

PROPERTY LAW: A BRIEF ROUND UP

STAMP DUTY LAND TAX

Alastair Darling pumped billions of pounds we don't possess into rescuing the banks over the last couple of years. He did this to keep the economy afloat and the banks from going under. At the same time he introduced a package of measures to stimulate the economy.

One such measure was to give house buyers a temporary holiday on paying Stamp Duty Land Tax (SDLT) of 1% on properties worth between £125k and £175k. That was introduced in September 2008 and estimates put the cost to the Exchequer of 500m. 132,500 house sales escaped SDLT in 2009. Since his concession, 27% of all house purchases have escaped this tax.

Well, the holiday is now over. As from 1st January 2010 we are back to square one. With certain exceptions, the threshold for liability to SDLT is once more £125k. Will the tax be abolished? No, is the short answer. In 2007-2008 £10bn was raised through this tax. In 2008-2009 £4.8bn was raised. In the current tax year £3bn is expected to be raised. This downward trend graphically shows just how bad the slump has been in property sales. So will the tax go up? We'll just have to wait and see.

PAVING YOUR FRONT GARDEN

This is becoming an increasingly popular conversion to front gardens for those who do not want the bother of looking after grass, hedges and flower beds at the front of their house when perhaps they spend most of their time in the privacy of their back garden. The labour of tending a front garden can be reduced at a stroke simply by paving it over and that could result in the advantage of an extra car parking space but what are the rules and regulations concerning such a conversion and are there any unforeseen problems that may result?

The drains in many town areas were constructed many years ago and were not designed to cope with increasing rainfall which we are now experiencing. You might think that paving over one or two gardens may not seem to make much difference but the combined effect of lots of people in a street doing this can add to the risk of flooding. Hard surfaces readily collect pollution particularly

from parked cars such as oil, petrol, brake dust etc and that is often washed off into streams or rivers and may result in pollution damage to wild life by affecting the water table or simply adding to the volume to disperse. The more water running from paved areas leads to the greater risk of flooding.

In fact Busbys have a car repairing client who used to wash off customers cars after servicing them which was always a very welcome sight for the customer but the Local Authority prevented this on the basis that the water ran over his yard into drains and direct into a waterway and could add pollution. They even insisted on the removal of his outside tap used for the hose - so you can see the matter is taken seriously.

There are government guidelines on using the type of surfaces that allow water to drain into the ground such as gravel or the use of permeable block paving to reduce the problems of shifting water in one direction.

No planning permission is required if a new or replacement driveway of any size uses permeable surfacing which allows water to drain through but if the surface to be covered is over 5 sq metres planning permission will be needed if you use impermeable material such as concrete that does not provide for the water to run into a permeable area.

Please do not think that any one with a front garden is entitled to convert it into a paved area for car parking. If you are making a new access into your garden across the pavement you will need to obtain permission from the Local Council to cross the pavement and to install a dropped kerb .In addition the pavement may need strengthening because there are often water pipes and other utility services running beneath pavements. Building Regulations are not usually required but you need to be careful if you are changing the levels in the front garden when Building Regulations may again come in to play and of course if you live in a listed building then you will need Listed Building Consent.

Generally there are no restrictions on the area of land which you can cover with a hard surface at ground level elsewhere around your house from the front garden although significant works of embankment or terracing to support a hard surface could need a planning application.

Another important matter to consider is whether your title deeds contain a restrictive covenant prohibiting any construction or parking in front of the building line - usually the front wall of the building itself - and often there will be an open plan requirement to preserve the look of a small estate development.

Whilst we are considering changes outside the house it is worth thinking about what regulations govern fences, walls and gates – planning permission would be required if you are going to build over 1 metre high next to a highway or over 2 metres high elsewhere or if the feature forms part of the boundary with a neighbouring listed building or its curtilage or indeed if your house is listed. However you don't need to apply for such permission to remove a fence wall or gate or alter or improve an existing one provided you do not increase the previous height and of course provided that you are not in a Conservation Area.

As always – if you are in doubt then do please check with your local planning authority before embarking on any such schemes – it can be an awfully expensive exercise to find out too late and to have to undo all your hard work.

ACTION

If you need advice on any aspect of property law do contact me on **01288 35 9000** or email me at **david.helman@busbyslaw.co.uk**.

David Helman
Solicitor and Notary Public
Busbys Solicitors, Bude & Holsworthy.