

## **BUYING YOUR HOME**

### **Taking the guesswork out of buying your home**

Buying a home may be the largest investment of your life! Often, many years of planning and saving have been required. It makes sense to hire an expert to protect this investment - just as you use an expert to repair your car, to educate your children, and to take care of your health.

Your lawyer knows about problems in the real estate business, and can protect you from them if you ask for advice early enough.

### **What should you know before buying!**

If a property is listed on the multiple listing service what normally happens is that a Buyer finds out about the home through a real estate agent (called a "selling agent"). Although the selling agent may assist you in finding a home, any commission the agent receives is paid by the Seller.

When you find a home you want to buy, your offer is put into writing on a printed form called a "Real Estate Purchase Contract". The real estate agent will have blank copies of this form, and will usually fill in the form for you.

If you are buying privately in a "For Sale By Owner" situation we will help you prepare a contract custom tailored to suit your needs. We urge you to make an appointment to get a properly drafted Real Estate Purchase Contract rather than doing it on your own.

Take care to make sure that the offer states exactly what you want to buy, and how much you propose to pay for it. Once an offer has been prepared, signed by you, and accepted by the Seller, that offer becomes a binding contract. It is wise to ask your lawyer's advice before signing the offer.

### **What should you do before signing any documents?**

1. Save any advertisements and get a copy of the photographic listing, if there is one, in case there is a dispute about what you thought you were getting. Put in the offer any items mentioned in the advertisement or photographic listing. Insist "any promise good enough to make is

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good enough to write." If other items are important to you, such as the legality of rental suites, state those items in the offer.

2. Check the house for structural defects. If possible, hire an expert of your choice. The cost for this expert is small compared to the price of the property, and may prove to be good insurance.

3. Check out any zoning or building restrictions.

4. Find out how much the property taxes are.

5. Make your offer subject to conditions for your own protection. For example, you could make the offer to buy subject to selling your own home, or subject to being able to arrange suitable financing. You could make the offer subject to getting your lawyer's approval, or subject to getting a satisfactory report from your expert on the structural condition of the home.

6. Always include a time limit on acceptance by the Seller.

7. Get estimates from the realtor, the new mortgage lender (if applicable) and your lawyer, of the costs which you will have to pay in addition to the purchase price.

8. Include in your offer any personal property you want included in the purchase price. Personal property refers to items that are not attached to the land or buildings, such as drapes and appliances.

Sometimes, it is difficult to determine whether a particular item is personal property or permanently attached. If in doubt, include all items you want.

### **What other costs will you have?**

There are other costs besides the actual purchase price involved in buying a home. Your lawyer can help you to understand the other costs involved. The following is the suggested check-list of cost items that you should discuss with your lawyer during the first interview:

1. Legal fees - The fees for your lawyer's own services, which may also include a component for out-of-pocket expenses or disbursements.

2. Property tax adjustments - A portion of the year's property taxes which are credited to the Seller if the Seller has already paid them, or credited to the Buyer if the Buyer will be required to pay them. If you're obtaining a new mortgage, the mortgage company may wish to hold back future taxes as well.
3. Transfer registration fees at the Land Titles Office. The Land Titles Office charges fees to register documents transferring ownership of property from one person to another. An additional fee is charged for registering mortgage documents.
4. Insurance for fire and other hazards.
5. Late interest charges. The mortgage company will not advance funds until title is transferred into your name and the lender's mortgage is registered in the Land Titles Office. Because it takes time to register these documents at the Land Titles Office and to obtain the mortgage advance from the Lender, the sale price may not be paid to the Seller until after the possession date. Until then, you will be unable to pay the Seller the full purchase price and will probably have to pay interest on the unpaid amount.
6. Opening of utilities account.
7. Goods and Services Tax (GST). There is a GST cost to the Buyer on the purchase of most new housing, although the Buyer will get a partial rebate if the purchase price is less than \$450,000. Most purchases of used housing will not require you to pay any GST. The Seller should give you a written statement that no GST is payable. There is also GST payable on your lawyer's fees and disbursements and surveyor's charges. Currently, there is no GST on the Land Titles registration charge.
8. Appraisal and inspection fees (if obtained).
9. A real property report.
10. Any time a new mortgage is obtained in real estate there are costs associated with it. Your lawyer can advise you about these costs.

## **Are you buying a condominium?**

With the rising costs of single family dwellings, more and more new home buyers are being attracted to condominiums. In addition to the check-list of costs, the following is a suggested check-list concerning condominium ownership that you might want to discuss with your lawyer:

1. Condominium units and common property.
2. Owners' rights and responsibilities regarding property.
3. Group government and restrictions under any by-laws of the Condominium Corporation.
4. Condominium maintenance fees and services.

## **How a lawyer can help you buy your home**

From this brief summary of potential problems you can see the complicated legal details that the purchase of property involves. For this reason, you need the assistance of a lawyer. Your lawyer will do whichever of the following tasks are necessary to ensure you a trouble-free purchase:

1. Ensure that the contract fully reflects your understanding of the agreement before your lawyer approves of your signing it.
2. Examine the title to the property and ensure that the necessary legal documents are properly prepared and registered so that the property will be correctly conveyed to you.
3. Ensure that you understand clearly the terms of any mortgage or other financing arrangements for which you are accepting responsibility.
4. Ensure that the adjustments are properly computed and that the purchase monies have been properly disbursed.
5. Certify to you that you have obtained a valid registered ownership to the property you purchase.

6. Help you understand the full costs of home purchasing.

7. Help you understand the tax (principal residence provisions) advantages of a home investment.

In summary, your lawyer's role is to help you get what you bargain for, at the price you agree to pay, and on the terms you understand.

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