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## **BUYING A PROPERTY IN IRELAND**

*Williams Solicitors LLP is a boutique law firm dealing with immigration, property law, litigation, family law, employment law and commercial law in Ireland. Williams Solicitors LLP has been looking after members of the Chinese community in Ireland for over fifteen years. We have three full-time conveyancing solicitors who specialise in property law and have significant experience dealing with overseas purchasers and investors looking to buy and sell property in Ireland. We have one full-time immigration lawyer and a full-time translator who speaks both Mandarin and Cantonese.*

### **Frequently Asked Questions**

#### **1. When should I instruct my solicitor?**

Buying a property is one of the most important decisions you will ever make. You should talk to your solicitor as soon as you decide to buy. You should not bid at an auction without talking to your solicitor first. If you see a property which is to be sold at auction, you should consult your solicitor at least 24 hours beforehand so they can investigate the title on your behalf. The majority of legal documents are available online prior to the auction so legal advice can be obtained prior to agreeing to purchase. Williams Solicitors LLP can investigate the title to the property on your behalf for €300+VAT@23% before you bid at auction.

If you are purchasing a property with an online auction house e.g. BidX1, you will be asked to appoint the auction house as your attorney and pay a booking deposit prior to bidding on the auction. If you are the successful bidder you are legally obliged to proceed with the purchase of the property and you will be asked to pay the balance of a 10% deposit once you have been confirmed as the successful bidder. It is vitally important that you inspect the property and consult your solicitor prior to entering into an online auction.

#### **2. What are the costs entailed in purchasing property in Ireland?**

##### ***Legal fees***

Williams Solicitors LLP will advise you of their professional fee in advance of taking instructions to act on your behalf. Solicitors' professional fees are liable to VAT @ 23%.

##### ***Stamp duty***

Stamp Duty on residential properties up to the value of €1,000,000 is levied at 1% of the agreed purchase price. If the agreed purchase price exceeds €1,000,000, a higher rate of 2% will apply to the portion of the consideration which exceeds €1,000,000.

##### ***Example***

You agree to buy a property for €1,200,000. The stamp duty will be calculated as follows;

€1,000,000 x 0.01	= €10,000
€200,000 x 0.02	= <u>€4,000</u>
Total stamp duty	= €14,000

If you are buying a newly built property, i.e. a house/apartment in the course of construction, stamp duty will be calculated at 1% of the VAT-exclusive purchase price.

*Example*

You agree to buy a property for €420,000. This is a newly built property which has never been occupied.

$$€420,000 \times 100 / 113.5 \text{ (VAT rate of 13.5\%)} = €370,044 \text{ (VAT-exclusive purchase price)}$$

$$1\% \text{ stamp duty calculated on VAT-exclusive purchase price} = €3,700$$

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The stamp duty on commercial property is 7.5%. If you purchase a property which is partially commercial and partially residential, you will need to obtain an auctioneer's valuation apportioning the consideration for the purposes of calculating stamp duty.

*Example*

You agree to buy a retail unit with two first-floor apartments valued at €700,000.

- Residential portion = €420,000 x 1% = €4,200
- Commercial portion = €280,000 x 7.5% = €21,000

The stamp duty payable will be €25,200

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The stamp duty on the grant of a commercial lease will be calculated as follows;

- 1% of the annual rent
- 7.5% of the premium paid, e.g. key money
- €12.50 is payable in respect of any rent review clause and a further €12.50 is payable in respect of a counterpart lease/.

*Example*

You agree to take a 25-year lease of a takeaway/restaurant. The lease includes both a rent review clause and a premium of €25,000 payable on granting the lease. The annual rent is €35,000.

- Stamp duty on 1% of annual rent = €350
- Stamp duty on rent review clause and counterpart lease = €25
- Stamp duty at 7.5% of €25,000 = €1,875

Total stamp duty = €2,250

### ***Registration fees***

The registration fees are payable to the Property Registration Authority of Ireland and the fees will depend on the type of title and documents being registered. Below is a summary of charges

- Registration of conveyance/assignment/lease in Registry of Deeds €50
- Registration of discharge/release in Registry of Deeds €50
- Open new folio (newly built residential property) in Land Registry €75
- Registration of mortgage in Land Registry €175
- First Registration Form 3 in Land Registry €130
- First Registration Form 1 in Land Registry €500
- Requisitioning copy folio and file plan in Land Registry €40
- Registration of transfer of property costs between €400 and €800 (depending on value of property)

Williams Solicitors LLP will furnish you with a detailed breakdown of the outlay to be incurred in registering your title once they receive the contracts for sale from the vendor's solicitors.

### ***Miscellaneous outlay***

Williams Solicitors LLP carry out searches on your behalf in the Companies Registration Office, Land Registry, Registry of Deeds and Visionnet.ie. We will also engage a commissioner for oaths to swear any documents on your behalf during the property transaction. If you are a cash purchaser, we will need you to provide copy bank statements/payment remittance slips so that we may prepare an anti-money laundering declaration (AML Declaration) setting out the origins of the funds used to finance the purchase. This is required in all property transactions where the property is purchased without recourse to a loan.

### **3. Do I need to get a survey?**

If you are buying a secondhand home or property, you should get an architect or engineer to carry out a structural survey before you sign the contract. For a new home, you should get an architect or engineer to inspect the property and do a snag list. If you are acquiring a commercial property under the terms of a lease, we would suggest you get an engineer/surveyor to carry out a survey of the property and prepare a schedule of dilapidations in advance of signing a lease of the property.

The architect/engineer should;

- Ensure that the boundaries on the ground correspond with the boundaries on the map.
- Ensure that the property is structurally sound
- Ensure the services serving your property are entirely contained in boundaries of the demised premises and are sufficient for your needs
- Ensure that all the services are totally adequate for your needs e.g. by checking that all services are connected and fully operational

We will advise whether a planning search should be carried out in respect of the property. Williams Solicitors LLP can engage Rochford Brady Law Searchers to carry out a planning search of the property. Planning searches cost between €200 and €300 on average.

Williams Solicitors LLP can recommend the following professionals:

1. Niall Hehir    Beng Dce Ce MIEI  
Engineering and Building Services  
Email: niallhehir@gmail.com  
Mob no: +353 87 2952101  
[WWW.BUILDINGMATTERS.IE](http://WWW.BUILDINGMATTERS.IE)  
[Snagging/Surveys]
  
2. Pat O'Brien FRIAI  
19 Cadogan Road, Fairview, Dublin  
Telephone / Fax: 01 833 9331  
Email: ailtiri@eircom.net  
087 2402417  
[Architect/Surveys/Inspections]
  
3. Property Health Check  
Property Health Check Limited (Dublin and Surrounding Counties)  
42 Ballydowd Grove  
Lucan  
Co. Dublin  
K78 X6V0  
Dublin: 01 6281040  
Lo-call: 1890 787839  
[Surveys/Inspections]

Please note that the foregoing information is provided for informational purposes only. Williams Solicitors LLP has no affiliation or referral agreement with any of the foregoing professionals. You should obtain a quote from the architect/surveyor/engineer prior to instructing them to carry out work on your behalf.

#### **4. What property taxes arise in Ireland?**

Stamp duty is a once-off tax charged on the certain instruments which transfer an interest in property. The following charges may arise on a recurring basis depending on the type of property being purchased:

- **Local property tax (LPT)** – paid annually to the Revenue Commissioners in respect of residential properties. Newly built properties may be exempt for a number of years prior to the charge being applied but all secondhand property will be liable to LPT on an annual basis.
  
- **Service Charges/Management Fees** – most apartment blocks are owned and operated by a management company who will appoint a managing agent, e.g. Core Estates, Cuala Property Management, Greendoor Property Management, to provide the services on an annual basis.

The service charge will be determined by the members of the management company (unit owners) on an annual basis.

- **Commercial rates** – this is a charge on commercial property levied by the local authority on commercial units.
- **Insurance contribution** – if you acquire a commercial property in a multi-unit development with shared services, you may have to make a contribution to the landlord’s insurance premium on an annual basis. This contribution is usually calculated by reference to the net floor area of the unit as a percentage of the net floor area of the whole building. This is a contribution to the landlord’s building insurance. Williams Solicitors LLP will advise you to take out a policy of tenant’s insurance/business insurance in addition to making the required contribution to the landlord’s building insurance.

In a normal conveyancing transaction, the vendor will pay the local property tax, service charges and rates up to the end of the year. The vendor’s solicitor will prepare an apportionment account on completion and a contribution will be required from you relative to your period of occupation on completion. You will be furnished with a completion statement prior to closing the sale.

#### 5. What if I am getting a mortgage?

If you are getting a mortgage, your broker will ask you to supply the name of your solicitor in order to process the mortgage application. If you are getting part of the purchase monies as a gift from family members, you will be asked to get the donor of the gift to sign a gift letter which confirms that the transfer was a gift and not a loan. Once you have supplied all of the documentation required for the lending institution to process the mortgage application, a letter of loan offer will issue along with a mortgage pack. A copy of this will be sent to your solicitor. In addition to supplying a gift letter from the family member, they will also be required to sign a deed of confirmation in the presence of their own lawyer which confirms they have no interest in the property. This cannot be witnessed by the solicitor acting for you. You will need to come to the office to sign the following documents;

- **Client retainer and authority** – you will need to authorise us to give an undertaking to register the lending institution’s security and draw down the mortgage funds on your behalf. The mortgage funds will be remitted by your lending institution to the client account of Williams Solicitors LLP and transferred directly to the vendor’s solicitor along with the balance of purchase monies.
- **Form 51/mortgage deed** – you will be asked to sign two copies of the mortgage deed charging the property with the mortgage.
- **Letter of loan offer** – you will need to sign the letter of loan offer in the presence of your solicitor. You should read through the letter of loan offer and general conditions of the mortgage prior to accepting same.

Williams Solicitors LLP will go through the special conditions of the letter of loan offer with you at your appointment. Very often you will need to take out a policy of life assurance and also property insurance prior to Williams Solicitors LLP drawing down the mortgage on your behalf. You should investigate the different policies which are available and obtain a number of quotations.

The Competition and Consumer Protection Commission has some useful financial tools which may be of assistance:

<https://www.ccpc.ie/consumers/financial-comparisons/mortgage-comparisons/>

Once the transaction is complete and the property is registered in your name, the title deeds will be returned to the lending institution who will hold them until such time as the mortgage has been paid off.

With a residential mortgage, we will be acting for the bank and for you when investigating the title to a property. There may be certain facts which we are on notice of which we must bring to the attention of the bank. The bank will only issue the loan cheque on confirmation from us that the title to the property is a good marketable title and there are no issues with the planning documents for the property. Once we have investigated the title to the property, we may need to qualify our certificate of title to the bank. That qualification may not be acceptable to the bank and the bank may decide to withdraw their letter of offer.

#### **6. How long will the transaction take?**

The normal conveying transaction will take approximately 4-6 weeks. The closing date is usually set by the Vendor. However, certain factors can often contribute to delay, including:

- Vendor is waiting on bank approval before signing the contracts for sale, e.g. property is in negative equity
- Vendor is waiting on a grant of probate to issue before closing the sale
- Purchaser is waiting on the outcome of a survey before committing to the purchase
- Purchaser is waiting on a gift or transfer of funds from overseas
- Purchaser is waiting on mortgage pack to arrive
- Purchaser delays in organising life insurance / property insurance and cannot complete the transaction without the mortgage funds
- Newly built properties can take up to 18 months to complete – the closing date is not fixed and the agent has underestimated the expected completion date
- Vendor is waiting on MUD Act replies or a letter of interest from the management company

We will keep you advised of any developments during the transaction. The normal steps in a conveyancing transaction are as follows:

- Purchaser finds property and puts down a refundable booking deposit with the auctioneer.
- Purchaser provides solicitor's contact details to auctioneer and mortgage provider.
- Purchaser instructs architect/engineer to carry out survey of the property.
- Purchaser's solicitor receives contracts for sale and copy title and raises pre-contract enquiries
- Once purchaser's solicitor is happy with title documents, purchaser attends office to sign contracts and any mortgage documentation. Purchaser pays balance of 10% deposit.
- Purchaser's solicitor returns signed contracts and deposit to vendor's solicitor along with a draft Transfer Deed and a list of completion requirements. Purchaser's deposit is now at risk and they can no longer withdraw from transaction.
- Vendor's solicitor receives contracts and prepares completion documents. Vendor attends with their solicitor and signs contracts along with completion documents. A legally binding contract is now in place. Contract for sale is returned to purchaser's solicitor.

- Purchaser's solicitor requests funds from purchaser and/or mortgage provider and prepares for closing. Purchaser's solicitor sends money to the client account of vendor's solicitor.
- **Day of completion:** Vendor's solicitor receives money and sends completion documents including deed of transfer.
- Purchaser's solicitor checks document and carries out searches against vendor/property.
- Vendor's solicitor replies to searches. Purchaser's solicitor checks reply and authorises release of purchase money. Vendor's solicitor authorises the release of keys which can be collected from auctioneer.

#### **7. What is the difference between a joint purchaser and a tenant in common?**

If there is more than one purchaser, you will be asked whether you wish to hold the property as a tenant in common or as a joint owner.

- Joint owner – if one co-owner dies, the other co-owner automatically inherits their share of the property. If there are more than two co-owners, the surviving co-owners will automatically own the property between them. Married couples / civil partners invariably buy property as joint tenants.
- Tenant in common – if one co-owner dies, their share of the property will pass under the terms of their last will and testament or under the rules of intestacy under the Succession Act 1965. Investors generally purchase property as tenants in common.

#### **8. What do you need from me to proceed?**

We will *always* need the following documents from you;

- Contact details for you or your agent including an email address and mobile phone number
- Copy identification –this is a copy of your passport or driving licence
- Proof of address – this is a utility bill or government document dated within the last six months showing your residential address.
- PPS number – if you do not have a PPS number, you can apply for one from overseas. You will need to supply copy ID, proof of address and complete the application form for the Department of Social Protection. Williams Solicitors LLP can assist you in applying for a PPS number for €150 + VAT @ 23%.

The following checklist may not be required in all cases:

- Bank statements/payment remittance slips – if you are a cash purchaser, we will need copy bank statements or payment remittance slips setting out the origin of the funds used to finance the purchase.
- Power of Attorney – we will need to meet with you to sign documents on at least two occasions. If you are unable to travel to Ireland to sign the contracts for sale and deed of transfer, you will need to appoint someone in Ireland to sign the documents

on your behalf. Williams Solicitors LLP can assist you in drawing up a power of attorney for €200 + VAT @ 23%.

- Marriage certificate/decrees of separation/divorce: if you are getting a mortgage and you are either married, separated or divorced, you will need to supply a copy of your marriage certificate(s) and decree(s) of divorce/separation so that we may prepare a family home declaration for the benefit of your lending institution.

**KINDLY NOTE** that whilst Williams Solicitors LLP LLP can provide you with legal advice on the title to a property and an outline of the property taxes which may arise in a transaction, Williams Solicitors LLP do not purport to offer either taxation or financial advice. We would advise you to obtain a structural survey of a property from a reputable architect/engineer in all cases.