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COVID-19 and the Conveyancing Court

APRIL 2020

The restricted movement requirements currently in place across the Island impact on many parts of a conveyancing transaction. Our Collas Crill conveyancing team understands that this is a very difficult time for prospective buyers, sellers and all those third parties involved. The situation is unprecedented and we wish to reassure clients, old and new, that we are here and happy to help you with any concerns that you may have. Our priority is the health and safety of our staff and clients.

In line with the States of Guernsey advice around the full Island lockdown, the Courts have reviewed their activity. Some of the core functions undertaken within the Royal Court must continue and plans are in place for them to do so (with the Court embracing the use of technology where it can), while others must unfortunately be placed on hold, as far as is practicable, at this time.

Jason Green has been heavily involved in working with the Royal Court to ensure that conveyancing transactions that are critical to complete can do just that but at the same time ensuring that the States regulations are met and that the health and safety of our staff and the Greffe staff is maintained. Currently, the Court will sit to complete a transaction if it is contractually committed (and cannot be moved back) and or absolutely essential. The advocate acting in the matter will need to justify to the Court as to why it must complete. The expectation is that advocates will seek to get the parties to the transaction to renegotiate completion dates unless it can be shown that it is an exceptional set of circumstances.

If the transaction fits in to this narrow category, the Court will sit in chambers without the need for any advocate or conveyancer to be present and the documents are simply lodged at the Greffe by 915 on the completion date. If there are any queries from the Court, they will contact the firm concerned. Supporting documents like company resolutions and powers of attorney can exceptionally be lodged by scanned email provided they are accompanied by a letter from the advocate confirming he is authorised to consent to the transaction under the relevant document. As a complete break from tradition, no contracting parties or their advisors are to attend. The Greffe is also now accepting, exceptionally, the payment of document duty and court fees by telegraphic transfer.

In terms of registration of the transaction at 4pm on the same day, this is completed by video or telephone conferencing so that each party can ensure that there are no obstructions to registration like unexpected judgments or other adverse registries.

You might think so why can the process not continue with ongoing purchases? The difficulty here is the need to keep social gathering at bay. The Greffe searches that a conveyancer must complete require attendance at the strong room at the Greffe and that is currently only open for one hour a day primarily for updating searches

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with pre-arranged appointments being required to ensure staff safety and social distancing given the size of the strong room. In addition site visits by conveyancers to check boundaries cannot be considered as essential for the purposes of the lockdown regulations.

The Royal Court has done its best with adapting an ancient system to meet the needs of these difficult times. It has embraced digital technology where it can. Once this is over, we firmly believe that a complete overhaul of the system is required to bring it in to modern times and to enable every aspect of the process to be completed electronically. This would include the need to move to electronic searches only as opposed to the labour intensive Greffe searches, all payments being dealt with electronically (something which is being worked on already but which is not as straight forward as you might think) and most probably a land registry type arrangement – something which the States have looked at before.

Given that nothing is guaranteed, we would advise that anyone who has not entered contractual commitments as yet, should think very carefully about doing so, or do so under a flexible arrangement whereby completion dates can be flexed if required as no one knows what the immediate future will hold.

Should you need any assistance or information at this difficult time please do feel free to contact our team. We are here to help.

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