

Note however that the money, although paid to the lawyer, is generally not released to the seller until registrations are complete.

What if there are problems?

If problems arise, you should contact your lawyer as soon as possible. This is part of the reason why money is not released to the seller right away. Remember, however, the property must be in the same condition as it was in when the buyer made their offer, normal wear and tear excepted.

Words, words, words?

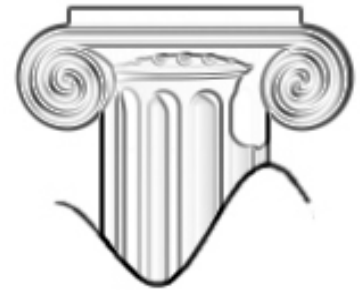
Some of the important words you will encounter are:

- ◆ **Possession or Closing** - This is the day the keys are exchanged for cash and the buyer can move in.
- ◆ **Mortgage** - This is your promise that the lender can take your property if you don't pay. It is given in exchange for a **loan**. It is broadly called **security**, which can include other rights given to the lender to help them collect.
- ◆ **Survey Certificate** - There are many kinds of certificates done by Surveyors. The most common is properly called a **Building Location Certificate** and shows whether any buildings extend over the property line.
- ◆ **Encroachment** - This is what it is called when a building is over the line.
- ◆ **Torrens Title** - This is the type of land ownership that is predominant in

Manitoba. Virtually everything you need to know about ownership of the property is contained in one document. If you have a duplicate original title (not a photocopy,) you must give it to your lawyer as it must be surrendered before the sale can be processed by Land Titles. Duplicate originals are not being issued by Land Titles any more.

- ◆ **Deed** - This is the older kind of ownership common in most of the world. You need to account for all deeds back to the first owner. Usually they are kept at the Registry, which is at the Land Titles Office, for safekeeping.
- ◆ **Adjustments** - If you have not paid your taxes for the year, the buyer will have to pay them. The buyer's lawyer will hold back your share of the taxes out of the purchase price. The buyer will then pay the taxes in part with your money and in part with their own. If you have paid your taxes, the buyer must give you extra money to pay you for their share of the taxes.
- ◆ **Interest** - Because many lenders won't allow mortgage money to be used until the title is in the buyer's name and because this takes a few days for Land Titles to complete, the buyer will pay you interest at the same rate as their new mortgage from the possession date until the mortgage money arrives at your lawyer's office.
- ◆ **Insurance** - Fire insurance may be safely cancelled when you have your money.

Selling Your Home



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Why do I need a lawyer?

For most people selling a home is something they do only a very few times during their lifetime. A lawyer who practices in the area of real estate will handle many transactions each year and must keep up with changing laws and will, over time, develop experience in dealing with the sort of issues that may arise. Your lawyer's job is to do all things a reasonable and prudent lawyer should do to protect you.

In addition, certain well-established procedures have developed over the years which lawyers know and can rely upon. Lawyers can impose certain obligations upon other lawyers called trust conditions which are enforced in a more efficient way than is available to private individuals. Finally, lawyers must be insured, so you have a means available to recover certain losses suffered due to errors or omissions.

When should I contact my lawyer?

While it is quite common for your first contact with your lawyer to occur after the Realtor has prepared the Offer and Acceptance, we recommend you speak to your lawyer as early as possible when you begin to sell or buy property. Because your lawyer has experience with the pitfalls which may occur, your lawyer can offer some valuable suggestions and point out some important considerations which you can keep in mind while dealing with your realtor.

Can one lawyer act for both seller and buyer?

In larger centres where there are many lawyers, this rarely occurs. In rural areas, however, it is not uncommon for both buyer and seller to have had dealings with the same lawyer and both may prefer to continue to do so. This is quite permissible as long as both sides understand:

- ◆ No secrets can be kept between buyer and seller. The lawyer is obliged to communicate all relevant information to both sides.
- ◆ If a major dispute occurs between buyer and seller, the lawyer must withdraw from both sides and cannot pick and choose which client to continue to represent.

Fortunately, such disputes are quite rare and often can be satisfactorily resolved between the parties themselves.

What does my lawyer mean when he talks about "fees and disbursements?"

Fees are the money the lawyer gets paid for his work. Disbursements are amounts paid by the lawyer to other people (for example, the Land Titles Office, Surveyors, Municipal Governments, etc.) on behalf of clients, which are collected back from the client.

What other costs are there in selling a home?"

The most common expense for sellers is real estate commissions. There may also be expenses necessary to clear liens, judgments or prior mortgages from the title.

When do I get my money?

Although the general rule is "keys for cash," the exchange occurs between lawyers. Except in very rare circumstances, the money is kept in trust until the Land Titles Office processes the transfer documents and title is in the buyer's name. In practice this generally takes a week to 10 days or less, depending upon how busy the Land Titles Office is. In fact, many lenders will not even give the buyer's lawyer the mortgage money until it can be shown that title is in the buyer's name and all other matters are satisfactory or can be made so in the normal course of the transaction.

When can they move in?

Three things are necessary before the buyer can move in:

- ◆ Cash (at least the difference between the full purchase price and the amount of the buyer's mortgage.)
- ◆ All documents signed by the buyer; and,
- ◆ (If there is a mortgage,) the buyer's fire insurance must be in place.