



NEGATIVE SEARCHES

In January 1977 the Conveyancing Committee of the Law Society recommended that the long standing practice of a Vendor furnishing a Negative Search on the sale of property be discontinued.

Having monitored the operation of the new system for 18 months and having received representations from a number of members the Committee has now decided to recommend that the previous practice should be resumed. In coming to this decision the Committee has had regard to the following factors:

1. Purchasers' solicitors have not generally arranged to lodge Negative Searches at the contract stage and have usually commissioned hand searches for the closing of purchases, thus necessitating further hand searches being commissioned on the occasion of the closing of subsequent mortgage transactions. Since no hand searches can be kept open to include the registration of the purchase deeds it follows that when the title is subsequently examined it will be necessary to have a further search made against the Vendor from the date of the last hand search to date of registration of the deed.
2. The protection given to solicitors by negative searches cannot readily be discounted particularly since it has been ascertained what the insurance cover which the various firms of Law Searches have in comparison with the totals of the considerations passing in the various transactions in which hand searches are being made.

The Committee would remind members that for the smooth operation of the practice whereby the Vendor furnished the negative search his solicitor should ensure that a draft requisition for negative search be furnished with the draft contract together with all existing searches covering the period contracted for which are in the Vendors possession. The failure to lodge requisitions for search at the contract stage inevitably results in the searches not being ready for the closing and the additional expense of hand searches has to be incurred.

UPDATE: Solicitors should note that Negative Searches are no longer kept open by the Registry. The period covered by the Search is from the date requested in the Requisition for Negative Search to the date of lodgement and the search is then issued by the Registry (but in some cases the search has to be collected from the Registry).

As soon as the search is received by the Vendor or Solicitor from the Registry it should be furnished to the Purchaser's solicitor who can then make a Hand Search from the date of the issue of the Negative Search to the closing. Where there is a closing with the aid of a loan cheque further searches should not be required.