



Property Sellers: Why, How and When to Choose Your Own Conveyancer

"A great deal is at stake in the transfer of fixed property. It is generally the largest single asset that a person owns and the transaction for the purchase or sale of a fixed property is probably the most important contract undertaken by individuals" (Law Society of South Africa)

For many of us, our home is our most important asset so when it comes time for us to sell, do everything possible to ensure that your interests are fully protected, that the sale goes through quickly and smoothly, and that you are paid without unnecessary delay.

Appointing the right conveyancer is key here. Let's have a look at the "Why, Who, How and When" of it...

Why do I need a conveyancing attorney?

Legal ownership in "immovable" or "fixed" property (that is, land and permanent attachments such as buildings) can only be transferred from seller to buyer through a formal registration process in the Deeds Office. This is carried out by specialist attorneys who have been admitted to practice as conveyancers.

Who appoints the conveyancer, and how?

As the seller, it is your right to choose which conveyancer will carry out the transfer.

The agreement of sale (it may be called an "Offer to Purchase", "Deed of Sale" or similar) should contain a clause specifying the conveyancing (or "transferring") attorney. Make sure you fill in your chosen attorney's name and details in the space provided, and do not allow anyone else to dictate to you who to use!

You may occasionally come across an offeror/buyer wanting to appoint their own attorney for one reason or another, perhaps with the argument that because they are paying the transfer costs (which include the conveyancer's fees), the choice should be theirs. But the fact is that you carry more risk, and there is nothing to stop the buyer from employing another attorney to monitor the transfer on their behalf if they really feel this necessary.

Bottom line - stick to your guns! This is your house at stake, so the choice is yours, and yours alone.

How to choose the right conveyancer

Your choice here is critical. You need to appoint someone you can trust to handle the process with the utmost professionalism -

1. Speed will be important to you ("time is money"!), and whilst a certain amount of delay is inevitable (there are lots of formalities and red-tape requirements involved), a pro-active and committed conveyancer will keep delays to a minimum.

2. Communication: Progress updates should be regular and timely, keeping you in the loop at every step of the process.

3. Attention to detail is also vital. Conveyancing is a specialised field, calling for meticulous compliance with a host of rules and regulations. Moreover every sale agreement will be different, and its precise terms and conditions must be complied with.

4. Cybersecurity has become a major issue in recent years, particularly around the question of email integrity. You will need to play your part here too (to take just one example, don't ever take at face value an email purporting to come from your attorneys "advising you of our new banking details"), but knowing that your chosen firm of attorneys has security protocols in place is critical to resting easy that the purchase price will indeed end up in your account.

5. The need for scrupulous integrity goes without saying - a lot of your money will be at stake here!

When should I bring my attorney into the sale process?

Ideally, from the very start. When you first decide to sell, you will find it invaluable to have your attorney's advice on how to go about it, whether you should speak to an estate agency, how best to market your property, what pitfalls to avoid and so on.

When it comes to the agreement of sale itself, a myriad of things can go wrong if the contract isn't professionally drawn to be clear, concise, legally enforceable and configured to protect your interests. So if you are presented with an offer or agreement drawn by someone else, take legal advice **before** you agree to anything!

SELLING YOUR PROPERTY?

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