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Know your rights when buying a home

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published January 17, 2025

Buying a home may prove to be one of the largest investments of your life. You should use a lawyer to protect your investment and to know your rights throughout the process. Your lawyer knows the problems in the real estate business and can protect you from them if consulted early enough.

The Offer

When you find the house that you want, you may make an offer to buy it on a printed agreement called 'Offer to Purchase Real Estate'. Be careful that the offer records exactly what you want to buy and how you propose to pay for it. It is wise to consult your lawyer before signing the offer.

Before you sign an Offer to Purchase:

- Save any advertisements and obtain a copy of the photographic listing, if there is one, in case there is a problem later about what you thought you were getting. Include in the offer any items mentioned in the advertisements or listing. Insist that "Any promise good enough to make is good enough to write down". For example: Are all the appliances included? Is the hot water tank paid for?
- Get a building inspection and examine the home for structural soundness. The cost of such an inspection is small compared to the price of the property and may prove to be good insurance.
- Check out any possible zoning or building restrictions. This information is normally available from the local municipal government.
- Make your offer to purchase subject to conditions for your own protection. You could make the purchase subject to the sale of your present home, or the arrangement of financing for your purchase. Your offer could be subject to your lawyer's approval, or a satisfactory building inspection report from an expert on structural soundness. You could also make your offer subject to a report saying the house has never had urea formaldehyde insulation or asbestos.
- Your offer should specifically describe any personal property intended to be included in the purchase. Items attached to the buildings are automatically included unless the contract specifies otherwise. Those not so attached must

be mentioned or they remain the property of the seller. A refrigerator, for instance, may be removed by the seller unless it is in the offer. Drape tracks, which are attached to the building, would have to remain, but drapes which are not attached could be taken.

What does my lawyer do for me?

Your lawyer can help:

- Determine that the Offer to Purchase reflects your intentions. Signing the offer with a condition stating “subject to my lawyer’s approval” should have this effect, but it would be best to have your lawyer go over the offer before you sign it.
- Search title, to prepare all legal documents and to complete registrations which transfer title to your name.
- Advise you on financial matters such as where and how to obtain a mortgage.
- Properly compute the costs of completing the purchase and make sure you pay the correct amount to the seller.
- Examine documents such as Surveyor’s Certificates and Zoning Memorandum and inform you of any problems, or order title insurance on your behalf to protect you from these types of issues.
- Obtain information on property taxes.
- Assist in arranging insurance coverage for the house.
- Make certain that the seller receives your money only when the property has been correctly transferred to you.
- Confirm that you have obtained title to the property, with no mortgages or other claims against it except those you have agreed to.
- Assist you with any problems which arise before or after you obtain possession.

Your lawyer can advise you on these questions:

- Are there any liens or outside claims from unpaid debts for past work? Any outstanding judgments or municipal work orders? Have utilities been paid?
- What do the mortgage papers from the bank mean? Can I pay off, refinance, or sell early without paying a penalty? Will my interest rate change? When?
- I am buying the property with someone else. What does it mean to be “tenants in common” or “joint tenants”?
- Is the title free and clear? Is the survey acceptable? Should I get title insurance?
- What costs should I expect (for example, adjustments, land transfer taxes, mortgage, property taxes, CMHC Insurance, land transfer tax and legal fees)?

In summary, your lawyer helps to ensure that you get exactly what you have agreed to buy at the price you agreed to pay and on the agreed terms.

Sources: The Law Society of Manitoba “Buying a Home” and The Canadian Bar Association “CBA Legal Health Check. Before you buy...”

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