Property update
Ray Goodman discusses the current legal issues regarding the sale of a leasehold practice

A s many clinicians will have realised, banks are becoming increasingly discerning when it comes to lending for the purchase of dental practices, tightening their requirements as well as their belts.

Whereas before the credit crunch banks were falling over each other to lend for the purchase of practices (often at low margins over the base rate and with little security other than a charge over freehold property and in most cases they would take a view if there was no freehold), nowadays the terms on which they will lend are increasingly strict. Fortunately though, the window of opportunity has not entirely closed, and dental practices seem to be one of the few remaining sectors to which the banks are still lending, albeit somewhat more frugally.

What we are seeing now, however, is that the banks are still prepared to lend but are seeking greater security; for example where the practice premises are leasehold, they are insisting on taking a mortgage over the lease and are looking for a minimum term of 10, 15 or 20 years left to run on that lease.

In cases with a shorter period before the lease expires, before the deal can go ahead it is necessary to negotiate a new, longer lease with the landlord. There is no obligation for a landlord to renegotiate the terms of an existing lease, so it is a matter of negotiation as to which terms he or she may wish to impose. Fortunately, it often benefits the landlord to have a tenant tied in for a longer period of time, so they will usually cooperate as long as you agree to pay the legal costs involved. The process can take some time as the landlord is not under any obligation to deal with your request with haste and their solicitors’ fees may be substantial.

If you are thinking of selling your practice in the next year or so it is possibly worth starting the procedure to extend your lease as soon as possible so that the practice is saleable when you need it to be. Dentists choosing to go down this road are reminded of the importance of having the work carried out by specialist solicitors. They will be familiar with the individual requirements of the various banks and are looking for a minimum unexpired term of the lease, so that different lenders have different requirements when it comes to the other provisions they may wish to include in the lease. Experienced solicitors working within the dental sector will be able to navigate the legal minefield on your behalf to ensure you get the most value out of your dental practice.

The views expressed in this article are general and not intended as advice in any particular scenario. You should seek specific advice before taking any steps in relation to your property or practice.