

INSIGHT

The Art of the Deal – Don't be Bullied

I have never read Donald Trump's book *The Art of The Deal*. I understand however, from reading other people's accounts of how 'The Donald' negotiates, is that bullying plays a big part. Occasionally I see similar tactics being used in compulsory purchase. The phrase 'the threat of a CPO' is a common one in the world of compulsory purchase but is sometimes taken too literally by developers and councils.

The knowledge that your property could be taken from you compulsorily is worrying (to put it mildly), especially if it is your home or family business. The ability to use these powers of compulsory purchase is a necessary land assembly tool for major infrastructure projects (Channel Tunnel) or regeneration schemes (the Olympics). However, these compulsory purchase powers should never be used as a threat by the organisation using them. The language adopted by acquiring authorities should be factual or informative but never threatening. Increasingly I see acquiring authorities and developers, especially the less experienced ones, using language that moves from factual to threatening, this is completely counterproductive to an effective negotiation, especially at the early stages of a CPO.

How do you avoid feeling threatened or bullied if you find yourself in the position where your property has been included in a potential compulsory purchase order? And avoid reaching a below par settlement as a result of feeling bullied into one quickly.

EDUCATION, EDUCATION, EDUCATION.

The fear of the unknown makes people make poor decisions. I have worked on cases where an almost identical flat was sold for 33% less than a neighbouring property because one person took advice from an experienced surveyor and the other did not.

The most important piece of advice I could give if faced with a potential compulsory purchase order is to take your own professional advice immediately, do not rely on the information provided by an acquiring authority. A free thirty-minute phone call with a chartered surveyor would alleviate any fear you have of the unknown or fear of the words 'compulsory purchase' and therefore avoid rushed inferior financial settlements.

Five points to educate yourself in order to avoid the fear of the unknown:

1. **A compulsory purchase order is a statutory process.** This means there are strict rules in place as to how the process is managed and how the compensation is calculated. Many of these rules have been put in place to protect the claimant. Although stressful it should not be feared as there are measures in place to ensure compensation is fair. So long as you take professional advice.
2. A regular line from acquiring authorities is '**well if you don't sell now, we will CPO your property in the future**', the inference being this is a negative. It's not. If there is no CPO

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in place then you are under no obligation to sell your property. If you do not want the CPO to happen, then the correct response is 'I understand you will make a CPO, I will most likely object to your CPO'. This is your statutory right. If the scheme is not in the public interest, there is a chance it will be stopped, as was the case in Shepherd's Bush Market in 2016.

- 3. Professional Fees. Legal and Surveying.** If you are worried about the cost of advice, you can stop worrying immediately. If your property is included in a compulsory purchase order then the acquiring authority has a statutory obligation to pay reasonable costs, reasonably incurred. Your surveyor will keep detailed timesheets and their fees will be included as part of your claim for compensation. At the outset of any discussions with the acquiring authority it is advisable to get a written undertaking on professional costs from the acquiring authority as a belts and braces precaution. All of this will be organised by your surveyor.
- 4. Negotiations in advance of a CPO.** Increasingly I hear from surveyors or their clients (on the acquiring authority side) that '*your client has acted unreasonably over the past two years when we tried to buy their property by agreement*'. The inference being they didn't sell to us and therefore this was unreasonable. IT IS NOT. You have a duty to act 'reasonably' once the statutory process starts, when you are served with a Notice confirming your property will be acquired by compulsory purchase. Before this, when they are trying to purchase by agreement, if you do not want to, you do not need to engage. If a developer came to me today and offered market value for my home I would not engage also. This is not unreasonable, its really normal.
- 5. Market Conditions.** This is a classic line by some surveyors acting for Councils. Throughout 2019 I was told '*with Brexit around the corner, I'm not sure if this offer will be on the table in two months*'. That may be true, but it is also irrelevant. If your flat is worth £500,000 today, then you would expect to purchase a replacement flat for the same price given it is based on the market value of the property. If the market drops by 20% and the offer is reduced to £400,000 so too will that replacement flat. You will be in the same position in real terms.

I hope some of the information above is useful. Please get in touch if you or your clients are faced with the prospect of a compulsory purchase order. A free thirty-minute phone call will alleviate any concerns you may have.