

Solicitor and conveyancer instructions

Settlement of Defence Housing Australia leased property

Overview

Defence Housing Australia (DHA) is a Government Business Enterprise (GBE) providing housing and related services to Australian Defence Force (ADF) members and their families. To provide this service to ADF members, DHA has a property portfolio of approximately 18,500 properties. Each year, DHA sells a portion of the portfolio to investors through a sale and leaseback arrangement.

While most investors retain their property for the entire lease, occasionally investors need to sell their DHA investment property before the lease expires. When this happens, the property must be sold with the DHA lease agreement in place. This means when the property is purchased, the purchaser agrees to the conditions outlined in the existing DHA lease agreement.

What are the requirements to sell a DHA leased property?

When a DHA leased property is sold, the purchaser accepts all terms and conditions of the existing lease and property care contract. It is imperative the vendor's solicitor provides the purchaser's solicitor with a full copy of the DHA lease agreement and that the purchaser's solicitor reviews the lease with the purchaser ensuring all lease conditions are understood.

What does DHA require once the contract have been exchanged or executed?

DHA requires notification from the solicitors as soon as the contract has been signed by both parties. A copy of the contract should be sent to midleasesales@dha.gov.au

The supplied contract and confirmation email should include the following information:

- details of the solicitor or conveyancer acting for the vendor and for the purchaser (including an email address)
- expected settlement date
- purchaser details (including name, phone number and email address).

What does DHA provide to assist in the settlement process?

DHA will issue advice to both the vendor's solicitor and the purchaser's solicitor approximately one (1) week prior to settlement. The advice will include the following:

- current monthly charges
- rental information
- any outstanding charges for maintenance, rates and other outgoings.

*If notification of exchange or change to settlement has not been received, then the above information will not be issued. This could potentially impact on the settlement.

What does DHA require on settlement?

Upon settlement, DHA will require the following items to be sent to midleasesales@dha.gov.au in order to establish the purchaser in the system and to activate rental payments:

- *Letter of attornment* - commonly drafted by the vendor's solicitor and provided at settlement. The letter must be provided on solicitor company letterhead and include the following:
 - property address
 - settlement date
 - vendor name
 - purchaser name (as per the title).
- completed *Lessor information form*
- *Defence member acknowledgement form* (only required if purchaser is a Defence member).

It is vital the *Letter of attornment* and *Lessor information form* provide the purchaser's name as per the title.

Frequently Asked Questions:

Pest and building inspection recommendations

If the purchaser's pest and building inspection raises any issues that requires DHA to respond, the vendor's solicitor should send the report to DHA via email to midleasesales@dha.gov.au. The items requiring review should be clearly identified, listing the location within the report (for example, on page 7, paragraph 3).

The report will be reviewed by the DHA regional office to determine which items are covered under the general maintenance obligations of the DHA property care contract (in accordance with the lease agreement) or are the owner (lessor) or occupant's responsibility.

Items covered under the DHA property care contract or lease will be rectified regardless of who owns the property and DHA will provide this confirmation. There is no need for the sales contract to be conditional on these items being completed.

Can DHA adjust the rent upon settlement?

DHA pays rent a month in advance and does not adjust rent for settlement. The advice to the solicitor will confirm the date and amount of the last rental payment. Once the advice is issued, the rent will be placed on hold until notification of settlement has occurred.

When will the new owner receive their first rental payment?

DHA will process rent at the end of each month to ensure rent appears in the owner's account on the first day of every month. When a change in ownership has occurred, the first payment is dependent on the required paperwork (*Letter of attornment* and *Lessor information form*) being received by DHA. This may impact on the first rental payment if delayed or inaccurate.

DHA will issue a welcome email to the purchaser that provides confirmation they have been established in the system and rent has been activated.

What if the purchaser's bank requires consent to lease or mortgagees consent?

Some financial institutions will require a consent to lease or mortgagees consent as a requirement of the purchaser's finance approval. If this is requested, simply forward a copy of the document to midleasesales@dha.gov.au for DHA's review and execution.

'Notice of Sale' to Land Titles Office (LTO) or Land and Property Information (LPI)

The 'Notice of Sale' provided to the LTO or LPI should include the purchaser's preferred postal address and not the address of the property being purchased.

Special conditions and inclusions?

DHA does not insist on any special conditions being included in the contract for a mid-lease sale, however the lease agreement must be annexed to the contract.

The owner should be able to provide a list of fixtures within the property for inclusion in the contract. If the owner required additional information, they should contact lessormanagement@dha.gov.au

Will keys be provided upon settlement?

Keys for the property will not be provided upon settlement. It is DHA's policy that the occupant holds all keys to the property.

Will the new landlord need to sign a new Standard Form Agreement for Lease Edition 7?

A new Standard Form Agreement will not be required. A Deed of Novation will be required to transfer the rights and obligations under an existing Standard Form Arrangement to another party for the remaining term.

Further information

Should you require any further information, contact DHA via email midleasesales@dha.gov.au or call 139 342.