

Hello and welcome to Peter Rogozik Property Consulting six-monthly newsletter. Over the previous six months our company has experienced a substantially increased level of activity. I would like to take this opportunity to thank our clients for all the favorable and encouraging feedback we have received. We will continue to strive to improve our services even further. The task of assisting people with their greatest financial outlay is a huge responsibility and something we will never take for granted.

Our firm is unique in that we cover all aspects of a property purchase, are totally independent and will only act for the buyer. Our property reports investigate the building, real estate and legal issues in relation to a property purchase. Selling agents continue to include an outdated and unfair clause in contracts of sale. This clause relates to pre-purchase building reports that are carried out on behalf of buyers. We outline the reasons why a buyer should insist this clause never be used, giving a recent example of where a purchase turned sour for a buyer where this clause was included in the contract. Speaking of pre-purchase building reports, we always recommend our clients engage a qualified pest inspector to check for the presence of destructive insects. We give some practical tips on how to make your property less inviting to these unwanted pests. Also in this edition we briefly cover the main features of a deposit bond. A deposit bond is an instrument that buyers are using instead of a cash deposit.

As usual, in this edition we include our regular articles, Legal Chat by Andrew Padanyi, Market Snap Shot and our Investment Tip. A concerning trend emerging is the number of property scams that has led to financial heartache for so many people. If you think that ASIC or any other watch dog will stop these scams from occurring, think again. Investment tip examines some of these scams and how to avoid them. As usual, Market Snapshot outlines the recent past performance of the property market. We also present our opinion on future trends in the Melbourne market. As our graph indicates, buying property is not getting any easier. The proportion of monthly income required to service a loan has been steadily increasing over the past five years. Finally, Andrew's article examines the proposed new legislation in relation to body corporate regulations.

Please feel free to contact us if you have any questions in relation to real estate or building matters. Also, if there is a specific topic you would like covered in our next newsletter, we would like to hear from you.

Regards,

Peter

Buyer Beware

When purchasing a property either for investment or to live in, most buyers will employ the services of a building expert to conduct a pre-purchase building report. These reports identify all major building faults and recommend ways of rectifying the identified problems. It is important that the appropriate clause is inserted into the contract of sale on signing so that the buyer can rescind the contract if they are unhappy with the report's findings.

Unfortunately the standard REIV* clause that selling agents like to include in the contract is heavily weighted in favour of the vendor. The clause states that the dwelling must have a "major structural defect" in order that the buyer is able to avoid the contract. What exactly is a "major structural defect"? This term is very vague and is open to interpretation which can lead to disputes. Many properties contain non-structural defects which I believe are serious enough for the buyer to terminate the contract. For example, our company recently inspected an attached dwelling and found that the builder did not include a fire rated wall to separate the properties. In these situations builders usually include a masonry barrier between the dwellings. This situation is in contravention of the Building Code of Australia. A fire rated wall should have been constructed between the dwellings, firstly as a fire barrier and secondly to provide an acoustic barrier for the benefit of the occupants. The tenant renting the property we inspected advised us that the slightest noise from the adjoining property was audible. In this situation it could be argued that the absence of the separating masonry wall does not constitute a major structural defect. The purchaser attempted to rescind the contract based on this flaw, however unfortunately the standard REIV clause was used. At the time of writing this article the vendor was attempting to enforce the contract. Another example would be the existence of rising damp. This defect is certainly not structural, yet it may require costly rectification and therefore the buyer might want to terminate the contract.

In these two examples if the standard REIV clause is used the vendor may argue that the building

faults are not a major structural defect and therefore the buyer may not be able to terminate the contract. Our company is experienced at structuring contracts and inserting appropriate clauses to protect the interests of our clients. In the event of an unsatisfactory pre-purchase building report our clients are able to terminate the contract without financial disadvantage.

* Real Estate Institute of Victoria.

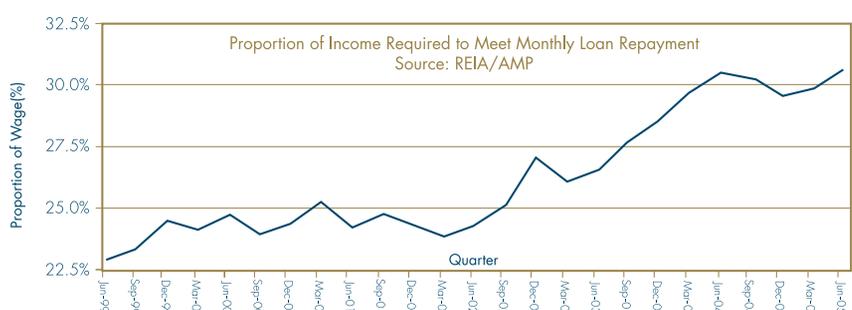
Market Snapshot

As predicted in our previous issue, the Melbourne property market has experienced moderate growth over the previous quarter. We are finding that there has been an increase in the number of properties that are selling prior to auction. Quality properties are once again attracting multiple bidders on auction day. These conditions are symptomatic of normal market conditions. Much of this demand has been driven by owner occupiers, over the last twelve months the number of buyers looking to invest has reduced significantly. With these improved market conditions we believe more investors will return over the next twelve months.

"Melbourne's median house price remained steady at \$360,000 as did the unit/apartment median of \$300,000. Over the last 12 months, this represents a rise of 2.4% in the median house price and a 4.5% increase in the unit/apartment price. The results confirm an end to the soft price landing and are an encouraging return to a normal growth market following the end of the boom two years ago. The REIV continues to predict growth of around 2 per cent for the calendar year."*

As for the future we believe there will be moderate growth over the next twelve months. Quality properties will perform well, i.e. properties in exceptional locations with scarce and unique features. At the moment the fundamentals of the economy are sound, employment is strong, interest rates and inflation are relatively low and consumer confidence is high. Taking all these factors into account, an astute purchase will result in double-digit capital growth over the next twelve months.

* Source; Real Estate Institute of Victoria



What is a Deposit Bond?

A deposit bond takes the place of a cash deposit that is required between the time of exchange and settlement of the residential property you are buying. This guarantee is a convenience for you the purchaser, as it alleviates the burden of trying to access cash to raise deposit monies.

It also means you must pay the full amount of the purchase price including the amount of the deposit at settlement. The deposit guarantee can secure your right to purchase for up to four years, whilst your investments can continue to yield a higher return than standard bank interest. Outlaying cash can be complicated or impractical if your funds are already tied up in an existing property or other investments.

By using a deposit bond, you no longer need to cash in your interest-generating investments, or apply for expensive bridging finance.

A Deposit Bond can be issued within 24 to 48 hours, subject to normal terms and conditions.

The cost of a deposit bond depends on the term and value of the deposit guarantee required. The cost normally ranges between 0.3 and 1.255% of purchase price.

Investment Tip

Rip offs, Shams & Scams

In this edition our investment tip to all our readers is to seek professional advice before becoming involved in any type of property purchase or transaction.

A disturbing trend that has emerged over the previous 12 months is the increasing number of property investors that have been duped by unscrupulous property promoters. Many people have lost substantial amounts of money after falling victim to these scams.

A company calling itself Money For Living bought 117 homes from retirees at heavily discounted prices. In return the retirees were paid an initial sum, promised the balance in monthly installments and guaranteed they could live in their homes for the rest of their lives. Money For Living then went on to sell these homes to investors. Unfortunately for the retirees, Money For Living went into liquidation and the monthly installments to the retirees ceased. The retirees surrendered the title of their property to this company and hence were left with nothing. The director of this particular company had previously spent time in jail for

deception. Another scam involved a company calling itself Streetwise that disappeared with 30 million dollars of investors' money. This company claimed it was going to invest the money into property development ventures. These ventures never really existed, as a result around 100 people could lose their homes. The director of this company left the country before charges could be laid.

The above scenarios are two examples of a number of scams that have occurred over the previous 12 months. Unfortunately in most cases the crooks have fled the country and are lying on the beach in Tahiti with drinks in their hands (the ones with the big umbrellas in them) before Australia's corporate regulator ASIC* has realized that crimes have been committed. Celebrities were used to give these scams credibility, unfortunately most celebrities are not property savvy. It certainly is caveat emptor when it comes to property investing.

We at Peter Rogozik Property Consulting will investigate the real estate, building and legal issues in relation to your property purchase.

Through our property reports we will ensure you obtain the best possible outcome. We will inform you of any inconsistencies or irregularities.

*Australian Securities and Investment Commission

Termite Control

To make your property less termite-friendly here are some tips:

- Fix leaking water pipes and drains.
- Improve sub-floor ventilation, drainage and access.
- Ensure concrete slab is properly designed, compacted, cured and easily inspected.
- Don't leave timber formwork behind, especially under a suspended floor construction.
- Have a program of regular inspections arranged with a pest controller (early spring to late summer is best – termites are most active at this time).
- Avoid storing potential termite food (e.g. timber stacks, old stumps, building refuse) near buildings.
- Use termite resistant timber (naturally resistant or treated – ask a timber supplier).
- Remove termite colonies from building vicinity.
- When building a new home include a termite barrier.

Legal Chat

By Andrew Padanyi B.A., LL.B.

Many people who live in apartments and units have negative experiences in relation to dealing with the body corporate. Disputes have the potential to end up in court at great expense to all involved. In December 2005 the Victorian government announced overdue changes to body corporate laws designed to make dwellings covered by bodies corporate easier to manage and to provide for cheaper and simpler dispute resolution avenues. The changes will include a change of the name "body corporate" to "owners corporation".

The proposed new legislation aims to:

- clarify the rights, obligations and powers of everyone involved, including the owners corporation itself, developers who control owners corporations, committees of management, managers and lot owners;
- expand the capacity of owners corporations to make rules for the common property;
- give the Victorian Civil and Administrative Tribunal (VCAT) the power to impose penalties for rule breaches;
- improve the protection of owners corporation funds through trust accounts and audits;
- require owners corporations to have dispute resolution processes;
- establish a formal process for the owners corporation to collect overdue fees;
- enable Consumer Affairs Victoria to conciliate owners corporation disputes;
- give VCAT the ability to resolve disputes that are unresolved by owners corporations or conciliation, meaning that parties will no longer be forced to go to court;
- make more information about owners corporations available to lot owners and purchasers through the establishment of an owners corporation register;
- create a registration scheme for owners corporation managers and make information about managers (such as their professional indemnity insurance, contact details and any adverse orders and undertakings against them) available on a public register; and
- give lot owners, owners corporations and Consumer Affairs Victoria the ability to enforce the legislation or their owners corporation rules by applying to VCAT for a civil enforcement order.

The proposed laws came out of a parliamentary review that looked at ways of updating body corporate legislation to reflect the changing nature and size of subdivisions that create bodies corporate, particularly the increasing popularity of high rise apartment living.

The government has made available a draft of the proposed laws for public comment until the end of March 2006. Let's hope the new laws, once introduced, provide better protection for people who own, live in, or manage bodies corporate.

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