

lawyer's office before you take possession.

When can I 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.

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.

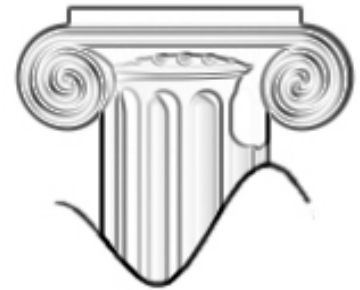
Words, words, words?

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.
- ◆ **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.
- ◆ **Title Insurance** - This is used primarily in jurisdictions where there are deeds as opposed to titles. If there is a missing deed there is always the possibility someone might show up with the missing deed and an alternate line of owners. In Manitoba, title insurance is used primarily to insure against survey problems which might affect value.
- ◆ **Adjustments** - If the seller has not paid his taxes for the year, you will have to pay them. Your lawyer will hold back the vendor's share out of the purchase price and you will pay using some of the vendor's money and some of your own. If the vendor has paid, you have to pay him back for your share, which will be added to the price.
- ◆ **Interest** - Because many lenders won't allow mortgage money to be used until the title is in your name and because this takes a few days for Land Titles to complete, you must pay interest to the seller from the possession date until the vendor has all of their money. You don't pay interest on your mortgage until the mortgage money is used.

Buying A Home



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Why do I need a lawyer?

For most people buying 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 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 the realtor or your lender.

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 a client, which are collected back from the client.

What other costs are there in buying a home?”

As a buyer, there are several other costs which must be taken into account. Many buyers focus on the down payment and budget their purchase so closely that the other costs can cause a serious shortfall. Examples of other costs are:

- ◆ Lender's Appraisal Fees
- ◆ Lender's Approval Fees
- ◆ Mortgage Brokerage Fees
- ◆ Engineer's Report Fees
- ◆ Surveying Costs
- ◆ C.M.H.C. Insurance Fees
- ◆ Land Titles Registration Costs
- ◆ Land Transfer Taxes
- ◆ Fire and Theft Insurance Premiums

In addition, there are such common costs as:

- ◆ Moving Costs
- ◆ Deposits with Utility Companies
- ◆ Common Element Fees in Condominiums

Finally, there are costs which may be added to mortgage payments, such as:

- ◆ Life Insurance
- ◆ Realty Tax Account with your Lender

When do I need to pay?

You will need to have at least the cash difference between the purchase price and the amount of your mortgage to your lawyer in time for it to arrive at the other