharge.ie](http://householdcharge.ie)
- **Non-Principal Private Residence tax (known as NPPR): -**
- In addition, where the property is your principal private residence (or it was your principal residence for any period since 1<sup>st</sup> Jan 2011) an exemption certificate/letter for the NPPR charge needs to be obtained from the local authority. You might telephone the finance department of your local authority to get this as soon as you can. You need to get a certificate for each of the years 2011 -to- 2013(inclusive).
- If the property is/was not your principal private residence, then you will need evidence of payment of NPPR tax for each of the years 2011 -to- 2013(inclusive) by obtaining a discharge certificate/letter for the NPPR charge from the local authority.
- **So, the documents needed are:**
  - **The "Property History Summary" printout from LPT for all years**
  - **Proof the HHC was paid (see LPT print-out)**
  - **NPPR discharge certificate or exemption for 2011 to 2013(inclusive)**

8.

#### BER CERTIFICATE

If a building is included in your sale (e.g. houses, apartments, offices, warehouse etc.), a Building Energy Rating (B.E.R.) Certificate will be required to be included in the contract documents. In addition, you have to confirm to that since the date of the BER Certificate, there have been no acts/works done or not done, or deterioration or occurrences to the building that would invalidate this Certificate.

9.

#### PROOF OF PPS NUMBER (PERSONAL PUBLIC SERVICE NUMBER)

Get a PPS number if you don't have one. This can take months!

If you are non-resident or have not paid Irish income tax in the last 3 years, then you will need to activate your PPS number first. Please, immediately, obtain one by contacting "Client Identity Services, Department of Social & Family Affairs, Shannon Lodge, Carrick-on-Shannon, Co. Leitrim, Ireland. Phone 01 8748444 or from outside Ireland 00 353 1 8748444." Visit the website [citizensinformation.ie](http://citizensinformation.ie) for up-to-date information.

A PPS number is essential for the completion date (i.e. the day you become owner).

Holland Condon Solicitors' mission statement is **"To provide quality service, value for money legal advice to our clients in an efficient, communicative and friendly way for our clients' benefit and so as to ensure the continued success of the firm"**.