

How to avoid the potential costs of property transfer delays

Although some delays in property transactions cannot be foreseen, it is possible to significantly reduce the risk by doing one's homework and having all one's ducks in a row from the onset, according to Grahame Diedericks, manager principal in Midrand for Lew Geffen Sotheby's International Realty.



“Essentially there are two primary types of delay; the first relating to the confirmation of the sale and those that occur once the sale has been confirmed and hold up the transfer.

“Once the potential minefield of multiple complex steps, reams of documentation along with suspensive conditions and contractual obligations has been successfully navigated and the deal is finally done, many people breathe a sigh of relief.

“But the deal isn’t quite done yet and the expected downhill cruise to transfer can still become an uphill battle if one isn’t careful,” says Diedericks.



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Reasons for delayed transfers

He explains how this can happen: “One of the main reasons for delayed transfers is that the timeline is out of sync, especially when two or more deals are linked and money from one sale is needed to purchase the next property and so on.

“It can also occur if buyers haven’t budgeted correctly for the transfer costs of the new property they are buying or if they have an access bond in place on their current home, in which case, when the attorney calls for bond cancellation that bond account will be frozen and they will not be able to access the funds.”

He adds that another common oversight is not giving the required 90 days’ notice of cancellation of the existing bond, which will not only cause delays but will also incur avoidable late cancellation fees.

Diedericks advises that if a home owner is seriously thinking about selling, they should give notice to the bank holding the bond.

“In doing so, they are not committing to selling, they are merely notifying the bank of the possibility and they can keep on renewing the cancellation if they don’t sell timeously or they can revoke the notification if they change their minds.”



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Cobus Odendaal, CEO of Lew Geffen Sotheby’s International Realty in Johannesburg and Randburg, says that although hiccups and stumbling blocks can occur at any point of the transaction, they most commonly occur at the following stages:

- Bond approval;
- Bond cancellation;
- The signing of transfer documents;
- Obtaining valid compliance certificates;
- Issues encountered at lodgements requiring the removal of notes by the Registrar of Deeds;
- Transfers which are unusual and more complex, such as estate transfers which require an endorsement of the Master of the High Court, which can cause a delay.

“Most of these delays can easily be avoided through good communication and prompt co-operation with the transferring attorney and agent or, if they are outside of South Africa, by giving a valid power of attorney to a person within South Africa who can sign the necessary documents and act on their behalf.

“One of the transferring attorney’s key roles is to coordinate and control all the role players involved in a transfer, including SARS (transfer duty), the municipality (Rates Clearance Certificate) and the bank.

“And, in order to coordinate the process as seamlessly as possible, it is essential that both the buyer and seller submit all the necessary documentation in time, as per the legal requirements and without omissions. This is especially important if either party resides in another country or is otherwise difficult to contact for information and signatures.”



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Be upfront about your financial situation

Odendaal adds that it's also vital that clients are completely up front with their agents regarding their financial situation from the onset.

"We can then facilitate and expedite the process by having our bond originator prequalify them and the thorough credit check will reveal any potential snags.

"This step is particularly important for buyers who are self-employed as banks are very strict about the documentation that they require for a bond application. At this stage, I also advise clients to avoid making any expensive purchases that could negatively impact their affordability."

"An experienced estate agent will be able to guide their clients every step of the way and, as long as they are upfront with their realtors, there should not be too many problems to circumvent," says Odendaal.

"And, as the transferring attorney and agent work closely together behind the scenes to ensure a smooth transfer, it's always an advantage if they already have an established working relationship."

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