

The Lawyer's Role in a Purchase Transaction

Here is a list of some of the tasks that your lawyer may attend to in assisting you with the purchase of your new property. The list may vary, as each purchase is unique:

1. Review the Contract of Purchase and Sale prior to the removal of conditions, and advise of potential problems, if any.
2. Conduct a Search of Title and obtain copies of all instruments registered on title, including: Easements, Statutory Rights of Way, Restrictive Covenants, Building Schemes, Subsurface Rights, Liens, Judgments, Mortgages, Notices, Subdivision Plans, Strata Plans, Bylaws, and all other relevant charges, encumbrances and documents. The lawyer will review these documents, investigate any other matters where necessary (such as municipal tax records), and advise the buyer of any potential problems with obtaining clear title. Upon the Buyer's instructions, the lawyer will take steps to address or remove any obstacles.
3. If there is more than one Buyer, determine how the Buyers wish to take title to the property (i.e. as joint tenants or tenants in common, or with unequal percentage interests).
4. Determine whether remittances, exemptions or rebates apply concerning the Provincial Property Transfer Tax or the GST.
5. If the Buyer is obtaining a mortgage, then in most cases, the Buyer's lawyer will contact the Mortgage Lender, receive and review the Mortgage Instructions from the lender, and determine any special requirements. The lawyer will prepare the mortgage documents. In many cases the lender will require that the Buyer's lawyer obtain a survey certificate of the property being purchased (a drawing prepared by a surveyor showing the distances between the foundation walls and the property lines). In the event that the Seller is unable to provide an existing survey certificate, then this is a cost which the Buyer must incur. Even if the Buyer is not obtaining a mortgage, it is often a good idea to have a survey certificate, and this should be discussed with your lawyer.
6. Arrange for a Survey Certificate, if an existing one can not be located, in the event the Buyer or Mortgage Lender requires one. Review Survey, checking for encroachments.
7. Contact the Municipal Property Tax Department, Water Department, and any tenants in the property to obtain current information for preparation of Statements of Adjustments (an accounting of the respective credits and debits between the Buyer and the Seller).
8. Calculate the Property Transfer Tax, GST if any, Municipal Property Tax Adjustment, water account arrears, tenant damage deposits (including interest), accrued interest to be deducted from the Mortgage funds, disbursements and Land Titles Office charges.
9. Prepare transfer documents to be filed at the Land Titles Office, registering the transfer of ownership of the property. Prepare the Buyer's and Seller's Statement of Adjustments, Conveyance and Mortgage documentation.
10. Forward Seller's documents to Seller's lawyer for the Seller to sign and return.
11. Meet with Buyers to review and sign all documents and obtain from Buyers a certified cheque or bank draft which, when added to the Buyers' initial deposit and Mortgage proceeds, will be sufficient to cover all purchase costs involved.



12. On the Completion date, the lawyer will first conduct a pre-registration title review to ensure no further charges have been registered on title to the property since the initial title search. Then, the lawyer will request that the Seller's lawyer remove all objectionable encumbrances from title and obtain confirmation of their removal; submit transfer and Mortgage documents for registration at the Land Titles Office; prepare preliminary Solicitor's report and forward copies of mortgage documents and registration particulars to the Mortgage Lender; receive Mortgage proceeds; and arrange for payments of funds to the Seller. It is the Buyer's own responsibility to arrange for homeowner's insurance, establish accounts for utilities and make arrangements for keys.
13. Finally, the lawyer will provide a final report to the Buyer and Mortgage Lender, with copies of documents and a State of Title Certificate showing the Buyers as the registered owners of the property.