



Don't let your dream home become a planning nightmare

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The case of a family who had to leave their £600,000 home of 31 years over a boundary dispute underlines the importance of getting expert legal advice over property disputes and conveyancing. The case of the Constantine family in London was prominently featured in the national media after they lost their eight-year legal challenge to a neighbour's extension that they claimed encroached three inches into their land - and ended with a £132,544 bill.

With Jersey property prices far higher than the UK average and the Island's property law derived from a complex mixture of local statute and customary law, islanders should carefully consider property and planning disputes and take specialist advice. Jersey's customary law stems from Norman-French law, but specialist advisers will be able to navigate clients through the relevant judgments of the Royal Court of Jersey and the common law writings of local and French jurists.

Partner Jonathan Hughes, explains: "Emotions can run very high in property disputes, but given the high value of land, people need to consider conveyancing disputes very carefully before taking any action. It is all too easy to imagine the Constantine family's circumstances playing out in exactly the same way here - anyone involved in any kind of similar dispute should take full legal advice from a specialist, and consider all kinds of negotiated agreement such as boundary agreements/land swaps or mediation before taking action in court."

Before acquiring a property, it is vital that your legal advisers properly ensure it has clear and correct legal title over a period of forty years at least, and that it benefits from all necessary rights of way, rights of access and service rights so that it may be utilised to its full potential. "For example, it's quite common for some buyers to be under the impression that a property has certain parking rights, or rights over privately owned land which give access to utility supplies, even though from a legal perspective this may not necessarily be correct. You also need to ensure that you are not acquiring a property that is already subject to historic or current neighbourly disputes which your legal adviser will find out for you so it's important to get their advice as early as possible in proceedings.

Jonathan Dauny, a Senior Conveyancer in Ogier's Property team, further stresses the importance of ensuring your property boundaries are in order and without defect before pursuing any action for claims of encroachment or breach of rights.

"Taking short cuts is not an option as the long term effects of this can be severely damaging to the future enjoyment of your home. As highlighted by the Constantine case, there are significant financial consequences to not getting it right, all of which can be avoided if the work is carried out correctly at the beginning.

"Conveyancing is a technically complex and time consuming procedure, and there are often numerous bumps in the road before getting to a point of completion. At Ogier, we will always quote on a case by case scenario as no two circumstances are the same. Buyers should make sure that they choose their conveyancer carefully to prevent planning headaches further down the line - you want to be sure that you can enjoy your property free from legal concern in future, and avoid the unnecessary expense of putting wrongs right."

Ogier's is the only team of offshore property, planning and construction lawyers and conveyancers to receive a top-tier rating from Chambers and Partners UK. To find out how our team can help you with your property law needs, contact us for an informal conversation at 01534 514056 or email info@ogierproperty.com.

About Ogier

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