



Concerns have been expressed to the Conveyancing Committee about the practice of builders' solicitors issuing documents which are an amalgam of excerpts from the standard Building Agreement and Contract for Sale. Practitioners should remember that, while in practical terms the sale of a new dwelling is a single transaction as far as the client is concerned, from the legal point of view, two separate transactions are involved. The committee, in ease of the profession generally, has over the years encouraged universal acceptance of the standard documentation, and is always reluctant to see any departure from it.

The view of the committee is therefore that in an appropriate transaction, the two standard documents should be used. This saves trouble, not only for the purchaser's solicitor, but also for the vendor's, as s/he is not obliged to deal with queries in relation to the minutiae of a non-standard document. It also allows the purchaser's solicitor to give an unqualified certificate of title as the standard certificate of title requires the purchaser's solicitor to certify that the property was acquired "on foot of the current Law Society's Conditions of Sale and/or Building Agreement". The committee has previously confirmed in its practice note published in the March 2001 issue of the Gazette, inter alia, that this phrase is intended to mean, in relation to the purchase of a new dwelling house, that both documents should be used.

As usual, any amendments or additions to the standard documentation should be dealt with by Special Condition.

There have been a number of complaints to the Conveyancing Committee to the effect that some practitioners are refusing to deal with pre – contract queries.

It is the view of the committee that the raising of reasonable and appropriate pre-contract queries is in accordance with proper conveyancing practice. It follows therefore that such queries should be responded to by a Vendor's Solicitor and that no unreasonable time or other constraints should be imposed in relation to such queries.

HYBRID AGREEMENTS FOR SALE OF NEW HOUSES

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