



1. EDITORIAL

Welcome to the 11th issue of the Morgan McManus Irish/UK Property Bulletin. Those of you unfamiliar with our service can learn more about us by visiting our Website at www.morganmcmanus.com. We have offices in Northern Ireland and the Republic of Ireland and also provide legal services in England/Wales. This publication is being delivered to Accountants and Financial Advisors, Banks, Mortgage Advisors, Property Investment Companies and Private Investors. We hope to give you an insight into the information you will need to ensure that you have adequate legal protection when investing in property, whether that property is in Northern Ireland, the Republic of Ireland or in England/Wales. As we practice in all three jurisdictions we are ideally placed to provide a comprehensive comparative analysis – and that is important, particularly where it is your first venture into international property investment.

The Irish Property Market

Despite the recent cooling in the RoI property market, there is every reason to believe that property construction in Ireland will continue at a steady pace. Those of you who have any doubts should read the NCB Stockbrokers' The Irish Housing Market Report which was published in November 2005. Details of this report are summarized at the end of this Bulletin. Should you wish to receive a full copy of this Report simply send me an email requesting a copy at bmorgan@morganmcmanus.ie.

The English Property Market

While there has been a definite cooling in the RoI property market, the English property market, after suffering from some jitters subsequent to interest rates increases in 2004/05, looks forward to strong growth. In their latest Research (No. 56 Winter 2006/07) Report, savills, a UK international property services company, forecasted that growth in prime central London would total 20% for 2006 and also forecast growth in the UK residential market of 7% in 2007. Some prime & SE markets will see substantially more. You can access a copy of this Report by logging onto www.savills.co.uk/research. This confidence in the English property market is confirmed by the surge in English property transactions instructions which we have received at our Enniskillen office in the past year and we believe that our caseload is likely to double in the coming year.

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The Northern Ireland Property Market

At our Enniskillen office we are experiencing a further increase in instructions in property purchases in Northern Ireland – particularly from our RoI client investors. As an indication of how the investor property market in Northern Ireland has grown over the recent past, the number of buy-to-let mortgages in the North has almost trebled over the past 18 months. Since February 2006 the price of property in the North, particularly at the lower end of the market, has risen by more than 50 per cent in many cases. In June 2006, the University of Ulster's quarterly house-price survey showed that the average price of a house in the North had risen to stg£153,868, a stg£31,000 increase on the previous year. Enniskillen saw property appreciation of 30% in one year! Since then prices have risen further throughout Northern Ireland.

Allied with the massive growth in business we have experienced in English property transactions we were obliged to add 3 permanent members to our Staff before the Christmas Break and we are recruiting another conveyancing Solicitor. This takes no account of the further recruitment we were also obliged to undertake in the Clones office. 2007 looks set to be a very busy and exciting year for Morgan McManus!

UK Property Investment Seminar

For those of you who missed our UK Property Investment Seminar last year and in particular Fergal McManus' talk on the tax implications of investing in UK property, copies of Fergal's talk are available to any interested parties. Simply send an email to Fergal at fmcmanus@morganmcmanus.ie, requesting a copy and Fergal will be happy to oblige. As you may be aware, Fergal is not only a Solicitor but is also a Professional Tax Advisor.

We know that you will find the Articles in this issue of interest. I deal with "qualifying periods" under the RoI Finance Act 2006 enabling investors to qualify for Sect 23 Relief. Fergal McManus advises on buying property abroad. Seymour Major advises on Home Information Packs. Colin O'Neill provides some useful advice on getting onto the expensive private residential Dublin property ladder.

As well as providing legal advice to the Private Investor, we also act for Developers and Investment Syndicates and can provide very competitive terms, particularly where we are acting for a number of purchasers in a common property, e.g. a number of apartments in the one block. Further details of our ROI service are available from Fergal McManus (e-mail fmcmanus@morganmcmanus.ie) at our Clones office. Details of our Northern



Brian Morgan, EDITOR

Ireland/UK services are available from Seymour Major (e-mail smajor@morganmcmanus.co.uk) at our Enniskillen office (See telephone contact details at end of this Bulletin).

2. BUYING PROPERTY ABROAD



Fergal McManus, Solicitor and Professional tax Advisor, advises that "Caveat Emptor" always applies when one is buying property – whether at home or abroad – but there are some useful tips which should be noted.

Morgan McManus Solicitors are licensed and insured to give advice and provide legal property services in the Republic of Ireland, Northern Ireland and England/Wales. We are often asked to give legal advice on property purchases outside of these locations but we are obliged to decline. We are in a position, however, to offer you some guidance as to the factors that any prudent purchaser should investigate prior to acquiring property - no matter in which foreign country it is located.

COMMERCIAL FACTORS

1. We would always recommend that you visit the site or property in question to ascertain the type of neighbourhood in which it is located.
2. You should attend the Local Planning Office to ascertain what other developments are proposed for the area in which you are buying - in case there is some development in the pipeline for the area that you may find undesirable e.g. drug rehabilitation centre, a large social housing project, a nightclub etc.
3. Find out if you are able to borrow money to finance the purchase in the country in which you are buying. If a local bank abroad is prepared to lend money to you for the purchase this should give you some comfort as such a local bank is unlikely to lend money secured on an overpriced or defective property. The local bank is likely to have employed reputable local valuers for an independent valuation before lending.
4. Unless you have very significant skills and aptitude for the property market in a foreign country you should always get the advice of local auctioneers/estate agents in order to obtain independent confirmation that the price you are paying is not greater than the achievable market value. If you are getting conflicting advice ask a local bank or lawyer to recommend a reputable local valuer and obtain a written report. Property abroad often looks cheap when compared to Ireland but if the average industrial wage in that country is just a couple of thousand euro per year then it is cheap for a good reason – the locals cannot afford to pay any more for it.
5. If you are buying off-plan, you need to make proper investigation as to the reputation and track record of the developer. You must satisfy yourself, as best you can, that the developer has a track record of producing a building that looks like the one in the glossy brochure. See also our comments below as to the extent your deposit or stage payments are protected.
6. Managed Developments, such as holiday villages or apart-hotels, are more difficult to gauge in terms of resale value and specific local advice needs to be taken. Rents are usually pooled. In such developments the resale value will greatly depend on the rental income the property is generating.

LEGAL

1. Always employ an English speaking lawyer, even if it costs more
2. If possible avoid using the same lawyer acting for both Vendor and Purchaser – this isn't always possible in some countries
3. Make sure your lawyer is licensed and insured
4. You need to get full advice on all local taxes and stamp duties, the local income tax implications on rental receipts, capital gains tax rates, inheritance tax rates and whether there is a double taxation agreement with Ireland so that you can avoid paying tax twice.
5. You need to ask whether you should make a local Will - to deal with the property in case of your death.

6. Whether you are buying off-plan or buying an existing building you must satisfy yourself that you can recover your Deposit in the event that the transaction does not complete - for whatever reason. You must take detailed legal advice in this regard from a local lawyer.
7. Stage Payments pose an even greater risk in legal terms, so you must be certain that you will be protected in the event that the Builder went into liquidation or some other unfortunate event occurred resulting in the building not being completed.

Always keep in mind the fundamental principle of property law everywhere –
“*Caveat Emptor*” – Let the buyer beware.

Fergal McManus, Solicitor and Professional Tax Advisor.

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3. ROI SECTION 23 RELIEF – “QUALIFYING PERIOD”



Brian Morgan advises investors in ROI Sect 23 Relief properties to look before they leap in 2007 before investing in newly developed Sect 23 Schemes.

Readers may recall that in the January`06 edition of the Bulletin Fergal McManus, in an Article titled “Extension of Town Renewal Scheme and other tax Schemes” advised on the extension of the “qualifying period” for construction to enable investors qualify for tax relief. The accommodation would only be a “qualifying house” provided the required construction/refurbishment/conversion is carried out during the “qualifying period”.

The last extension allowed was under Section 25 of the Finance Act 2006 whereby “qualifying periods” were defined as follows:

The period from **1 January 2006 to 31 December 2006**

The period from **1 January 2007 to 31 December 2007**, or

The period from **1 January 2008 to 31 July 2008**.

Qualifying Expenditure

Expenditure attributable to work carried out from the 1st January 2006 to the 31st December 2006 will still qualify for full relief. However expenditure attributable to work carried out between the 1st January 2007 and 31 December 2007 will qualify for only 75% Relief and expenditure attributable to work carried out between the 1st January 2008 and the 31st July 2008 will qualify for only 50% Relief. Any work carried out after the 31st July, 2008 will not qualify for any Relief at all.

Most importantly, to qualify for Section 23 Relief in the first instance, Section 25 of the Finance Act 2006 (sub-section 9(a)(ii)(3)(a)) recites that not less than 15% of the construction must have been carried out by the 31st December 2006 in order for the scheme to qualify for relief. Effectively, this means that investors who are purchasing properties, such as private dwelling houses or apartments which would appear as at the end of 2006 to be only at the commencement stage of construction, must be very careful to ensure, prior to signing Contracts, that at least 15% of the actual construction was carried out prior to the 31st December, 2006.

Unless the investor can be satisfied that at least 15% of the actual cost of construction was carried out before the 31st December 2006 it would be very unwise to proceed with the purchase of the property as there would be no guarantee that the completed building would qualify in due course for Section 23 Relief. Another case of "Caveat Emptor"? – buyer beware!

Brian Morgan, Solicitor.

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4. HOME INFORMATION PACKS – FURTHER PREPARATIONS IN ENGLAND



Seymour Major advises on preparations being made in England for the introduction of Home Information Packs and asks whether they will solve the "gazumping" problem.

As the clock counts down towards Home Information Packs (HIPs) becoming compulsory on June 1st 2007, authorities, solicitors, software companies and estate agents are making their advance preparations for the implementation of the new law. Under the new law, every Seller is required, prior to the sale, to compile a Home Information Pack to be made available to the Buyer before any negotiations about the sale begin. The Home Information Pack Regulations 2006 set out the documents which must be included in the Pack. These are as follows:

- An index showing a list of the contents of the pack
- A sale statement which summarises the terms of sale
- Evidence of title. In practice, this means a copy of the entries showing ownership at the Land Registry.
- Standard Searches (these include a local authority search, a drainage and water search)
- An Energy Performance Certificate
- Where appropriate, commonhold information (including a copy of the commonhold community statement)
- Where appropriate, leasehold information (including a copy of the lease, information on service charges and insurance)
- Where appropriate, a New Homes Warranty (this will apply to all property less than 10 years old. Examples of these are NHBC, Zurich Guarantee and Premier Plus certificates.
- Where appropriate, a report on a home that is not physically complete
- A Home Condition Report

The Regulations further provide that the index and the sale statement must be in the format prescribed by the Regulations. The Pack can also include an authorised document. An authorised document is one which is not compulsory but which is allowed to be included in the Pack. The authorised documents are guarantees and warranties and other searches.

In November 2006, a pilot scheme began in some areas of England and Wales. The experience of that scheme will be of considerable interest to the Government, which introduced the Home Information Packs primarily as an anti-gazumping device.

Many professionals involved in house sales believe that, while the Home Information Pack (HIP) will help a prospective purchaser to be better informed about the property being bought, its effect as an anti-gazumping device is likely to be marginal. Historically, the most common cause of a delay in exchange of contracts on a conveyancing transaction has been the issue of a mortgage offer. With the exception of transactions with a long completion date (such as the purchase of a house or an apartment from a developer) the Buyer should always have his mortgage offer in place before offering to exchange contracts.

The Home Condition Report is not required to provide a valuation but the HIP will not be without use in the assessment of the valuation. A survey published by the Council of Mortgage Lenders (14th June '06) found that eight of out ten lenders believe that the use of Automated Valuation Model (AVM) will increase a year after implementation. Much uncertainty and concern remains amongst lenders about whether HIPs can make a significant impact in the assessment of a property as an investment. Meanwhile, any prospective buyer should not assume that his mortgage application will be dealt with speedily. A prospective buyer might wish to contact his mortgage broker for advice before seeking a property so that the personal status enquiries relating to a mortgage application can begin.

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5. GETTING YOUR CHILDREN ONTO THE EXPENSIVE DUBLIN PROPERTY LADDER

Colin O`Neill Solicitor advises that, with a long neck and a little imagination, you can get your children onto the Dublin property ladder.

Traditionally, social and affordable housing has been the preserve of those on social welfare or with very low incomes. However, a scheme launched in 2002 has brought affordable housing into the mainstream property market and made it a real option for first-time buyers who are struggling to take that first step onto the property ladder. This may be an opportunity for readers or their children, who are looking to purchase a private residential property in Dublin, to get onto the expensive Dublin property ladder.

The scheme, known as Part V (the "Planning and Development Act, 2000"), is quite different from traditional affordable housing schemes because it allows buyers to purchase houses in new private developments at a substantial discount from the market rate. The houses and apartments aren't cheap in the traditional sense - typical prices range from €150,000 to €200,000. But the properties are often in developments where identical properties cost €250,000 to €400,000 in the private market.

Part V allows local authorities to buy 20 per cent of the property in most new developments at a substantial discount. These houses are then sold on to successful applicants by the local authority. Some developments, including those that attained Planning Permission prior to 2000, aren't included, and local authorities can choose to accept land or money in place of the discounted houses.

But the general principle is that most new housing developments will include about 20% of affordable housing, which will be side by side with regular private housing. To qualify for these Part V houses, first-time buyers must have incomes that would see them paying out more than 35 per cent of their net wage to service a mortgage on a property bought at the market rate.

The link between the qualification criteria and prevailing house prices means that Dublin residents can sometimes earn up to €45,000 and still qualify. There are restrictions within the scheme : the applicants must use the property as their normal place of residence, and if they sell the property within 20 years, a declining portion of the sale price can be clawed back by the local authority. Further details are available on the Housing Services/ Affordable Housing section of the Dublin City Website – www.dublincity.ie, on the Affordable Housing sections of the South Dublin County Council Website – www.sdublincoco.ie and Fingal County Council Website –

www.fingalcoco.ie and the Social/Affordable Housing section of the Dublin Docklands Development Authority Website – www.ddda.ie.

The government also in August 2005 established a new state agency, the Affordable Homes Partnership, in order to encourage the provision of affordable housing in the greater Dublin area. The partnership is responsible for advancing affordable housing projects on state lands, and trying to garner additional lands for housing development. Further details of this state agency is available on its website at - www.affordablehomespartnership.ie.

There are genuine cases where young people establishing a base in Dublin simply cannot afford to purchase a private residence. These are schemes within the Dublin city and county areas which should be investigated. Obviously, there are also similar schemes available in other local authority areas throughout the country. I have however in this Article concentrated only on the Dublin property market as it appears to be the most expensive property market. Further information can be furnished on request to me at coneill@morganmcmanus.ie



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MORGAN MCMANUS ROI "GUIDE TO BUYING A HOME"

Did you know that all clients purchasing a home in the Republic of Ireland who retain Morgan McManus receive the complimentary "Guide to buying a Home", which contains answers to many of the questions which arise during the conveyancing process. The Booklet includes chapters on:

- 1. DEALING WITH AUCTIONEERS/ESTATE AGENTS**
- 2. AUCTION OR PRIVATE TREATY**
- 3. SURVEYS**
- 4. NEW PROPERTY**
- 5. SUMMARY OF THE CONVEYANCING PROCEDURE**
- 6. THE SYSTEM OF OWNERSHIP OF LAND**
- 7. HOUSING ESTATES**
- 8. MANAGEMENT COMPANIES**
- 9. MORTGAGES**
- 10. PLANNING PERMISSION**
- 11. COSTS AND ACCOUNTS**

SUMMARY OF NCB STOCKBROKERS REPORT - THE IRISH HOUSING MARKET

- ♣ The continuing rise in the over 25 population provides a strong base for housing demand.
- ♣ Rising immigration is key to sustaining the current pace of house completions.
- ♣ Immigration seems likely to accelerate because of the freedom of access granted to citizens of the ten new EU countries. Recently, this appears to be running at 11,000 per month.
- ♣ Housing demand is projected to run at between 50,000 and 70,000 units per annum for the next 15 years depending on the pace of immigration.
- ♣ Increasing income and wealth are supportive of investment in the existing housing stock and in second homes. They estimate that more than 10,000 second homes are being constructed per annum.
- ♣ The rise in debt in Ireland appears sustainable because ability to repay is robust, initial levels of debt were low and the wealth and assets against which most of the debt is secured is a multiple of the debt. Mortgage debt is only 25% of the value of the housing stock.
- ♣ Mortgage repayments are estimated to be about 31% of disposable income in 2005. Even if interest rates rise to 4%, this percentage would still be less than 35% of disposable income.
- ♣ Mortgage debt as a proportion of the value of a house declines rapidly even with modest house price inflation.



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