

Funds in Court Information Guide Buying a Property



This is a summary of our procedures for purchasing a property. The information sheet sets out the general information you will need if you apply for the purchase of a property from the funds in Court [the funds]. Please discuss your application with your Trust Officer before you submit it to the Court.

Please note that a reference to the Senior Master includes a reference to the Judicial Registrar, where the Judicial Registrar has the authority to make a decision.

SENIOR MASTER'S PRIOR APPROVAL NECESSARY:

Please read this pamphlet carefully. It sets out the general information you will need if you apply for the purchase of a property from the funds in Court.

First, **under no circumstances** should you enter into any contract, make any offers to purchase, or in any way commit yourself with respect to a property which you hope will be funded even partially from the funds, unless the Senior Master has expressly approved such action.

If you act without the Senior Master's express prior approval, you may find that you are not indemnified or reimbursed from the funds for any liability you have created.

APPLICATION FOR 'APPROVAL IN PRINCIPLE':

In considering an application to purchase a property, the Senior Master will decide whether the purchase is in the best interests of the beneficiary and whether or not it is affordable in the context of the funds and the beneficiary's future needs.

The initial costs such as stamp duty, and subsequently costs such as furniture and modifications/renovations can influence the question of affordability. On-going costs such as insurance, rates and maintenance (painting, re-stumping etc) will also be considered.

Each application depends on its own facts, and you should talk to your Trust Officer about your application **prior** to its submission to the Senior Master.

PURCHASING PROPERTY FOR MINOR BENEFICIARY:

If the Senior Master decides to buy a property for a minor beneficiary, in which the beneficiary's parents and siblings will reside, the Senior Master expects that the parents will contribute to the upkeep of the property and the usual purchase of white goods, furniture etc. just as they would have to do for their family if the beneficiary did not have funds in Court.

Therefore, you will need to indicate to the Senior Master, for example, who will pay when the interior needs painting, who will buy the new fridge or washing machine, who will maintain the garden or who will pay if the hot water service breaks down? The Senior Master **will not** give approval 'in principle' unless these matters are clarified.

IF APPROVAL 'IN PRINCIPLE' IS GRANTED:

If the Senior Master agrees, approval 'in principle' will be given to the purchase from the funds up to a specific price.

You may start to look for a suitable property within the price range approved by the Senior Master.

Often the Senior Master will require evidence that any proposed property is suited to the needs of the beneficiary. For example, a report from an occupational therapist or one of our Client Liaison Officers may be required.

ONCE SUITABLE PROPERTY IS IDENTIFIED:

FIC will arrange for a valuation of the property by an independent valuer to confirm whether or not the purchase price is appropriate. If necessary, FIC will arrange for a building or termite inspection. Copies of any proposed contract of sale and vendor's statement must be provided to



FIC to assist in the decision whether or not to purchase the particular property.

TRUSTEES:

All properties purchased from the funds are held in 'trust' for the beneficiary.

This means that a property will be held in the name of two trustees who are the 'legal' owners. However, the trustees will not own the property for themselves; they will own it for the beneficiary. The trustees act only in accordance with the Senior Master's instructions, so any property purchased from the funds remains under the complete control of the Senior Master. Respected solicitors are requested to act as trustees, and usually the trustees' firms do the legal work involved in and immediately following the purchase.

AFTER THE PURCHASE:

The Certificate of Title will be sent to FIC for safe keeping.

INSURANCE:

Any property purchased from the funds must be insured. Many insurance companies decline to provide insurance if an occupant of a property has convictions for particular offences. Therefore, the Senior Master requires criminal record checks for all proposed occupants of a property being purchased from the funds.

FIC will arrange for the insurance of the property through its designated insurance broker. If any of the occupants of the property are convicted of any criminal offence after the purchase, it is important that you immediately advise FIC. The insurer will be informed. The insurer has a legal right to be informed of any such matters and, if not kept informed, can withdraw insurance cover or decline to accept claims. Once the insurer is informed of any offence, it may then consider whether or not to maintain the insurance cover. Insurance is a 'year to year' proposition; if a conviction results in the loss of insurance, then the property may need to be sold.

SALE OF PROPERTY - CHANGED CIRCUMSTANCES:

Of course, if for any reason the Senior Master considers that retaining the property is not in the beneficiary's best interests, the Senior Master may order its sale. For example, the beneficiary no longer living at the property or the balance of the remaining funds being insufficient for the beneficiary's needs could give rise to consideration of the sale of the property.

GENERAL MATTERS:

It is possible that you may be subjected to pressure tactics designed to get you to 'sign up' for a particular property. For example you could be told that delay arising from the need to comply with FIC's requirements will result in a property being lost to another buyer. You should **not** fall for such tactics.

Above all, do not commit yourself to a property, unless you are intending to purchase it personally and without any assistance from the funds. Advise your Trust Officer of any urgency that arises, and discuss the appropriate action.

CONTACT DETAILS:

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