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# Buying Property in Cayman: advice from a lawyer and a mortgage lender

Buying property can be a complicated process – in this piece, Ogier discusses finance lending with a leading expert, Amanda Bodden to explain what you need to know when embarking on a property transaction, and provide top tips for getting the best deal possible and for reducing the chance of complications. Ms. Bodden is a manager in the personal lending team at Butterfield Bank.

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## 1. What is the minimum deposit required to secure a mortgage in the current market?

**Amanda:** When considering purchasing a condo or home that will be used as your primary residence, you should prepare for a minimum down payment of 10% of the purchase price plus stamp duty and various closing costs which usually add up to a further 10%.

## 2. How much can someone borrow?

**Amanda:** Assuming you have no significant existing debt, a good guideline is three and a half times your annual gross income as a maximum mortgage amount. If you add your proposed down payment/deposit to that figure that's the maximum price range/budget you should be considering. This is just a guideline, other factors including your age may influence the amount that you qualify to borrow up or down. To be considered affordable, your mortgage payment typically shouldn't exceed 33% of your gross income.

## 3. What different types of mortgage are currently available?

**Amanda:** At Butterfield we currently offer fixed or variable rates, flexible payment options (weekly, bi-weekly or monthly) and no pre-payment penalty fees are associated with our variable rate mortgages unless you refinance with another institution. Fixed rates are becoming a more attractive option now that Prime rate has increased by 75bps over the past 18 months, and locking in at an attractive rate may be a good option if you don't plan to make bulk principal payments during the fixed rate period.

## 4. Is it difficult for a first time buyer to get a mortgage at the moment?

**Amanda:** I wouldn't say it is any more difficult for a first time buyer to obtain a mortgage in the present market than an experienced buyer. In fact, first time Caymanian buyers are entitled to certain stamp duty waivers and concessions depending on the purchase price and location of the property, so the up-front cash requirement is lower than it is for buyers who already own or have owned property locally. The standard financing and requirements are the same at Butterfield for first time buyers and second/subsequent buyers.

## 5. How important is the interest rate when deciding which mortgage option to go for?

**Amanda:** The interest rate determines the cost of the borrowing, what you will pay the bank versus what you pay to principal as you work towards outright ownership of your home. The interest rate is certainly very important, and you should make sure that it is competitive and reasonable. The term of your mortgage also impacts the cost of the borrowing, you will pay more interest to the bank over a longer term so that is something to keep in mind when considering your options.

## 6. What are the potential costs to look out for when selecting a mortgage?

**Amanda:** There are many miscellaneous costs associated with the purchase of property and mortgage financing, but they should never be 'hidden' if you are working with a good lender and a good lawyer. You can expect to pay about 10% of the purchase price of the property in addition to your down payment to cover stamp duty and closing costs. Stamp duty is presently 7.5% of the purchase price/market value of the property less any value attributed to chattels/furniture. A further 0.5% is typically paid in legal fees, 0.5% – 1% in bank arrangement fees, and 1% – 1.5% to the CI Government for stamp duty on the mortgage. For most banks, including Butterfield, a valuation/appraisal will be required to ascertain the market value of the property being purchased, which will be at your expense.

## 7. Once someone has submitted their completed application form, how long will it take for them to know whether a mortgage offer will be made?

**Amanda:** At Butterfield we typically process mortgage applications within five to seven business days from receipt of the application and all required supporting documents. Upon approval, we issue a Facility Letter (sometimes called an Offer Letter) that outlines the terms and conditions of the approved mortgage for the applicants to review and accept. After the Facility Letter has been accepted by the applicants, attorneys are instructed and closing is scheduled. In most cases, the entire process takes about a month from submission of the application and supporting documentation through to closing.

## 8. What is your top tip for customers to obtain the best mortgage deal possible?

**Amanda:** My top tip for buyers would be to get the financing process started early, as that will put you in the best position to shop around and secure a competitive mortgage offering. Meeting with a lender ahead of submitting an Offer to Purchase is a good idea, we can assist you by determining what you qualify to borrow and the financing offer that would likely be extended to you. At Butterfield we also offer pre-approvals so that you are better prepared to place an offer on a property, and the seller may consider your offer more favourably if they have comfort that you can obtain financing.

## 9. What legal considerations should sellers and buyers bear in mind when dealing with a purchase of real estate?

**Ogier:** It is typical in Cayman for sellers and buyers to work solely alongside real estate agents without taking any independent legal advice in respect of their property transaction. We would not recommend this approach but given its prevalence, some key considerations to bear in mind might be:

1. A "buyer's agent" has their fees paid for by the Seller and the fee is typically a % of the agreed sale price. Buyer's agents should make this potential conflict of interest abundantly clear to you at the outset of a transaction.
2. If you submit an offer to purchase property using the CIREBA "Offer to Purchase" document, the counterpart signing of the document by the Seller constitutes a valid and legally binding sale contract on the terms set out in that document. As such a buyer would be legally bound to purchase that property on the date and for the amount specified in the "offer". Make sure that any offer whether made by way of the CIREBA "Offer to Purchase" document or otherwise is made subject to such conditions or exceptions as may be required – most often subject to arranging acceptable finance to assist with the purchase.
3. Ensure that you entirely comfortable that the property benefits from legally enforceable and registered rights of way over the roads or pathways required to access or egress from the property all the way from a public highway. This also includes access over canals, if applicable.
4. Check with the planning department that all necessary planning permissions have been obtained for work carried out to the property and that no outstanding enforcement notices have been or are due to be issued in respect of the property.
5. Make all necessary enquiries of the Seller prior to exchanging sale contracts and paying your deposit – including ensuring that there are no outstanding disputes in respect of the property, boundary issues, groundwork concerns, enforcement notices served, third party occupiers etc. Unless you have made your sale contract subject to your satisfaction of the results of these enquiries then you may find you have no legal right to rescind the contract in the event that an issue is discovered.

## 10. Are there extra considerations if I'm buying a property with someone else?

**Ogier:** If you are jointly buying a property with a loved one, or with another investor, you need to decide whether you will do

so as Joint Proprietors or as Proprietors in Common – the distinction is important, and there's a full explanation on Ogier's dedicated Cayman property website [here](#). Although it's probably not the first thing on your mind at this point, you should also consider **making a will** to decide who will inherit the property.

## 11. What is your top tip for buyers to avoid things going wrong?

**Ogier:** Get started early and front load the work! There is a huge amount of paperwork involved from the legal and lending side – you can save a significant amount of time by putting it all together before you get started, and by instructing your lawyer early. There are always issues that can arise with real estate transactions – the more preparation you put in at an early stage, the smaller the chance of something going wrong.

*The information and expressions of opinion contained in this guide are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.*

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