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January 14, 2013

The role of each party within a property transaction

Property is the most expensive purchase an average person will make in their lifetime and while it's easy to sign your name on a contract, the many steps along the way need to be addressed properly to ensure the purchase is done carefully and accurately, while mitigating risk at the same time.



BY MIRIAM SANDKUHLER

There are many things to take into consideration before signing on the dotted line. You should firstly think about purpose of the purchase, whether it's owner-occupied or investment, and what your overall goal is that you're looking to achieve. Then, there's the structure of the investment for risk mitigation and tax structuring, the possible structures for retirement planning (self-managed super funds –SMSF), borrowing capacity and loan structuring (to enable the ongoing growth of a property portfolio), legal advice and asset management.

As you can see, many things need to be managed before you invest hundreds of thousands of dollars, or even millions, in property. Reading the 'get rich quick' stories will give you the impression that what you're contemplating is a sure-fire investment bet, but that's rarely the full picture.

Let's consider John and Sue, who wish to invest in two additional properties over and above their own home, which they own outright. In getting started, they should consider contacting most of the following professional parties *before* signing a contract. It'll substantially reduce their risk while also maximising returns.

A properly qualified property investment adviser

This is an independent adviser who works for the client to formulate a tailored strategy that's specific to their personal goals, risk profile and financial circumstances, so they're able to implement a clear entry, hold and exit strategy within their property portfolio.

They also act as the client's portfolio manager and can coordinate and liaise with all of the professionals involved in the transaction process, to ensure everyone is on the same page.

Buyers' advocate or agent

A licensed agent legally represents the buyer's interests, as they're independent and paid by the buyer to research, source, analyse, recommend and negotiate favourable buying terms and price for the purchase of a property. They work for their client to ensure they invest in an established property

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that performs above the average. Alternatively they can be engaged to simply negotiate the purchase terms and price on behalf of a buyer, either privately or at auction.

Getting market insights and advice from someone who is also trying to sell you property in that same market (and earn a commission from it) isn't a good idea. Avoid the opinions and suggestions of people with vested interests.

Accountant

You'll need someone to advise you on the best investment structure for your property purchase, based on your overall asset and tax position. The intent will be to protect your assets and to also minimise your income and land tax obligations. Where relevant, they can also advise whether or not to buy property within a SMSF and can facilitate the set up of that fund.

Mortgage broker

An independent broker will research all of the loans in the marketplace and make recommendations on the best product and the most competitive rates available. A broker who specialises in loan structuring for investors that wish to grow their property portfolio will also consider the terms and flexibility of each loan, thereby allowing for future investment.

They'll advise not only on borrowing capacity, but will manage your loan application process and likely recommend all of your loans use separate security, while also remaining flexible for other investments.

Solicitor/conveyancer

This qualified professional will peruse contracts of sale to ensure there aren't any nasty surprises or detrimental clauses for the buyer within the contract *before* it's signed. They can also assist in adding clauses that benefit the buyer as required and will act as the conveyancer to process the legal paperwork once the property has been secured.

Financial planner

They'll advise their client what percentage of their total asset pool to invest in property and whether or not to buy property within a SMSF or in the client's individual name. If they aren't licensed to provide property advice (most aren't), they can't actually provide property strategy or investment advice, but can set up the legal structures for SMSFs.

Property manager

This is a licensed professional who'll screen all applicants looking to rent the property to select the best tenant. They'll regularly inspect the property and provide reports, as well as attending to all maintenance issues that might arise.

They'll manage difficult tenants, rental arrears and represent landlords at civil tribunals as required. Ideally each property manager will manage not more than 125 properties, to ensure they're actually managing your asset and not just constantly putting out fires.

After the purchase and before settlement, John and Sue should interview a few property managers as part of the process of appointing one.

As you can see, there are many areas where John and Sue are vulnerable as a result of either not getting advice or the appropriate advice. The benefits far outweigh the costs when it comes to engaging professionals to protect their interests and ensure the process goes smoothly and with minimal risk.

Miriam Sandkuhler is an accredited property investment adviser, buyers' advocate and director of Property Mavens, with 14 years experience in the property industry www.propertymavens.com.au

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