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Property Matters - Looking back, looking forward?

Every three months, the Edinburgh Solicitors Property Centre produce sales statistics, which are used to analyse the state of the market and to predict movement in the market, either positive or negative, for the months ahead. It is fair to say that those statistics produced at the end of 2010 made for disappointing reading. During the final part of last year, Edinburgh saw its average house price drop by 2%, and the number of completed sales fell by over 10%, compared with the same period in 2009. During much of 2010, supply consistently exceeded demand, but only in the second half of that year did it begin to show through in sales results across the board.

At the start of 2011, there are the first tentative signs of increased demand, but it is too early to say whether this is likely to be maintained and improve as the year goes on. In fact, given the adverse factors mentioned below, it seems almost inevitable that there will be some further easing in prices over the coming months, before a levelling off occurs in the second part of 2011.

The property market does not operate in isolation from the rest of the national economy, so the following general economic points are all likely to exacerbate conditions in the property market over the coming months:-

- Falling householding income – stemming from the negative impact of rising taxes, increasing inflationary pressures and pay freezes in both the public and private sectors, will be felt more strongly in 2011. The likelihood of job losses in the public sector, and continuing job losses in the private sector, also cause consumer anxiety.
- Mortgage market restrictions – large numbers of prospective purchasers will continue to have difficulty in accessing the mortgage market. Lenders are likely to continue to be conservative with their lending criteria, targeting purchases or remortgage business where there is already a substantial deposit or equity stake available, and passing on much higher costs to those with limited equity.
- Rising interest rates – stubbornly high inflation may well continue into 2011, forcing the Bank of England to raise interest rates later in the year. This will not only hamper the property market, but also cause problems for existing owners, many of whom have been benefiting in recent years from very low variable rate mortgages.

Whilst the property market may be difficult for sellers, it does provide opportunities for fully funded purchasers to make a move up market, or acquire an investment property for the longer term. Mortgages may take longer to organise, and lenders are becoming increasingly difficult to satisfy, but there are still mortgage products available on the open market to suit the needs of most purchasers. With realistic expectations, sellers can still achieve their desired result. Prudent moves in the property market are still happening, and with careful planning, both buyer and seller can still safely tread a successful path through these difficult times.

Our Property Department has many years of experience in helping our clients to make those long lasting decisions which will stand them in good stead for many years – if you are thinking of a move in 2011, we would be delighted to meet you and discuss how this can successfully be achieved.

If you would like to receive an email version of the newsletter, please email maxine.henderson@achws.co.uk

www.achws.co.uk

An Alternative Way to Rest in Peace

If you go down to the woods today, it may not be for a picnic but to say farewell to a much loved family member or dear friend. With traditional graveyards filling up and increasing interest in finding environmentally friendly ways of doing things, there has been a huge increase in the number of natural or "green" burials. In the UK there was only one woodland burial site in 1993 but there are now 200 sites, with 19 in Scotland from Kirkcudbright to Grantown. Some are operated by local authorities and others run as businesses or as non-profit concerns.

The sites are not usually consecrated and may therefore be attractive to people with no religious beliefs, although there is no bar to a minister conducting the service. While undertakers can arrange a woodland burial, families are now able to "do it yourself", with help from the site owners, to make the process much more personal to their loved one. Ashes can also be interred if the body is cremated, but for some people the processes involved in cremation are not environmentally friendly.



Coffins must be made of biodegradable materials such as untreated wood, cardboard, willow or bamboo, with no metal or plastic handles, and can even be decorated. Shrouds and clothes must be of natural materials such as cotton, linen or wool. Simple flowers can be used rather than imported ones. Not all burial grounds have a building in which to conduct the service, so this may have to be held outdoors. Headstones are not usually allowed, but the grave can be marked with a small stone or wooden plaque or a tree planted nearby. The grave can even be marked with a microchip or

GPS coordinates so that it can be found easily in the future.

The Association of Natural Burial grounds has a Code of Practice which its members must adhere to, and was created by the Natural Death Centre, which can give further advice on family-organised and environmentally-friendly funerals.

Rolling out the Wills and Powers of Attorney Roadshow!



The importance of putting in place a Will and Power of Attorney has been the subject of a number of articles in our Newsletters over the years. However, we have recently adopted an altogether more interactive approach to promote this crucial message! Since September, we have been running a series of workshops for the staff of organisations with which we have a professional relationship (including our business contacts and clients of the firm). The unique benefit for these businesses is that we go to their office to run the workshop rather than asking them to come to us! The format of the workshops is very informal and we encourage questions during the presentation. We also

operate a "surgery" afterwards when participants can speak to us about a particular personal concern on a one-to-one basis. Each attendee receives a pack which contains our Wills and Powers of Attorney Brochures, our full contact details and a hardcopy of the presentation.

The feedback from attendees and organisations who have hosted one of these workshops has been very positive. If you would like us to run a workshop at your place of work/business please contact **Richard Murray or Sara Smith on 0131 220 3000 and we would be delighted to arrange**

TAX SNIPPETS

INCOME TAX

- Personal allowance - £6,475
- Basic rate - 20%
- Higher rate - 40%

CAPITAL GAINS TAX

Tax payable on gains over annual exemption of £10,000:-

- Basic rate taxpayers - 18%
- Higher rate taxpayers - 28%

INHERITANCE TAX

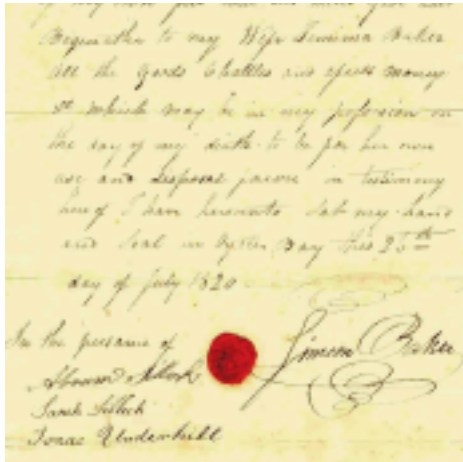
- Nil rate band £325,000.
- Excess taxed at 40%

Pay Now or Pay More Later

We have covered in our Newsletters many times the importance of having a Will to give you peace of mind, as part of your Inheritance Tax planning strategy and also to make sure that your estate is distributed in accordance with your wishes. Despite our best intentions, a number of clients are still deterred from making a Will simply because of the cost, which is not altogether surprising given the current economic situation. However, clients often do not know that it costs more to administer an estate where there is no Will (known as an "intestate" estate) than an estate where there is one (known as a "testate" estate). When dealing with a testate estate, the Executors can move fairly quickly in dealing with the estate and act in accordance with the deceased's wishes. However, this is subject to a member of the family making a legal rights claim or changes being made by a beneficiary using a Deed of Variation which is possible for Inheritance Tax purposes.

With an intestate estate the first step to be taken is to have an Executor appointed by the Court, which involves the lodging of a Petition thus incurring court fees and the additional time spent in preparing the document. Occasionally the family cannot agree who should act as Executor which can also delay proceedings. Once the extent of the estate has been investigated and thereafter calculated how it should be distributed in accordance with statu-

tory legislation, it is a legal requirement for the Executor to obtain what is known as a Bond of Caution. A Bond of Caution is a kind of insurance policy to cover someone applying for Confirmation when they are not entitled to do so or where an Executor fails to distribute the estate according to law. There are only two insurance companies that provide Bonds of Caution so, unlike other types of insurance, there is not a competitive market and premiums can be rather high for a policy on which a claim is unlikely to be made. In addition, if there are children who are under sixteen years of age and entitled to a share of the estate then the Accountant of Court must be involved possibly with an Independent Financial Advisor. This can also involve additional work and further delays.



The following are examples of additional costs incurred in respect of intestate estates of two different sizes that we have dealt with recently. VAT at the new rate of 20% is included in the figures:-

EXAMPLE 1

Size of estate:- £52,000
 Cost of Will:- £270
 Additional costs incurred:-

Additional solicitors fees	£1,680
Court dues	15
Cost of Bond of Caution	270
	<hr/>
	£1,965

EXAMPLE 2

Size of estate:- £300,000
 Cost of Will:- £420
 Additional costs incurred:-

Additional solicitors fees	£2,400
Court dues	15
Cost of Bond of Caution	1,220
	<hr/>
	£3,635

From these two examples it can clearly be seen that a Will may only cost a few hundred pounds whereas the additional work involved in dealing with an intestate estate can result in thousands of pounds of additional fees and outlays. This also does not take into account the additional stress placed upon the family because of the extra administrative requirements and the additional time it can take to wind up an intestate estate compared to a testate estate. There also could be Inheritance Tax problems that may arise because of having to follow the rules set down by statutory legislation when distributing the estate.

At the end of the day, can you really afford not to have a Will?

Last Orders



If you have ever had to be an Executor for someone, you may have been lucky to find everything in perfect order and no nasty surprises lurking in a drawer. Unfortunately it is more common to be faced with piles of random letters and bills dating back 20 years or more and no clue as to the whereabouts of the key to the locked drawer you suspect may have all the important papers.

Now put yourself in the place of your own Executors. Where and how do they start? For example, do they know the answers to the following questions:-

- Where are the deeds of the house?
- Where is the Will?
- Are you an organ donor?
- Who has any spare keys to the house?
- Who knows the code to the burglar alarm and how to operate it?
- How are the house, contents and the car insured?

While you can possibly make the effort to write down these answers and leave everything in perfect order, for many of us this is just not practical and we balk at the idea of having to think about these issues. One option to consider is the purchase of a book called Last Orders by Patricia C Byron, which is available from the leading internet book retailer at a reasonable price. It is not a book on how to make your Will, but is described by the author as "the essential guide to producing your Letter of Wishes and

which, once completed correctly, should save incalculable amounts of stress to those you leave behind and take most, if not all, of the guesswork out of the administration of an estate. It will offer a vast amount of helpful information about whom your executors should contact, the funeral you would wish for, your finances, your belongings, and even your pets."

The detailed guidelines and checklists in the book are an indispensable aid to anyone who has to tackle the affairs of a loved one especially at a time of grief. For your Executors, it will be a tremendous time saving exercise with details of financial assets and obligations, utilities and related matters all recorded in one place. The favourable reviews from many sources suggest that the modest cost will be one of your best investments and your Executors will be more than happy to implement your wishes.

Contributors to this edition include:



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Richard has a wide area of expertise which includes the drafting of Wills, Deeds of Trust and Powers of Attorney, Adult Incapacity related issues, Estate Administration including Succession- related issues, and Inheritance Tax planning.



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Anne joined Archibald Campbell & Harley in January 2005 as a Partner in the Private Client Department, specialising in residential property work, carrying out purchases and sales not only in Edinburgh, but throughout Scotland.



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Liz joined the firm in 2006 and has a wide variety of legal experience. She advises a range of clients on issues involving Wills, Powers of Attorney and Trusts, Estate Administration and Inheritance Tax Planning.



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Neil joined the firm in 2006 taking up the post of Trust and Executry Manager bringing with him over 17 years of experience gained from two of Scotland's largest legal firms of solicitors. Neil's particular area of expertise is the administration of Investment Portfolios, Trusts and Estates.



Sara Smith

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Sara deals with Wills, Powers of Attorney and estate administration on a daily basis. Sara graduated with an LLB (Hons) from the University of Edinburgh in 2004 before spending a year studying the Graduate Diploma in Law at Nottingham Law School.

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ARCHIBALD CAMPBELL & HARLEY



A Capital Display!

Those of you visiting our office recently may have noticed an exciting new display of original artwork in our reception areas and meeting rooms!

For more information about his career and paintings, please contact him via his website at www.alasdairbanks.co.uk

About Alasdair Banks

These are all the work of Alasdair Banks, whose family connection with Archibald Campbell & Harley can be traced back through three generations. The collaboration, which will continue into 2012, is a new venture for the firm, giving us the opportunity to showcase some of Alasdair's portfolio to a wider Edinburgh audience, and enabling our relationship to continue and flourish in a completely new sphere.

Alasdair studied fine art at Edinburgh College of Art and on graduating embarked on a successful local authority career in arts management, teaching and exhibition curating.

During this time he perfected his artistic skills by producing work in the area of sporting art, in particular equine art. Alasdair's aim was to produce work with an expressionist style, to reflect the speed and energy represented by the sporting horse in action.

The majority of the artwork has a common theme – highlighting the ever changing Edinburgh skyline, though Alasdair has also returned to his first love of equine art, allowing us to display some stunning pictures of racehorses in some areas of the office. All the pictures presently on display at our offices are available to purchase, and a full price list is available on application. Should you want to contact Alasdair, or obtain

In the last ten years, Alasdair has accepted a number of prestigious engagements, including the International Show Jumping Festival at Olympia, as Artist in Residence at "Glorious Goodwood" and the Goodwood Festival of Speed.

In 2008, Lloyds Banking Group, a major sponsor of the 2012 London Olympics, recruited Alasdair to become their chosen artist to portray equestrian sports at the Games.

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