



**T**he Conveyancing Committee was asked to review the practice of Builders' Solicitors providing negative searches. The Committee made enquiries of the Registry of Deeds and understands that the Registry still operates the system whereby negative searches may be lodged, written-up, taken out and then relodged for updating. The Committee is of the view that the obligation lies on the solicitor acting for the Builder to provide each Purchaser's solicitor with an up-to-date negative search. The Builder's Solicitor should lodge the search before the commencement of the development and provide each purchaser with a copy of the search. On the completion of the development the search should be lodged by the Builder's Solicitor for updating and a certified copy with all acts explained/discharged sent to each Purchaser's Solicitor. Solicitors acting for purchasers of new houses should obtain an undertaking to the above effect from the Builder's Solicitor on closing.<sup>9</sup>

### NEGATIVE SEARCHES AND BUILDERS

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**T**he Joint Committee has obtained the opinion of Senior Counsel regarding liabilities of purchasers of new houses where the roads and services have not yet been taken in charge and where the bond or security given may have expired or have been inadequate.

Counsel has advised the Committee that it does not lie as a matter of right for a Planning Authority, having accepted a bond or cash lodgment as security for the completion of an estate, to look elsewhere at a later date for further or other security. It is incumbent on the Planning Authority to ensure, where the bond is for a limited time, that the works are satisfactorily completed within that time. Counsel states that he cannot envisage any Court exercising its discretion against an individual house holder on an estate under Section 27 of the Act to ensure compliance with the conditions in a Planning Permission which is the obligation of the developer. Counsel also advises that the Local Authority does not have a right to levy individual house holders for a contribution towards the cost of finishing off an estate. Whilst Counsel has doubts as to whether the Local Authority could be compelled to take an estate in charge he is satisfied that the Local Authority is obliged to complete the works even if the security is insufficient. It lies with the Planning Authority at the time of imposing the condition to provide adequately for such works.

The Committee feels therefore that there is no necessity for practitioners to inquire into the length of a bond or adequacy of a bond or other security when acting for a subsequent purchaser of a new house on a housing estate. It is sufficient for the first purchaser of a new house to assume that all of the financial conditions contained in the planning have been complied with at the date of completion of the purchase.

### ESTATE SERVICES

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