

By Hina Navin  
**Special to PW**


## Your guide to conveyance services

The buying and selling of property involves several processes. *PW* looks into one such essential aspect of a real estate transaction — the conveyancing process

**W**hether you are a buyer or a seller, a property deal needs a contract and the legal work involved in preparing such a contract, along with other related documents, is called conveyancing. "Ownership of property is evidenced by a title deed, an official document identifying the owner of a property, and the address and other details of a property," says Siraj Ahmed, Legal Consultant and Of Counsel to Al Nukbah Law Firm. "Property conveyancing generally refers to the transfer of ownership in property and this transfer is typically recorded at a government office (such as the Land Department), which records and maintains ownership information for a property," he adds.

"The recording of a conveyance with the government office is necessary for transferring the ownership of property under the law and to create a public record of this transfer, so that there is no uncertainty as to who owns a piece of real estate. When selling a property, the seller generally turns in the original title deed, and the government then issues a new title deed in the name of the buyer. This confirms that the buyer is the new owner of the property. Without this process, there would be no reliable means of ascertaining who owns what property, and a buyer may not be able to enforce their rights in a property, without showing that a title deed has been registered in their name."

### Different elements of the process

Conveyancing is essential whenever rights in real estate are bought, sold or mortgaged, and each involves different processes.

For a buyer, Jerry Parks, Partner, Taylor Wessing (Middle East) LLP, says: "The process involves ensuring that the seller has a good and transferable title to the property and, if not an individual, the person representing the seller has the authority to do so. The process will also include ensuring that the security deposit put up by the buyer in order to secure the right to purchase the property is protected and, of course, ultimately ensuring that the property is registered in the

buyer's name with the relevant authorities."

For a seller, he adds: "The process includes ensuring that the person representing the buyer, if not an individual, has the authority to do so. Most importantly, the process will include ensuring that the purchase price is secured prior to or at the same time that the property is transferred into the name of the buyer."

#### Process for discharge of mortgages

"This process will include ensuring that the seller's mortgage is paid off in time to secure the release of the title documents, in order to proceed with the transfer of title. The process will also include ensuring that the buyer's and the seller's interests are protected during the process, especially between the time the buyer pays off the seller's mortgage and the actual title is transferred into the buyer's name," says Parks.

For the registration of new mortgages, Parks says: "This process will involve coordinating the payment of the loan amount and protection the position of the bank by ensuring the proper registration of their interest on the title by the Land Department."

#### Licensed conveyancer or property solicitor

It is possible to do your own conveyancing, but it's ideal to get a licensed conveyancer or property solicitor to do this work for you, since your money is at stake.

"Although there are some licensed conveyancing firms in the UAE, many law firms also offer assistance in this area, especially to their private clients.

"The conveyancer/solicitor in these instances will assist the client to ensure that the process of conveyance of the title and discharge/registration of a mortgage proceeds smoothly," says Parks.

Approach people who were involved in property deals for suggestions. The word of mouth is generally a good indicator. "Also, make sure the professional appointed is properly licensed, is adequately insured and has had experience in dealing with similar matters," says Parks.

#### Services offered by the conveyancer/solicitor

These services include:

- Drafting/reviewing/ne-



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Taylor Wessing  
(Middle East) LLP

gotiating the contract of sale;

- Ensuring that the deposit monies paid by the buyer are secured and held by a mutual third party pending completion or default by one of the parties as the case may be;
- Performing due diligence firstly to ensure that the seller has a proper and transferable title to the real property in question and, secondly, on the parties involved, i.e. do they have authority to act, etc.;
- Advising their client on the process of conveyancing, what to expect and at what stage in the process and what funds will be required and from whom;
- Liaising with real estate agents, incoming mortgage providers (for the buyer), outgoing mortgage providers (for the seller) and the other party;
- Ensuring that the service



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Legal Consultant and Of  
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Law Firm

charges and utilities for the property in question are not in arrears;

- Attending at the offices of the developer along with the other party or his/her representative to apply for a no objection to the transfer; and
- Attending at the offices of Dubai's Land Department along with the other party or his/her representative to apply for the final transfer of the title and ensuring that the proceeds of the sale are paid/received in good order.

#### Know the cost

Conveyancing involves several elements, so it's advisable to get a number of quotes from conveyancers, and find out what a conveyancing quotation actually includes.

As far as legal service fees go, they differ on a case-to-case basis. Parks says: "The fees may vary

depending on the complexity of the transaction and the level of involvement required from the conveyancer/lawyer. Conveyancing firms often charge on a fixed-fee basis, whereas it is common for law firms to charge on a time-spent basis. It is important that fees are discussed and agreed upon up front and not left to be negotiated later on."

For disbursements he says: "It is common for the seller to have to pay towards: the NOC fee, which could be anything from Dh500 to Dh5,000, depending on the developer in question; the issuance of the liability letter; the bank fees involved in discharging his mortgage, if any; the developer's fees for discharging the mortgage, if any, which is usually Dh1,000 but can vary between developers; and the Land Department's fees for discharging the mortgage, if any, which is currently Dh1,000 plus a small admin fee."

"It is common for the buyer to pay the Land Department's transfer fee, which is currently 2 per cent of the purchase price plus an admin fee of Dh315; the mortgage registration fee, if applicable, to the Land Department, which is currently 0.25 per cent of the mortgage amount; the Land Department's admin fee; and the real estate agent's commission, which is also usually 2 per cent of the purchase price, but can vary from deal to deal," says Parks.

Usually, each party will pay its pro rata share of the annual service charges due to the developer.

Additional costs may vary. "Some developers have specific requirements, for example, Emaar will ask buyers to pay a refundable cash deposit of Dh5,000 at the time of applying for an NOC, which will be refunded when the buyer updates the developer's records post-completion.

"If the parties involved wish to expedite matters then there are certain developers — again Emaar is an example — whose NOC process can be speeded up against the payment of an additional fee (Dh2,500), and Dubai's Land Department also has a VIP section, where against the payment of an additional fee (currently Dh4,000) the transfer can take place immediately and an NOC is issued without having to wait for an appointment. The last two fees will be paid as agreed between the parties," says Parks. ■

## The Conveyance process

**Jerry Parks, Partner at Taylor Wessing (Middle East) LLP, explains the steps involved in conveyancing in the UAE**

1. The agreement of sale is signed by both parties, setting out the agreed terms.
2. The buyer pays a deposit, usually to the real estate agency or, preferably, into escrow.
3. If the buyer is funding the purchase by way of mortgage then the agreement of sale is sent to the bank to await final approval.
4. If the seller has an existing mortgage then the seller's bank is sent a copy of the agreement of sale and is requested to issue a liability letter setting out the amount required by it to discharge the mortgage and release the original title deed and property documentation. Once a liability letter is issued, the buyer or the buyer's bank will settle the seller's mortgage and the documentation will be released in due course.
5. Both parties attend at the developer's office to pay fees and apply for a no objection certificate (NOC) for the transfer. If there is an existing seller's mortgage then fees are paid to discharge the mortgage. If the buyer is taking advantage of a mortgage then a representative of the buyer's bank will need to attend at the developer's office too.
6. Once the NOC is issued by the developer, an appointment is made for the parties to attend at Dubai's Land Department to finalise the transfer of ownership.
7. On the appointed date, both parties and a representative of the buyer's bank, if applicable, will be present at the Land Department to complete the transfer. The purchase price and agent's commission will be paid at this time.