
BUY TO LET - IMPORTANT INFORMATION

CAMPIONSSOLICITORS
& ESTATE AGENTS

Buy to Let – Important Information

As this is a buy to let purchase, you need to consider a number of issues. Detailed advice is beyond the scope of this report, but the following is a brief summary.

Tax

Profit that you make on resale of a property which is not your main residence may be liable to capital gains tax. We would advise you to keep receipts for all capital expenditure incurred on the property throughout the period that you own it (such as for building works), so that you can set it off against any profit you make.

Income derived from the property will, of course, be subject to income tax. We would advise to keep receipts for all running costs, such as buildings insurance and routine maintenance, so that you can set them off against your income.

Lettings – General Considerations

We suggest that you take advice regarding any new tenancy agreements to ensure that the tenants do not acquire greater security of tenure than you wish them to have. You should be aware that there are complex laws relating to evicting a tenant and you cannot, in any event, legally evict a tenant without a court order. Unless you are an experienced landlord, you should consider using an agency, at least to start with. Alternatively, standard form agreements and books on the subject are available from stationers or on the internet.

Lettings – Statutory Requirements

Tenancy Deposit Schemes. When you let to a new tenant or renew the tenancy agreement of an existing tenant and when you either take or retain an existing deposit, you must adopt one of two deposit schemes: either (a) the deposit to be held by a third party or (b) an insurance backed scheme. If you do not do so, you will not be able to evict the tenants, the tenants may apply for a rent repayment order and various other sanctions apply.

Energy Performance Certificates. Landlords are required to provide an EPC free of charge to prospective tenants whenever they let a property. The certificate must be available before a viewing is conducted.

Safety Certificates. Landlords are required by law to have current gas safety and electrical safety certificates.

Repair. Landlords have a contractual obligation to keep rented property in good repair and tenants can sue if this obligation is not fulfilled. There is also a complex statutory regime under the 2004 Housing Act for enforcement of housing standards by local authorities. It is therefore particularly important that you obtain a detailed survey before buying, because compliance with these requirements could prove expensive. In serious cases of disrepair, the council has the power to prohibit a property from being let.

Lettings – Houses in Multiple Occupation

If you propose to let the property either as flats or in multiple occupation there may be planning, public health and fire regulation considerations. The regulations are detailed and beyond the scope of this report, but issues arise relate to licensing, smoking regulations, fire safety and asbestos. We would advise you to research the subject carefully or seek specialist advice before proceeding. If you proceed, you should consider appointing professional agents to manage the property on your behalf.

Licence. Any self-contained building which is occupied by three or more tenants who are not related, is defined as a House in Multiple Occupation. A HMO which has three or more storeys and is let to five or more individuals must be licensed by the local authority and you should consider the following matters: criminal sanctions, including substantial fines, apply for failure to register. The tenants of an unlicensed property do not have to pay rent and cannot be evicted. Licences are personal to the individual – the fact that the property you are buying is licensed does not mean you will receive a licence. The process of obtaining a licence may be time consuming and expensive, with a long and detailed application form to complete. You will have no guarantee of eventually getting a licence (depending not just upon the condition of the property, but upon your personal circumstances, such as past offences). Once obtained, your licence can be revoked in various circumstances. You may need

to incur considerable expense in order to comply with the requirements of the licencing authority. Local authority requirements are extremely extensive and detailed, not only as to the physical standard of the property, but as to the services and amenities provided and as to the standard of management (refer to schedule 3 of the Housing Act 2004). You should consider all these issues before committing yourself.

This area of law is now very detailed and complex and is beyond the scope of this report; you should consider the need to take specialist advice if you believe there is cause for concern. The law is also changing rapidly and you should consider also the possibility of future changes which might affect your investment, even if you are not affected now. For example, the local authority already has the power to designate areas in which all properties which are let must be licensed.

Furthermore, the Council may refuse to permit the letting of a house in multiple occupation to students if the percentage of student lets in the neighbourhood exceeds a certain level. If you propose to let to students, you should check the position with the local planning authority before proceeding.

Smoking Regulations. These apply not just to commercial premises but to the common parts of shared houses. No smoking signs should be installed and the ban enforced.

Fire Safety. You should consider the Regulatory Reform (Fire Safety) Order 2005 which now applies to the common parts of houses in multiple occupation. The landlord is obliged to carry out a fire risk assessment on the common parts and to carry out any recommended safety measures. You will appreciate that this could prove expensive or, for example, render a top floor or floors unusable. You should give this careful consideration before committing yourself. Failure to comply with these regulations is a criminal offence and may also have the effect of voiding your buildings insurance.

Asbestos Regulations. Note also the Control of Asbestos at Work Regulations 2002 which also apply to common parts of houses in multiple occupation. The advice given in respect of fire safety applies equally to these regulations and it is very important that you obtain an assessment.

In summary, it is important that you are fully aware of all rules and regulations governing rental properties before you proceed, because compliance may prove very expensive. There are various web sites providing further information for landlords.

Signed by authorised signatory

Dated: 15/01/2016