Granny Flat Arrangement Questions

Queensland granny flat arrangements — the questions to answer in writing before anyone signs or pays

What am I actually getting for my money?

- [ ] Is it a share of the title, a registered lease, a life interest or right to reside, a repayable loan, or only a promise?
- [ ] Is the arrangement recorded in a signed written agreement, not just a family discussion?
- [ ] Will anything be registered on title (transfer, lease, mortgage or caveat)?
- [ ] Exactly how much am I contributing, and where is that figure recorded?
- [ ] Who pays the legal, duty, survey and registration costs?

Getting the money back

- [ ] What is the repayment formula if I leave — original contribution, indexed amount, or a share of the sale price?
- [ ] How long does repayment take, and is it tied to the house being sold?
- [ ] Is repayment secured by a mortgage or caveat, or is it an unsecured promise?
- [ ] What happens if the house is worth less than expected when I leave?
- [ ] Who values the property, and how is a disagreement about value resolved?

What if circumstances change?

- [ ] What happens if I need residential aged care and a refundable accommodation deposit?
- [ ] What if the owner separates from their partner, or divorces?
- [ ] What if the owner becomes bankrupt, or a creditor enforces against the house?
- [ ] What if the owner dies before me — does their will protect my right to stay?
- [ ] What if the owner wants or needs to sell? Does my right bind a buyer or the bank?
- [ ] What if the relationship breaks down and living together no longer works?
- [ ] Who can end the arrangement, on what notice, and what is paid on exit?

Living arrangements and running costs

- [ ] Which parts of the property are mine exclusively, and which are shared?
- [ ] Who pays rates, insurance, electricity, water, internet and repairs?
- [ ] Who is responsible for maintaining the granny flat itself?
- [ ] Are there house rules about visitors, pets, smoking or carers attending?
- [ ] Is care or assistance expected from the family, and is that written down realistically?

Approvals and the building itself

- [ ] Does the granny flat have council approval and a final inspection certificate?

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- [ ] Does the local planning scheme allow a secondary dwelling on this lot, and are there occupancy restrictions?
- [ ] If it is a unit or community titles scheme, do the by-laws and body corporate allow it?
- [ ] Is the mortgagee's consent needed, and has it been obtained in writing?
- [ ] Is the building insured, and does the policy cover a second household?

Pension, duty and tax

- [ ] Has the Centrelink granny flat interest rule been considered, and is the contribution reasonable against the reasonableness test?
- [ ] Could the contribution be treated as a gift and caught by the five-year deprivation rules?
- [ ] Will transfer duty apply to a transfer of title, or to a premium paid for a lease?
- [ ] How is the main residence CGT exemption affected for each person?
- [ ] Has an accountant or financial adviser reviewed the numbers, as well as a solicitor?

Family and estate issues

- [ ] Do the other children know about the arrangement, and is it explained in the wills?
- [ ] Does the owner's will deal with what happens to my right and my money?
- [ ] Is my own will up to date, and does it reflect the contribution?
- [ ] Could the arrangement create a family provision claim later, and has that been addressed?
- [ ] Does anyone hold, or need, an enduring power of attorney to sign or manage this?

Before you sign

- [ ] Each person has their own independent legal advice — one solicitor cannot act for everyone
- [ ] Nothing is paid and no title dealing is signed until the agreement is signed
- [ ] All promises are in the document; verbal side agreements are not enforceable in practice
- [ ] Keep copies of transfers, bank records and the signed agreement in a safe place
- [ ] Book a consultation: Coastside Law, 0423 868 846