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28 September 2017

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BUILDING INSPECTION REPORTS

We refer to our conversation of 22 July 2013.

As discussed, we set out below our analysis of the service which your company is proposing to offer to vendors of residential property.

The elements of the Service

The vendor purchases a building inspection report when listing the property for sale.

The report can be purchased from a building inspector recommended by your company. Alternatively, the vendor can appoint a building inspector of their own choice.

Once completed, the building inspection report is uploaded onto your company's website. From the website, potential purchasers are able to buy a copy of that report.

A purchaser who signs an agreement for sale and purchase with the vendor can then have the building inspection report readdressed to the purchaser.

Benefits of the Service

The most immediate benefits for a vendor are as follows:

- i) The ability to make good any defects identified by the building inspection report before an offer is received on the property.
- ii) The opportunity to sell without a building report condition in the agreement for sale and purchase.
- iii) If a building report condition is included in the agreement, the opportunity to negotiate a shorter conditional period than the standard 10 working days.

The benefits for real estate agents are as follows:

- i) The opportunity to negotiate a sale which does not include a building report condition or if the purchaser requires such a condition, the opportunity to negotiate a shorter conditional period than the standard 10 working days.
- ii) The reduction, if not the elimination, of the potential for a contract to fail as a result of a purchaser cancelling on the basis of a building report condition.

Liability

Vendors -

Provided that the building inspection report is sold on the basis that will be re-addressed to the purchaser, then the vendor should incur no liability in respect of any matters which may be inaccurately stated in the report.

Agent –

If the agent's role is limited only to making a vendor aware of the service offered by your company, then it is difficult to see how any liability can attach to the agent. The agent will not be representing the accuracy of the contents of the report. Accordingly, there would be no opportunity for liability to arise on the basis of representations made for and on behalf of the vendor. As indicated, the agent would simply refer a vendor to your company.

With respect to purchasers, the agent's role would again be limited to simply making the purchaser aware of the existence of the report on your website. The agent would be doing no more than referring the purchaser to the service provided by your company. No liability issues can arise from that referral.

Given the increasing incidence of building report conditions in agreements for sale and purchase, the service which your company is proposing to offer should inevitably have the effect of removing the uncertainty which is often a part of the building report process when a property is under contract.

Yours faithfully
INSIGHT LEGAL


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