

LEGAL UPDATE

Edition 8

This month John Mitchell, our senior partner, shares with you his thoughts on a problem which has affected many of our clients who are in the process of selling their house. Of course, everybody wants to sell quickly and a great deal of effort is devoted to making the house seem as tempting as possible, but...

Should you tell if the neighbours are from hell?

Despite the most serious downturn in the housing market in living memory, 360,000 households still upped sticks and moved last year – all because of their neighbours.

Indeed, an inability to get along with the folks next door accounted for 10 per cent of all house moves, according to a survey by Halifax Insurance.

Also according to Halifax Insurance, one in three neighbours have – or have had – a dispute of some sort and the latest figures are up by a third in the last two years.

Tellingly, four fifths of those who sold up for this reason, did not inform their buyers, or their agents, despite this often being a legal requirement. This brings sharply into focus

the responsibilities implicit on people who decide to put their homes on the market because they can't get along with the people through the wall.

Lawyers in Edinburgh and Glasgow work to a deed of 'Standard Conditions' in relation to house sales. One of its clauses, referring to title disputes, says that when a house is offered for sale there should not be "current disputes with neighbouring proprietors or occupiers or any other parties relating to access, title or common property."

At one time this clause also applied to historical as well as current disputes but that reference has now been erased. Clearly, however, vendors are still required to inform potential buyers of any dispute with either

neighbours, or people who live further down the road, relating to the property itself or – probably more commonly – the front and back grounds. This might include disputes over: pedestrian access to a property, or vehicular access to an adjacent garage; boundary issues; and overgrown plants and trees (leylandii has become such a problem that it has led to the setting up of an ‘action group’ of aggrieved homeowners).

One can understand the temptation to ‘keep mum’ about such things, especially in a market as slow as the one we have today. However, if a title dispute is concealed, the buyer could then have the opportunity to sue the seller under the Property Misdescriptions Act. Not many aggrieved buyers are likely to go that far; however where the seller really runs a risk is the buyer learning of the dispute before completion of missives – and pulling out of the sale altogether as a result.

Disputes over title (e.g. garden walls, blocked access, etc) took second place in the Halifax survey to aggressive behaviour and excessive noise, which were the two main reasons for homeowners moving out.

In this case buyers are on less firm ground for recompense if they believe a vendor did not mention (or lied about) the existence of other householders in the vicinity who had a penchant for late night parties, blaring portable radios or carrying out DIY jobs at midnight.

If someone has a real worry about moving in beside ‘neighbours from hell’ they could ask their lawyer to make an offer for a house provisional on the understanding that other householders in the vicinity share common values and respect one another’s space, peace and quiet. Unfortunately I do not see such a clause being acceptable to most house sellers.

The problem with judging noise from neighbours is one of degree. OK, so there are some hopelessly anti-social elements out there whose behaviour is beyond the pale in anyone’s language – and who, according to Halifax Insurance, can knock up to £30,000 off the value of a property. But in a lot of cases noise and disturbance are subjective – what might lead one household to suffer a joint nervous breakdown could be simply smiled off by another. Also, another common reason for neighbour disputes has nothing to do with title or disturbance; it’s simply that the two people on either side of the garden fence cannot stand the sight of one another.

In reality, one practical way of increasing the chance that your next move is to a sufficiently peaceful location is to go along there around 11pm on several Friday or Saturday nights and gauge the nature of the environment. If the neighbourhood is relatively quiet at that time then is likely to also be so for the rest of the week!

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