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# Housebuilder Tip of the Month: Third party consents for property transactions

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The following is a non-exhaustive list of examples where the existence of third parties in a property transaction should be considered. Early engagement is recommended to avoid delays:

**1. Lenders:** Is there a charge over the property with which you are dealing? This is applicable not just on a sale (where it will be discharged) but also, for example, on the creation of an easement or release of a restrictive covenant. Consent will usually be required. The lender should be involved and made aware of deadlines.

Restrictions requiring lender consent will need to be observed. Hopefully they are drafted in a way to avoid having to obtain consent for every disposition. You should also ensure that the lender provides a copy of any power of attorney under which the consent and/or discharge is being executed.

**2. Tenants:** Where a freehold owner is entering into a transaction where it has leased part or all of the land to a third party, the terms of the lease will need to be reviewed to establish whether the tenant must be included as a party to the transaction or provide consent.

The lease provisions may be broad enough to encompass the transaction in which case the tenant does not need to be a party or to provide consent. This will require a very careful analysis of the lease. Save for the clearest of cases it is prudent to involve the tenant (and any lender of the tenant!).

**3. Restrictions on Title:** Restrictions protect third party interests. You should review the title and familiarise yourself with any restrictions that require third party consents, and submit applications for these at the earliest opportunity. It can take some time to locate the relevant parties and engaging them early on will ensure that you are able to deal with any restrictions on title which would prevent registration of dispositions.

**4. Landlords:** Where the other party is a tenant and you are dealing with leasehold land, the terms of the lease should be checked carefully to establish whether what is being proposed is permitted. This might be around the conditions relating to underletting and/or assigning/and/or occupation or alterations for example. The lease might set out the information to be provided to the landlord in order to obtain the consent, and the landlord's duty to provide consent will usually only arise once this information has been provided. You should provide this information to the landlord as soon as possible to avoid any unnecessary delays.

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