

Get new home papers correct

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A purchaser signed a contract for a house, which was to settle three weeks later. He signed the documents at the bank to apply for a mortgage and then went away on holiday.

What this purchaser did not realise was that he also needed to sign the actual loan and mortgage documents once the bank had issued them to his legal advisor, so that the bank could draw down the loan on settlement day.

Fortunately the purchaser arrived back from holiday a few days before settlement and was able to see his legal advisor. If he had not come back in time, and this caused settlement to be delayed, he would have had to pay penalty interest as the bank would not have been able to advance the loan funds on settlement day.

Before the bank can advance your loan to you and pay it to your legal advisor to be put towards settlement, you need to sign the loan and mortgage documents that the bank

provides. These documents will reflect the terms, interest rate and structure that you have discussed with your bank.

It is important to check that these documents are correct as they will override any previous discussions and documents you have signed with them.

Signing loan and mortgage documents with your legal advisor ensures that you understand what a mortgage is, what you are agreeing to, and the effect of the bank holding your property as security for the loan.

Loan and mortgage documents can be lengthy and complex, so it is best to have your legal advisor talk you through them.

Your bank will require correctly signed and witnessed documents, along with proof that the property will be insured from settlement day, with the bank's interest noted on your insurance policy.

Make sure your dates line up when buying a property.

After many months of searching, a couple made an offer on their dream house. The offer was conditional on them obtaining satisfactory finance to purchase the property and obtaining a builder's report. When the agreement was sent to



Getting the documents right is key to buying a new home.

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the couple's lawyer, it was noticed that the date for settlement was only one day after confirmation of their conditions.

They had hoped to use their Kiwisaver funds to purchase their home, but this did not give them enough time to do this, or to

obtain their mortgage documents from their bank. Unless the vendors agreed to move the settlement date, this would mean that they would have to pay penalty interest for any delay.

Their lawyer had to urgently negotiate a change in settlement date, which fortunately the vendors agreed to. To make sure you don't face a similar problem to this couple, carefully consider the key dates when you are negotiating an Agreement for Sale and Purchase and also keep track of when conditions need to be satisfied, as well as the settlement

date.

If you are not sure of timeframes, check with the real estate agent or an experienced property lawyer about the usual timeframes before you sign. Make sure you discuss timeframes with your legal advisor so that you can sign the documents in time for settlement day.

If you have a legal inquiry you would like discussed in this column please email Alan on aknowlesley@raineycollins.co.nz

Column courtesy of Rainey Collins Lawyers phone 0600 733 484 or raineycollins.co.nz