

Applying for Title Deeds

Following the many emails I've received this article explains how buyers may apply for the Title Deeds to the property they purchased under the provisions of the 'hidden mortgage'/'trapped buyers' law.

By: Nigel Howarth Published: Wednesday 6th April 2016

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SINCE publishing details of the 'trapped buyers'/'hidden mortgages' law in the article ['Apply for your Title Deeds now'](#), I have been inundated with questions and requests for further information.

This article endeavours to respond to those requests and questions.

I am grateful to Irene Anastasiou and Charalambos Charalambous of the Department of Lands and Surveys Head Office for their time in explaining the provisions of the ['trapped buyers'](#) law and the processes involved to me at our recent meeting in Nicosia.

Objective of the 'Trapped Buyers' law

The objective of the law is to a transfer property to its purchaser(s) who, although they have fulfilled their contractual obligations to the vendor, are unable to obtain its Title Deed. Typically this occurs when a developer has mortgaged the land on which he is building or a memo or any other encumbrance has been registered on the property, which is the object of the contract of sale, and the developer is unable or unwilling to repay this mortgage and any other debts.

Who can apply for Title Deeds?

Any buyer who has yet receive the Title Deed to the property they purchased may apply for its Title Deed regardless of whether its Title Deed has been issued; the fact that there may be mortgage etc. preventing its transfer is immaterial. In cases where the title deed has yet to be issued, the applicant has the right to apply to the Department of Lands and Surveys for the compulsory acquisition of title according to the provisions of Part VI of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224.

In addition to any buyer, the following are entitled to apply:

- The vendor of the property. This could be a private individual or a company – typically a property development company.
- The mortgagee under the mortgage contract deposited at the Land Registry.
- The lender who granted the loan to the buyer to purchase the property.

- The buyer who purchased the property via an assignment/vesting contract deposited at the Land Registry.
- The Director of the Department of Lands and Surveys ex officio.

(As a consequence, buyers who have been 'reluctant' in the past to obtain Title Deeds to the property they purchased may now find they have no option. Furthermore, if they fail to pay the Property Transfer Fees on receiving a notice from the District Land Office (DLO) to do so, an encumbrance will be lodged against the property corresponding to the amount of the transfer fees increased by fifty percent.)

Application pre-requisites

The only prerequisite for filing an application is that a Contract of Sale or a vesting/assignment contract to purchase the property must have been deposited at the DLO in which the property is situated by 31st December 2014.

In cases where a contract has not been deposited or unknowingly removed from the Land Registry, the applicant must apply for a Court Order. Once the order has been issued the contract may be deposited at the relevant DLO.

The law only concerns itself with contracts that have been deposited at a DLO. In cases where a dispute has arisen between a purchaser and a vendor concerning (say) the supply and payment of 'extras' that were not included in the Contract of Sale, unless a contract for those 'extras' had been prepared, agreed and deposited at the DLO the dispute will not prevent the transfer of a property's Title Deed to its purchaser.

Filing an application

Completed [Title Deed Applications Forms \(in Greek or English\)](#) may be filed at any DLO in the Republic regardless at which DLO their Contract of Sale was deposited.

The price for filing an application is €10, which has to be paid to the Land Registry when the application is filed.

The applicant(s) need to complete the Application Form. Note that the 'Registered Contract of Sale' referred to in A-2 of the Form is the number written on the receipt issued by the DLO when the Contract of Sale was deposited. This number takes the form ΠΩΕ:
xxxxxx/yyyy.

Where the applicant is unable to find/obtain the DLO receipt number, they should attach a copy of their Contract of Sale to their application.

Non-Cypriots should enter their passport number in section A in the 'I.D. no.' box and take their passport when they visit the DLO to file their application.

The address on the form is the applicant's correspondence address (which may not be the same as the address of the actual property.) In addition it is highly recommended that the applicant includes their email address on the form so that the DLO may contact them quickly when necessary.

Note that in cases where a property has been purchased in joint names it is not necessary for both buyers to submit an application, provided that the applicant can prove that the full payment of the purchase price and taxes have been made.

Supporting evidence

It is vital that the applicant buyer submits as many documents/as much evidence as possible to support their application. I.e. payment of the purchase price, the existence of a Title Deed for the property and fulfilment of all contractual obligations to the vendor (taxes etc.)

Applicant has not paid the full purchase price

If the applicant buyer declares that they have not fully paid the purchase price they will be required to pay the balance into a special temporary account in the name of the Director of the Department of Lands and Surveys.

This money will not be paid to the vendor until the Title Deed for the property has been issued and registered in the name of the purchaser.

Applicant has paid the full purchase price

If the applicant buyer declares that they have paid the full purchase price, they need to provide evidence, such as:

Original receipts or photocopies of receipts showing the property has been paid for in full. If the vendor is a company, including a land development company, these receipts must bear: the company logo, the amount paid, the signature of the company representative and the company stamp.

Proof that the money for purchasing the property was deposited in a financial institution (e.g. a bank), showing that the deposit was paid in cash or cheque – or details of the transactions confirming the transfer of payments from the purchasers account to the sellers account.

A signed certificate from the vendor or the financial institution confirming that the full payment of the purchase price has been made or that the buyer has fulfilled his contractual obligations.

In situations where the purchaser encounters difficulties obtaining evidence confirming they have paid in full, they may [swear an affidavit](#) at court and include this with their application. (A lawyer is not required.)

However, this affidavit will not be considered as adequate evidence and the purchaser must strive to obtain further evidence, as outlined above, to support their application.

Existence of Title Deed

Wherever possible, the applicant should check whether a Title Deed exists for the property in question. This can be achieved by checking the DLS database by following the guide in my article '[Cyprus property valuations now online](#)'.

If the applicant is unable to find details of their property they should apply to the DLO for the [Compulsory Acquisition of Title](#), taking the completed form with them when they file their application.

Payment of other financial obligations

The applicant buyer needs to provide evidence that he has fulfilled other financial obligations set out in their Contract of Sale, such as the payment of property-related taxes where applicable.

Applicants should examine their Contract of Sale. The vast majority of the many contracts that the author has seen contain a clause similar to the following:

“As from the day the Purchasers are in possession of the property, they undertake to be responsible for and to pay all the Government, municipal and local authorities’ taxes, levies, duties or charges (if any) raised on or in connection with the possession of the Property hereby sold.”

If the applicant buyer’s Contract of Sale contains this or a similar clause, they need to provide evidence that they have paid these property-related taxes and charges and will need to obtain statements from the Tax department (Immovable Property Tax), the Sewerage Board, the Municipality or Community (local property taxes) in which the property is situated as appropriate confirming that they have paid their obligations.

However, in some cases this will prove ‘difficult’ as many property development companies do not bill their customers until the property’s Title Deed is available for transfer. Furthermore (as regular readers will know) a number of ‘well known’ property development companies owe the government millions of Euros in unpaid taxes.

Applicant buyers unable to obtain statements from the various authorities confirming that they have paid these property-related taxes may still file their applications at the DLO.

If, during its examination of their Title Deed application, the DLO finds that their tax obligations have not been paid, it will serve a notice to the applicant to pay their taxes to the competent authorities and produce the necessary evidence to the DLO. Once the applicant has paid their obligations, the competent authorities, will issue the necessary statements.

If the applicant buyer can prove that they are not liable to pay these property-related taxes they will be considered to have fulfilled their contractual obligation. If their Contract of Sale contains no clauses making them responsible for paying these property-related taxes or if it contains a clause along the following lines:

“All land taxes and dues including immovable property tax arising before the delivery and transfer of the property will be paid by the Vendor.”

they can be confident that they have no contractual obligation to pay these property-related taxes.

*(Note that although applicant buyers may have no **contractual obligation** to pay property-related taxes, they have a **legal obligation** to pay Immovable Property Tax directly to the Tax Department for years 2014 onwards. Refer to [Paying Immovable Property Tax 2014](#) for further information.)*

DLO investigation/examination of the application

Once the DLO has accepted the Title Deed application, they will start their investigation into the case. The DLO will check the three basic conditions that must be satisfied before the transfer of the Title Deed in the name of the buyer can take place:

Has the buyer paid the full purchase price?

During its investigation the DLO may request information from any interested party to produce evidence that the full purchase price has been paid.

If, after examining the evidence it transpires that the full purchase price of the property has not been paid, the application will be put on hold until such time as the balance of the purchase price has been paid into a special temporary account in the name of the Director of the Department of Lands and Surveys.

Does a Title Deed exist for the property?

If a Title Deed for the property in question has not been issued, the applicant may apply to the DLO for the [Compulsory Acquisition of Title](#).

The application will be put on hold until such time as the property's Title Deed has been issued.

There are many reasons why a Title Deed has not been issued. It could simply be a case that the DLO has not received the necessary paperwork from the District Office, there may be planning infringements that need to be corrected, parts of the development may not have been completed, the property could encroach on someone else's land, etc.

In some cases the vendor (developer) may be unwilling or unable to fund the work required that will enable the District Office to issue Certificates of Final Approval. In such cases the only option available to the affected buyers is to pool their resources and pay for the necessary work – and then sue the vendor (developer) once the Title Deeds have been transferred to them to recover their costs.

Concession/Antiparochi (αντιπαροχή) agreements must be completed before Title Deeds can be transferred to buyers who purchased property built on the landowner's land.

(Concession Agreement/Antiparochi is an agreement between a landowner and a developer in which the former provides land to the latter in exchange for a certain number of dwellings from those being constructed.)

In extreme cases it may prove impossible for the DLO to proceed with the transfer of the Title Deeds. In these situations the DLO will refund money received from buyers who have not paid for their property in full that it holds in a special account.

Has the buyer fulfilled their contractual obligations to pay taxes?

If, during its examination of their application, the DLO finds that the buyer's tax obligations have not been paid, will serve a notice to the applicant to pay their taxes to the competent authorities and produce the necessary evidence to the DLO. The competent authorities, will issue the necessary statements once the applicant has paid their obligations.

The buyer's tax obligations will be calculated at the rate applicable to the buyer, not at the higher rate applicable to a developer. E.g. Currently owners of property whose 1980 value exceeds €3 million, such as the larger property development companies, pay Immovable Property Tax at the rate of 1.9%, while the 1980 value of a property purchased by a typical buyer would be no more than €60,000 and would be taxed at a rate of 0.8%; a significant saving. (Immovable Property Tax rates for the years since 1980 may be found on the [Tax Department website](#).) Buyers are advised to attend the competent tax authorities for the calculation and payment of their taxes.

Once the DLO is in possession of these statements, it will start the transfer process.

Transfer of Title Deed to buyer

Once the following three provisions of the law have been satisfied:

- The property's purchase price has been paid in full
- A Title Deed for the property exists.
- The property buyer has fulfilled their contractual obligations regarding the payment of taxes.

The DLS will send interested parties [a notice advising them that it intends to transfer the property to the purchaser and requesting any objections they may have](#), giving them 45 days to respond.

Interested parties are those who have registered 'encumbrances' (claims) against the property in question who have the opportunity to object to the transfer and/or request the transfer of their encumbrance within the 45 day period.

Note that the vendor (developer) may only object if:

- The buyer has not fulfilled his contractual obligations.
- The contract is void.

The DLS will investigate any objections it receives and will advise interested parties of its decision once its investigation has been completed.

Once investigations have been completed, the DLS will send a [notice to the buyer](#) and a [notice to the vendor](#) requesting them to transfer the property to the buyer with 60 days of the notice being issued – and requesting the buyer to pay the Property Transfer Fees within the 60 day notice period.

Within the 60 day notice period the buyer may attend the DLO without the vendor being present and pay the Property Transfer Fees. The buyer may opt to pay the full amount, in which case their transfer fees will be reduced by 10%, or opt to pay the transfer fees in 12 equal monthly instalments.

If the buyer fails to pay the Property Transfer Fees, the transfer will still go ahead. However, an encumbrance will be lodged against the property corresponding to the amount of the transfer fees increased by fifty percent.

(If the transfer takes place by 31st December 2016, a further 50% reduction in transfer fees will be applied if the purchaser did not pay VAT on the property's purchase price – or a 100% reduction if the purchaser did pay VAT on the purchase price.)

Non-resident purchasers

Non-residents of Cyprus who are unable to submit their Title Deed applications in person have 2 options:

1. They may appoint a representative in Cyprus to handle matters on their behalf.
2. They may send the applications by post (not email) to any DLO together with a cheque for the application fee of €10 made payable to the Director of the Department of Lands and Surveys and attach copies of all evidence in relation to the full payment of the purchase price and taxes

Note that original documents must not be sent in the post. Non-residents should make an appointment with a Cyprus Government office in their country of residence to arrange certified copies to be made of all the documents and supporting evidence they plan to send. Their application must include their full contact address and their email address. You may download this article in pdf format by clicking [here](#).

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