

Exit strategies

The first of a two part article on selling your practice, by **Chris Pomfret**.

If you are contemplating selling your practice, and the premises you occupy are leasehold, you will need to consider in advance whether the remaining term of your lease is of sufficient length to meet your purchaser's requirements.

A dentist buying your practice will want to know that he will be able to practise from those premises for a sufficient period of time to establish himself in that location. What is a sufficient period of time depends on the individual but usually a minimum of five years is recommended. However, if your purchaser is intending to borrow from his bank or other lending source to raise all or part of the purchase price, his bank will usually require that the lease has at least 10 years to

If your purchaser is intending to borrow to raise all or part of the purchase price, his bank will usually require that the lease has at least 10 years to run.

run. If your existing lease has less than 10 years to run, you may need to negotiate with your landlord for an extension of your existing lease or for him to grant a new lease. Not being prepared for this could seriously delay the sale of your practice or even prevent it from taking place.

We have recently been involved in two transactions where the sale has fallen through due to the remaining term of the lease having insufficient years to run, and the inability to negotiate satisfactory terms with the landlord for a new lease.

The first involved a dentist wanting to sell her practice so she could retire. The lease of the practice premises had only three years to run. Her ↻



Chris Pomfret

is a member of the NASDA Lawyers Group and a partner in rhw.

☞ purchasers needed a 10 year term to satisfy the requirements of their lenders. The landlord was approached and whilst he was willing to grant a new lease, he imposed unreasonable terms with regard to the rent review provisions. These were unacceptable to the purchasers who decided not to proceed with the purchase. The dentist was left being unable to sell until the end of the term when she could then ask her landlord for a new lease on similar terms to her existing one.

In the second case, we acted for a dentist buying a practice where the current lease did not expire for another five years, but his bank required the security of a lease with at least 10 years to run. The seller did not wish to be involved in negotiations for

a new lease and put our client directly in touch with the landlord. The landlord was not agreeable to granting a new lease unless the current surgery premises were vacated, and the new lease was in respect of other premises within the same building. This was unacceptable to our client, and because of his inability to obtain a new lease, he was forced to

The landlord can propose different terms, which may or may not be acceptable.

withdraw from the purchase.

At the end of the term, if the lease is protected by the Landlord and Tenant Act 1954, the tenant can request a new lease on similar terms (except for rent). The landlord is required by law to offer the tenant a new lease

unless he can show one of the permitted grounds which entitle him to repossession. If a lease has not reached the end of its term, there is no obligation on the landlord to grant a new one. Even if he is prepared to offer a new lease, he can propose different terms, which may or may not be acceptable. In this way you could find that you are unable to sell your practice because your lease is too short and your landlord will not renew on acceptable terms.

We recommend that before you advertise your dental practice for sale, you should look at your lease and ascertain the number of years left to run. If there are less than 10 years, you should ask your landlord if he would be prepared in principle to enter into a new lease if required. You can ascertain what his terms would ☞



● Before you advertise your dental practice for sale, look at your lease and ascertain the number of years left to run.

● be, and then in your negotiations with your purchaser you will be prepared for the possibility that your purchaser may need a new lease.

This is one of the issues upon which we will be able to assist you. We advise taking legal advice in good time before you decide to sell to ascertain whether there are any potential problem areas which may need to be resolved before you advertise your practice for sale. ■

Chris Pomfret can be contacted on 01483 302000 or chris.pomfret@rhw.co.uk. To find a NASDA member in your area, go to www.nasda.org.uk