

## Fittings clarification essential

The Real Estate Institute of Queensland (REIQ) recommends that people clarify the status of a feature or item by asking the agent whether it is included in the sale of a property.

Unfortunately, sometimes a buyer moves into their new home and finds the features that 'sold' the home are gone.

When they query the missing items with the real estate agent, the proud new homeowner finds that the feature was a 'fitting' and not actually listed on the contract as part of the sale.

Fixtures and fittings (or chattels) are sometimes the source of post-sale disputes, marring what would otherwise have been a smooth, hassle-free transaction.

REIQ managing director Dan Molloy says that fixtures are defined as "anything on the property that is 'screwed in', 'glued in', 'nailed in', and 'bolted in' or 'plumbed in' to the structures on the property".

"Freestanding movable items are called chattels – they can be included with the sale of the property but must be noted on the contract," Mr Molloy says.

"Typical fixtures include stoves, hot water systems, fixed carpets, clothes lines, satellite dishes, TV antennae, in-ground plants, ceiling fans, mail boxes, security doors, built-in bookshelves, and built-in air conditioning systems.

"Pool and spa equipment, potted plants, washing machines, ride-on mowers and large garden tools are good examples of chattels."

The REIQ says that items such as barbecue hotplates, sprinkler systems, curtain rods, gas bottles, dishwashers, and light fittings often cause debate and are grouped in a 'grey zone' that should be clarified with the selling agent.

Home sellers wishing to take a particular item with them - such as a dishwasher - should specify these items with their agent and on the contract.

While no one expects to find a barbecue hotplate gone when taking possession of a new home, under common law it is not defined as a fixture because it is not physically fixed to the property.

The REIQ suggests the most important thing for all parties to remember is to be upfront and to communicate any doubts.

An REIQ accredited agency should be able to anticipate any 'grey' areas and ask the seller to specify what they want to take with them. It's up to the seller to tell the agent (and therefore the buyer) what it is they want to keep. Those inclusions



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can then be noted in the contract of sale making it legally binding and overriding any common law argument.

When purchasing a home, buyers need to be aware that, as stated in the contract, they have the right to a final inspection the day before the settlement date. If something they thought should be with the property is not, they have the right to raise the matter with the seller and delay settlement until the dispute is resolved.

It is too late for buyers to raise the issue with the agent after settlement day. At the point where the buyer has moved in and has taken possession and a dispute arises, it then becomes a matter between their respective solicitors.



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