

THINGS TO DO

Closing Date: _____

VENDOR

1. Deliver title papers and information to Kemp Pirie Crombeen.
2. Call Hydro One to read meter on closing. 1-888-664-9376. Have account number and meter number on hand.
3. Call Union Gas to read the gas meter on closing. 1-888-774-3111. Have account number on hand.
4. Call Oil Co. to fill tank on closing.
5. If gas water tank is a rental, call Reliance Home Comfort, a division of Union Energy, about change of ownership. 1-888-718-6466. Have account number on hand.
6. If electric hot water tank is a rental, call Reliance Home Comfort, a Division of Onsource/Ontario Hydro Energy about change of ownership. 1-800-664-3377. Have account number on hand.
7. Call Regional Cable system to cancel cable TV. 1-800-465-1000. Have account number on hand.
8. Call Northern Tel to discontinue phone service. 1-800-360-8555
9. Arrange for movers.
10. Arrange to cancel Insurance coverage after closing.
11. Arrange appointment with Kemp Pirie Crombeen to review and sign documents.
12. Leave keys with Kemp Pirie Crombeen and neighbour, real estate agent or purchaser, as previously arranged.
13. Pick up funds from Kemp Pirie Crombeen after closing.

PURCHASER

1. Call Hydro One and request meter reading and give address for billing. 1-888-664-9376. If available, have account number and meter number on hand.
2. Call Union Gas to read gas meter on closing and give address for billing. 1-888-774-3111, If available, have account number on hand.
3. Call Northern Tel to arrange telephone service. 1-800-360-8555
4. If gas water tank is a rental, call Reliance Home Comfort, a Division of Union Energy, about change of ownership. 1-888-718-6466. If available, have account number on hand.
5. If electric hot water tank is a rental, call Reliance Home Comfort, a Division of Onsource/Ontario Hydro Energy about change of ownership. 1-800-664-3377. If available, have account number on hand.
6. Order survey, if required
7. Arrange for insurance coverage prior to closing.
8. Arrange for movers.
9. Inspect house before closing, if possible.
10. Arrange appointment with Kemp Pirie Crombeen to review and sign documents.
11. Bring certified cheque for balance required to Kemp Pirie Crombeen prior to closing.
12. Pick up keys as previously arranged.

BUYING OR SELLING YOUR HOME

KEMP PIRIE CROMBEEN
BARRISTERS, SOLICITORS & NOTARIES



P.O. Box 1540
22 Armstrong Street North
P.O. Box 1540
New Liskeard, Ontario
P0J 1P0
Phone: (705) 647-7353
Fax: (705) 647-6473
Web: www.kemppirie.com

Paul Crombeen
e mail: pcrombeen@kemppirie.com

Kemp Pirie Crombeen
e mail: nllaw@kemppirie.com

George W. Kemp
e mail: gkemp@kemppirie.com

Brigid A. Wilkinson
e mail: bwilkinson@kemppirie.com

AGREEMENT OF PURCHASE AND SALE

The document by which you buy or sell real estate is called the Offer to Purchase or Agreement of Purchase and Sale or sometimes both. In either case it is the blueprint for the entire transaction. Once you have signed it, you are contractually bound to follow through with its terms. If possible, review the agreement with us before signing. Unless there is a condition in the agreement, which is not satisfied, or there is some other "escape clause," you cannot cancel it without the consent of the other party. **ALWAYS CHECK WITH YOUR LAWYER BEFORE ATTEMPTING TO TERMINATE AN AGREEMENT.**

Real estate agents will often request the Purchaser to waive the financing or other condition that was inserted for the Purchaser's benefit. We recommend that you do not sign any such waiver until after you have discussed it with us.

TITLE

Our office will ask if you wish to take title in one name only or more than one name. Most couples buy property as Joint Tenants. This means that they will be equal owners and if one dies, the title will pass to the survivor notwithstanding the terms of the deceased's Will. This can result in a considerable saving of expense upon the death of one of the spouses. Another choice is to hold the property as Tenants in Common so that if one co-owner dies, the deceased's share becomes part of deceased's estate and can be dealt with in the deceased's Will and does not pass to the survivor. There may be business or tax reasons to have the title in the name of one spouse only. These choices should be discussed with us.

SURVEY

You should consider having a qualified Ontario Land Surveyor prepare a plan showing the house and other buildings, and their location on the land you are purchasing. This ensures that no part of the house or other buildings are off the land and that none of the neighbours' buildings encroach on the land you are purchasing. If a significant defect is shown by the survey before closing, the transaction can be cancelled and the deposit refunded. If a survey was not prepared until after the closing, the Purchaser would then be stuck with the defect and not able to claim against the Vendor. Most municipalities now have zoning by-laws containing restrictions as to house size and front, rear and side yard setbacks. Compliance with these restrictions can only be ascertained from a survey.

It is always a good idea to have an up-to-date survey of the property done.

It takes about 2 to 3 weeks for preparation of a survey or an update of an older survey.

Title Insurance, which is discussed in more detail in this pamphlet is, to some extent, an alternative to an up-to-date survey.

WARRANTY

If you buy an automobile, the dealer will give you a warranty for a period of ninety days to one year or more as to its condition. The biggest expenditure you will likely make in your lifetime is the purchase of your residence and the law gives you no warranty except on the purchase of a new house. All building contractors must enrol all new houses within TARION WARRANTY CORPORATION ("TARION"), which provides protection for deposits paid to a builder to a maximum of \$40,000.00 and gives new home warranty protection for one and two years against defects in work and material and seven years against structural defects. The original Purchaser is required to inspect the house with the builder before closing and then prepare and sign a list of all apparent items that are not properly completed using the Tarion Pre-Delivery Inspection Form. If you are a new home buyer you should visit the TARION web site at www.tarion.com to familiarize yourself with your rights, the time frames within which you must report defective work and materials or structural defects and the TARION forms required to do.

Many local builders also give a warranty for more minor problems such as "popping" nails and cracking gyprock due to drying. You should check this with your builder.

No protection is given to the Purchaser of an older home. The legal phrase is "caveat emptor": - let the buyer beware. You should carefully check the house before signing the agreement and, if you have any questions as to its condition, hire a builder or home inspector to check it for you. Generally, the house must be in the same condition on closing as it was when the agreement was signed.

INSPECTION BEFORE CLOSING

Except in the case of a new home, or unless it is so stated in the Agreement of Purchase and Sale, the Purchaser has only a limited right to inspect the house before closing. However, most sellers are pleased to co-operate and will be pleased to take the Purchaser through the house and show the Purchaser how to change the fuses, turn on the furnace and hot water heater, and how to handle the other little idiosyncrasies of the home. At this time the Purchaser should be alert for any defects that may have arisen since the agreement was signed and for the absence of any fixtures that may have been removed. This should be arranged a day or two before closing so that the Purchaser can

discuss any problem with us prior to closing. Arrangements may also be made between the Vendor and the Purchaser for possession on the day of closing and for obtaining the keys.

FIXTURES

Unless otherwise specified in the Agreement of Purchase and Sale, all fixtures must remain with the house. Generally, everything that is fastened to the house is a fixture, such as the TV satellite dish, air conditioners, light fixtures (and bulbs), curtain rods, laundry tubs, kitchen and bathroom exhaust fans, storm windows and screens and even the tool shed in the yard, if it is in any way affixed. Trees, shrubs and flowers remain with the property as do the vegetables in the garden.

HYDRO, GAS AND TELEPHONE

Both the Buyer and the Seller should notify Hydro One and Union Gas so that the meters can be read as close to the closing date as possible. If the hot water tank, furnace or heater is a rental you should contact Reliance Home Comfort, (a division of Onsource/Ontario Hydro Energy), if electric, and a division of Union Energy, if gas or the appropriate oil distributor, if oil, to notify them of the change of ownership of the property. These companies will want information in order to have the proper records and addresses for both parties. Unless agreed to in the Agreement of Purchase and Sale, do not request a disconnect of either the gas or the hydro. If Northern Telephone is notified, it will usually try to change the telephone over as close as possible to the day of closing. **All utilities should be paid to date by the Vendor prior to closing.**

INSURANCE

Insurance companies will not permit the Vendor's insurance to be transferred to the Purchaser. We strongly recommend that the Purchaser arrange insurance with his own agent well in advance of closing and advise our office of the particulars, so that we can ensure the Purchaser's interest and that of the Mortgagee are properly protected under the insurance policy. Most lenders require that you obtain full replacement cost coverage and this is what we recommend whether you have a mortgage or not. The Purchaser should advise the insurance agent of the name and address of all mortgagees so that this information can be noted on the policy. **A Certificate of Insurance or a Binder Letter must be provided to us by the Insurance Company prior to closing. Please ask your agent to do this.**

If we are acting for the Vendor we will require particulars of the Vendor's insurance so that we can obtain a release from the Vendor's mortgagee. Please note that it is the Vendor's job to cancel

his/her insurance. This is required so that the Vendor's policy can be cancelled or transferred to the Vendor's new home. **Occasionally closing dates are extended and therefore the Vendor should not cancel his insurance until the sale has in fact closed and the Vendor has received the closing proceeds, either by way of cheque from our firm or a deposit in the Vendor's bank account.**

ADJUSTMENTS

Adjustments are made to the purchase price for taxes, fuel, whether oil or propane, water and garbage rates, interest on mortgages being assumed, rent, etc. If the Vendor has paid the year's taxes in advance, the Purchaser will be required to reimburse the Vendor for the portion of the taxes relating to that part of the year after the closing date. This is done by adding that portion to the purchase price. Conversely, if the taxes are unpaid, the Vendor's portion is subtracted from the purchase price. If only part of the taxes are paid, these are adjusted accordingly.

Commonly, if there is oil heat, the tank is filled up at closing by the Vendor, at his expense, and the price of a full tank is added to the purchase price. At current prices, this can easily amount to \$1,000.00 or more with HST. If propane heat, you should provide your supplier with a current gauge reading so that your supplier can calculate the adjustment for propane for us. In addition we will require propane tank rental details.

The Vendor's lawyer calculates these adjustments prior to closing and makes up a Statement of Adjustments setting them out.

COSTS OF CLOSING

There will be costs in connection with arranging or paying off an existing mortgage, arranging fire insurance, obtaining a survey or title insurance, legal costs, Land Transfer Tax, search fees and registration costs. These can total \$1,800.00 to \$4,000.00 for the average home. In addition, of course, you have to consider moving and similar costs.

LEGAL FEES AND COSTS

Provided there are no unusual complexities about the transaction, for a purchase our firm charges the following fees;

Purchase Price	Legal Fee with One Mortgage
Under \$80,000.00	Minimum of \$995.00*/ Maximum of \$1,095.00* Please contact us for a fee quote
\$80,001.00 - \$200,000.00	\$1,195.00*
\$200,001.00 - \$399,999.00	\$1,295.00*
\$400,000.00 and greater	\$1,545.00*

***Deduct \$295.00 if you are not getting a mortgage or secured line of credit**

Provided there are no unusual complexities about the transaction, for a sale our firm charges the following fees;

Sale Price	Legal Fee with Discharge of One Mortgage
Under \$80,000.00	Minimum of \$850.00**/ Maximum of \$950.00** Please contact us for a fee quote
\$80,001.00 - \$200,000.00	\$1,100.00**
\$200,001.00 - \$399,999.00	\$1,200.00**
\$400,000.00 and greater	\$1,450.00**

****Deduct \$200.00 if there is no registered mortgage on the title to the property being sold**

The Land Registry Office charges fees for searching the title and for registering the transfer and the mortgage and the Ontario Government charges a Land Transfer Tax based on the rate of ½ of 1% of the first \$55,000.00 of the purchase price, 1% of the next \$195,000.00, 1 ½ of the next \$150,000.00, 2% on the next \$1,600,000.00 and 2½% of the balance, payable at the time of closing. **Please note that if you are purchasing property in the Greater Golden Horseshoe Region and the Purchaser, if an individual, is not a citizen or permanent resident of Canada or if a corporation, a foreign corporation, then in addition to the land transfer tax at the rates set out above the**

Purchaser will be subject to a 15% Non-Resident Speculation Tax which is payable on or before the time of registration.

Our legal fees and most disbursements are also subject to H.S.T. at the rate of 13%.

The following is a typical list of legal costs for a Vendor and a Purchaser of a residential property consisting of a lot on a Plan of Subdivision where the sale price is **\$350,000.00** the Vendor has a mortgage with a chartered bank to be discharged, the Purchaser is getting a mortgage from a chartered bank and is not a first time home buyer;

Description of Legal Service	Vendor	Purchaser
Legal fees for Sale/Purchase	\$1000.00	\$1000.00
Legal fees for discharge of mortgage	\$200.00	
Legal fees for mortgage		\$295.00
Registration costs*	\$ 76.20*	\$151.80*
Land Transfer Tax **		\$3,725.00**
Title Insurance Premium***		\$285.85***
Disbursements****	\$150.00	\$245.00
<u>H.S.T.</u>	<u>\$175.50</u>	<u>\$200.20</u>
Total	<u>\$1,601.70</u>	<u>\$5,902.85</u>

***Assuming we will be registering the discharge of your mortgage at the Land Titles Office.**

****See details of First Time home buyers Land Transfer Tax rebate under the heading "FIRST-TIME HOME BUYERS LAND TRANSFER TAX REBATE PROGRAM" found on page 9 of this pamphlet.**

*****This quote for the title insurance premium is based on the Purchaser obtaining title insurance from Title Plus. If title insurance is obtained from another title insurer, as is often the case, the premium will be for a different amount.**

******This figure is an estimate only of disbursements. The disbursements and HST will vary from transaction to transaction.**

The Purchaser's cheque for the balance payable on closing and the closing costs must be certified or by way of bank draft, payable to "Kemp Pirie Crombeen in trust" and delivered to us no later than the day prior to closing.

WHAT THE LAWYER DOES FOR THE PURCHASER

The lawyer reviews the Agreement of Purchase and Sale, either before or after it is signed, searches in the Land Titles Office and elsewhere to determine who owns the property, what mortgages or liens are on the title, what restrictions there are affecting the use of the property and, when applicable, whether its use is in compliance with local by-laws and regulations.

You should be aware that even if your intended use of the property is a permitted use under the provisions of the municipality's zoning by-law, there may be other provisions contained in the zoning by-law that may prohibit your intended use. For example, if the property does not front on a public road, then even though a residential use is a permitted use under the zoning by-law, it still may be prohibited since most zoning by-laws contain a provision providing that a building or structure may only be erected on property if it fronts on and has access to a municipally maintained public road.

If you wish to determine whether an intended use will be permitted, you should contact the building and planning department for the municipality in which the property is located.

The lawyer arranges for the removal of any liens or restrictions not being assumed by the Purchaser and reviews the adjustments between the parties.

Basically, the lawyer sees that the Purchaser receives what is legally due to the Purchaser under the Agreement of Purchase and Sale and attends to the closing and electronic registration ("e-reg") of the transfer from the lawyer's computer. Usually, the lawyer gives the same service to the Mortgagee, and to the extent not covered by title insurance certifies the title to both the Purchaser and the Mortgagee.

WHAT THE LAWYER DOES FOR THE VENDOR

The Vendor is legally obliged to give a clear title in accordance with the Agreement of Purchase and Sale and to provide a registrable electronic transfer. The lawyer takes whatever steps may be necessary to clear up any title problems and prepares the Statement of Adjustments. The Lawyer also electronically releases the transfer to the Purchaser's lawyer so it can be registered, and at the same time obtains the balance of the purchase price for the Vendor. Federal Income Tax and Harmonized Sales Tax implications have to be considered and the provisions of the Family Law Act complied with. If no other specific arrangements have been made with respect to the closing proceeds (such as arranging for us to deposit the funds into your bank account) the Vendor may usually pick up the cheque at our office at about 4:30 p.m. on the day of closing. **If this is unsatisfactory please contact us.** On your behalf, we are required to pay any outstanding mortgage balance, the arrears of any realty taxes, the balance of the real estate commission (including H.S.T. of 13% on the total amount of the real estate commission), and legal costs from the closing proceeds.

TAKING AND GIVING POSSESSION, MOVING AND KEYS

Unless the Agreement of Purchase and Sale provides otherwise, the Vendor must move out on the closing date and the Purchaser can move in immediately afterwards. Often, the parties discuss this themselves before the closing and arrange for moving at convenient times. If the Vendor cannot move out on the closing date, or the house is occupied by a tenant who does not move before the closing date, the Vendor may be in breach of contract and could be responsible for the Purchaser's living and other costs until the Purchaser can move in, unless something could be mutually arranged. Often the parties also arrange for the exchange of the house key directly or through the real estate agent. **The Vendor should provide us with at least one house key at the time of closing.** You should provide us with a telephone number where you can be reached on the day of closing. **Our experience indicates that the house keys are usually only available sometime between 11:00 a.m. to 4:00 p.m. on the closing date depending upon when the transaction has been completed by the lawyers acting for both parties. Please contact us immediately if you have specific requirements in this regard and we will attempt to make other arrangements suitable to you for the exchange of the keys.**

USING AN RRSP TO BUY A HOME

The Home Buyers' Plan allows you to withdraw up to \$25,000.00 from your RRSP as a loan without paying income tax on the amount withdrawn. Form T1036 needs to be filed to report the withdrawal. Under this plan, only first-time home buyers are eligible to participate, unless the special rules for persons with disabilities apply. You are considered to be a first-time buyer if, during the four calendar years prior to the year of withdrawal and up to 30 days before the withdrawal, neither you nor your spouse or common-law partner owned a home in which either of you resided. Loan repayment must take place over a period of 15 years, or less if desired, beginning in the second year following the year of withdrawal. If the required repayment is not made, an amount will have to be included as income in the year of the shortfall.

FIRST-TIME HOME BUYERS LAND TRANSFER TAX REBATE PROGRAM

The Government of Ontario has a Land Transfer Tax Rebate program for first time home buyers of newly constructed homes and resale homes. There are qualifying requirements for each program. The amount of the refund will be the entire amount of tax paid or payable, up to a maximum of \$4,000.00. A qualifying purchaser can receive a same-day refund of the land transfer tax by having their lawyer check the appropriate boxes in the tax component of the e-reg transfer prior to registration and complete the information required to qualify. The toll free telephone number for general inquiries with respect to Land Transfer Tax rebates is 1-800-263-7965, and online information can be found at www.rev.gov.on.ca. (Click on "Forms and Publications" and you will find the Land Transfer Tax information under the heading "Programs").

FIRST-TIME HOME BUYERS' INCOME TAX CREDIT

First-time home buyers are now entitled to a non-refundable income tax credit of \$750. The maximum credit that may be claimed for a jointly purchased home is limited to the amount of the credit that one individual could claim. A "qualifying home" and a "first-time home buyer" have the same definitions as for the purposes of the RRSP Home Buyer's Plan.

RURAL PROPERTY

A Purchaser should ensure that a Use Permit has been issued for the septic system by the Temiskaming Health Unit pursuant to the Environmental Protection Act and that it is of a size sufficient to service the house.

As well, the drinking water should be tested by the Porcupine Health Unit for potability. Kits for this purpose can be obtained from the Temiskaming Health Unit in New Liskeard, Englehart or Kirkland

Lake and, at the time of preparation of this pamphlet, water samples must be taken, and will only be forwarded for testing by the Temiskaming Health Unit, on Tuesdays of each week. This testing should consist of 3 samples obtained a week apart for 3 consecutive weeks. It takes at least 7 to 10 days to get the results so arrangements for the testing should be made well in advance of closing.

Most institutional lenders (mortgagees) insist upon obtaining the Use Permit and satisfactory well water analysis results before advancing the mortgage money.

Tests for the quantity of water can be carried out by qualified well drillers and should be arranged well in advance of the closing date by you if you wish such a test.

If one is not available and you want a well record for a drilled well on the property containing information such as the depth of the well, types of materials drilled and gallons per minute pumping rate at the time the well was drilled, please contact us immediately so we can have a search done of the Ministry of Environment's Well Records to determine if there is one on file.

TENANTS

A Tenant occupying the house being sold is protected by the Residential Tenancies Act and must be given notice to move in accordance with that Act. Normally, where there is no lease, the proper notice calculated from a rent payment date must be given to the tenant and if the tenant does not move, proceedings have to be taken to compel the tenant to do so. The notice must be in the prescribed form available, along with the instructions for completion and service of the form, from the Landlord and Tenant Board's Web site at www.ltb.gov.on.ca. Difficulties may arise when the tenant will not move or cannot be compelled to move prior to the closing date.

A Purchaser who is moving from rented accommodation is supposed to give the proper notice to the landlord, the length of which varies in the circumstances, and in default can be responsible for the rent for the period that the landlord is unable to re-rent the accommodation.

CONFLICT OF INTEREST

In larger centres, such as Toronto, the Purchaser and Vendor each usually retain a separate lawyer and often the Mortgagee hires a third lawyer to prepare the mortgage. In this area, it is common for all three parties to choose to use lawyers from the same law firm. This works satisfactorily where each Party's interest are the same, namely, to complete the purchase and sale of a home with each

party receiving what is due to them under the Agreement of Purchase and Sale and each cooperates to ensure that everything is completed satisfactorily.

If the Purchaser and Vendor have retained the same law firm and any difficulties do arise between them, the lawyers cannot, of course, act for one client in order to sue or pursue a claim against the other client. In addition, no information received in connection with the transaction from one of the parties can be treated as confidential so far as the other is concerned. This is also the case as between one or more Vendors or one of more Purchasers. In our office, if we foresee any possible complications arising, when we are acting for more than one party, it is our practice to immediately advise the parties of this and, if the complications cannot be resolved, then to arrange for separate lawyers outside of our law firm for each of the parties. You should feel free to discuss this with us

INCOME AND CAPITAL GAINS TAX

If the property being sold is the Vendor's principal residence, the home and up to one acre of land are exempt from Capital Gains Tax. Since 1981 a family may have only one principal residence at any one time. However, starting with the 2016 tax year, generally due by late April 2017, you will be required to report basic information (date of acquisition, proceeds of disposition and description of the property) on your income tax and benefit return when you sell your principal residence in order to claim the full principal residence exemption. Your failure to do so will result in the gain on the principal residence being taxable. The designation can be filed late but could result in late filing penalties of up to \$8,000.00. All other property (except property sold in the ordinary course of business where the gain is fully taxable) is subject to Capital Gains tax on the increase in value from its December 31, 1971, value (or its cost if it was bought or built after that date). Simply put, 50% of the increase in value is added to the Vendor's other income for the year of sale for tax purposes. If the property was owned prior to February 22, 1994 and you took advantage of the opportunity to "bump up" your adjusted cost base for the capital property by electing to do so in your tax return filed for 1994 the result will be that your Capital Gain will be lower than would otherwise have been the case. Many taxpayers did so with respect to cottage properties and investments.

If the Vendor has claimed depreciation for income tax purposes some or all of it may have to be included in income for the year of the sale.

If you are selling a property which is not your principal residence we recommend that you consult with your tax advisor with respect to the tax implications.

Both Purchaser and Vendor may claim their legal costs as deductible moving expenses if they are moving at least twenty-five miles closer to their job in a different location.

HARMONIZED SALES TAX (HST)

Legal fees, survey and appraisal costs and real estate commissions are all subject to H.S.T. Used residential complexes such as detached and semi-detached homes, certain mobile homes, condominiums and apartment buildings are exempt from H.S.T. Personal use property such as rural property not used for commercial farming or business are also exempt if they are owned by an individual and not by a Company. A good example of exempt rural property would be a "hobby" farm.

The Purchase price of other properties may be subject to H.S.T. You should discuss this with us before signing an Agreement of Purchase and Sale. The standard Agreement of Purchase and Sale provides for H.S.T. to be either "included in" or "in addition to" the purchase price and the implication of one or the other for the Purchaser or Vendor can be vastly different and costly.

ENVIRONMENTAL INQUIRIES

Environmental issues affecting real estate are a "hot" topic today. It is not our practice to make environmental inquiries of the local government and municipal records unless specifically required to do so under the provisions of the Agreement of Purchase and Sale or specifically retained by our client to do so. In any case, the responses to these inquiries are of little use since they are usually received too late and the records available are generally not comprehensive.

A Purchaser should be concerned with the existence of any contaminant or hazardous materials on the property or in the building being purchased such as mould, airborne asbestos, urea formaldehyde insulation ("UFFI"), PCB's, petroleum products and radioactive materials.

If the Purchaser has concerns about the environmental status of the property being purchased a condition should be included in the agreement to permit the Purchaser to commission an "environmental assessment". Inspections and assessments can be of varying thoroughness and reliability. The effectiveness of an assessment will depend in large part on the expense which the Purchaser is willing to incur (which can be considerable).

Even where persons are skilled in conducting environmental inspections or assessment, contaminants and hazardous materials can still escape detection.

Since the owner of the property is liable for the costs of "clean up" of contaminant and hazardous material on his property or that came from his property, careful consideration should be given by a Purchaser to the commission of an environmental assessment prior to closing, especially where the property is located on or near an old or existing industrial site or a site such as an old or existing gas station where underground fuel tanks have been or are being stored.

"RETROFIT" LEGISLATION AFFECTING BUILDINGS
WITH MORE THAN ONE DWELLING UNIT:

Effective October 9, 1992 for buildings with more than two dwelling units and July 14, 1994 for buildings with two dwelling units changes were made to the Ontario Fire Code which require upgrading to fire safety system, devices and structural elements of the building for the safety of the residential occupants. Since then there have been a number of amendments to the same Fire Code provisions so it is always a moving target. In other words, just because you have an inspection report dated 5 years ago which confirms compliance with the Ontario Fire Code it does not necessarily mean the building is in compliance with today's Ontario Fire Code.

We recommend that a purchaser of such a building contact the fire chief and building inspectors for the municipality as well as a hydro inspector to arrange an inspection of the building and wiring well in advance of the closing date to determine whether retrofit upgrading is required for the building and wiring and if so to what extent and at what cost. The costs for retrofit upgrading can be minimal for installation of fire alarms, for example, or extremely high in cases where a substantial amount of structural upgrading is required.

Failure to complete the retrofit upgrading within the time periods required can result in fines to the owner, an order being issued requiring the owner to complete the work, the municipality completing the work at the owner's expense and adding the cost to the taxes for the property and the building being condemned.

If you have any concerns about the application of the retrofit legislation to the property you wish to purchase please contact our office as soon as possible.

TITLE INSURANCE

In recent years American insurance companies operating in Canada have been offering title insurance to insure some potential defects in the title of property you may be purchasing or mortgaging. For example, many financial institutions that lend money for the purchase of real estate

often require a survey. Recently the lenders are giving many of their customers the choice between obtaining a survey and obtaining title insurance to insure potential defects a survey might have disclosed. Keep in mind that while title insurance will fully protect the lender for defects a survey might have disclosed by providing the lender with money, the remedies afforded by title insurance do not always perfectly align with the interests of the Purchaser. For example, if a purchaser purchased a property specifically because of a garage which turns out to encroach onto the neighbour's land, one of the title insurer's options could be to pay for the forced removal of the garage and reimburse the Purchaser for the value of the garage, the end result being that the Purchaser does not get the garage they wanted. As well, without a survey a purchaser may not be able to determine if an intended future use of the property is feasible.

Title insurance is not mandatory. It is an option available to you to protect your interests in the purchase of your property. In recommending a specific title insurance product to you, we are not in any way receiving compensation, a commission or fee from the title insurer or its agent.

There are a number of different title insurance products on the market, one of which is TitlePLUS. TitlePLUS is title insurance offered by the Lawyer's Professional Indemnity Company (LPIC) which is operated by the Law Society of Ontario. Every practising Lawyer in Ontario is a member of the Law Society.

Title insurance, like all other insurance covers a number of risks but also contains a number of exclusions which you should read carefully.

Enclosed is a copy of a brochure entitled "Working With a Lawyer When You Buy a Home" which includes additional information about title insurance.

OIL HEATING

If the house is heated by oil, the Purchaser should ensure that a certified oil burner technician has inspected the oil fill and vent lines, oil storage tank, chimney and furnace or boiler and any other oil fired apparatus and that the oil fill and vent lines, oil storage tank, chimney and furnace or boiler and any other oil fired apparatus meet or exceed the requirements under the new regulations under the *Technical Standards And Safety Act, 2000*, regulating the use of oil fired heating equipment. The Purchaser should obtain a copy of the most recent certification required by law for the oil tank, furnace, boiler and other oil fired apparatus, failing which, your fuel supplier will refuse to fill up your oil tank until an inspection has been done and all work required for certification has been completed. At the time of preparing this pamphlet, certifications are only valid for a 10 year period, after which the

entire oil heating system must be recertified; so make sure the certificate you are provided with is still within that 10 year period. Furthermore, the Purchaser should enquire as to whether there are any underground storage tanks for liquid fuels located on the real property.

WOOD HEATING

As a Purchaser of a house heated by a wood burning stove, furnace or fireplace, you will be required by your insurance company to obtain a WETT (Wood Energy Technology Transfer) certification of the wood heating system by a WETT certified inspector prior to the insurance company issuing a certificate of insurance. This type of inspection is a general overview of the readily accessible parts, clearances, chimney heights, stove/furnace/fireplace location with respect to combustible materials and visual signs to determine if the system meets the LSA Standard B365 (Installation Code for Solid-Fuel-Burning Appliances and Equipment).

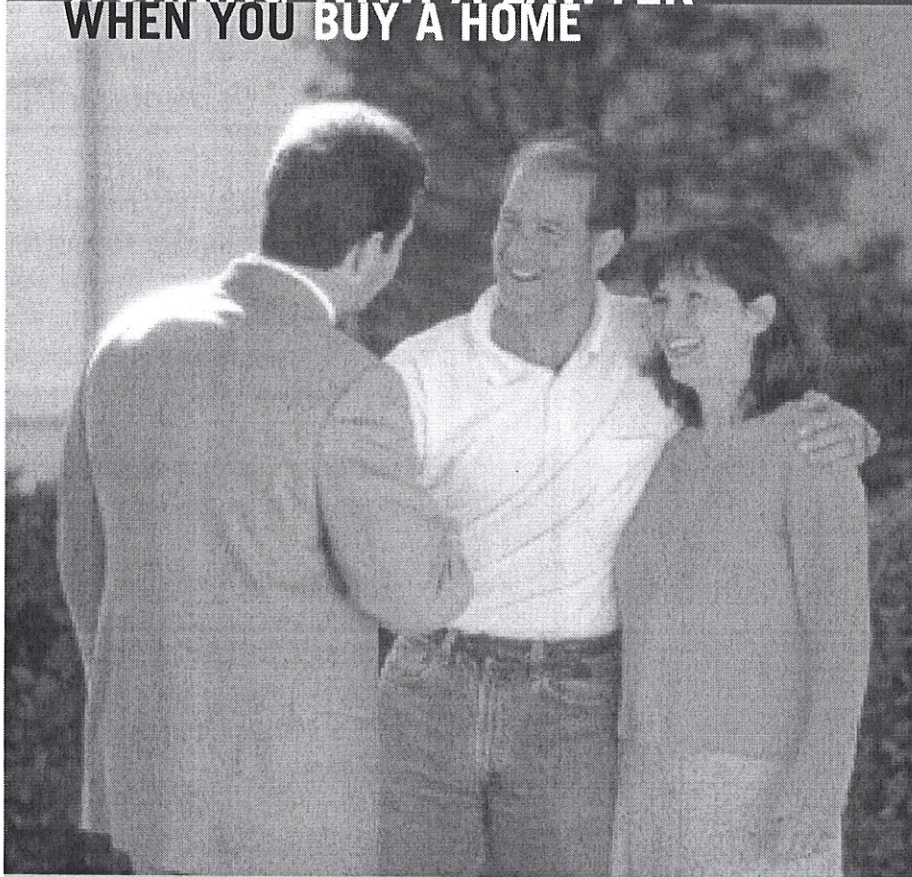
PROOF OF IDENTIFICATION

With the prevalence of real estate fraud in Ontario and other parts of the country, and as a result of record keeping and client identification requirements under Federal Legislation and Regulations aimed at detecting money laundering and terrorist financing, lenders, title insurers and the Law Society of Ontario now require us to obtain certain information, including address and occupation, and proof of identification from Vendors, Purchasers and Mortgagors. This consists of 1 unexpired piece of I.D. with a photograph such as a Passport, Driver's License or Certificate of Citizenship and 1 other type of unexpired I.D. such as Social Insurance Card or a credit card issued by a major financial institution. Please be prepared to produce original I.D. documents to us for photocopying, the first time that you attend at our office.

INFORMATION GATHERING FROM A PURCHASER

As a result of changes in 2017 to the *Land Transfer Tax Act* of Ontario, we are now required to gather certain information from a Purchaser regarding both the property and Purchaser for every conveyance involving agricultural land or single family residences. That information will include; whether the Purchaser or a family member intends to occupy the property as their principal place of residence or lease out all or part of the property; the type of property being purchased (i.e. single family residence, agricultural land, or mixed property type); whether the single family residence is detached, semi-detached, duplex, etc.; whether anyone who will not be on title will be an owner of the property; the Purchaser's full name, date of birth, citizenship and residency and similar information for a corporation and someone who will be an owner of the property but not registered on title.

WORKING WITH A LAWYER WHEN YOU BUY A HOME



Buying a home is one of the most

important investments

you will make

Protecting that investment is important to you

You need to know that all of the legal issues involved in buying your home are properly handled. You want to feel secure about the fact that you own your home. You may also need advice about who should officially own the property, what kind of mortgage you should get, and many other decisions that have to be made when buying a home.

Your lawyer is there to help guide you through this process, and to protect your interests at every step of the way.

About this Booklet

This brochure explains how your lawyer will work with you when you buy a home. This booklet is not complete without "A comparison of methods for assuring title" chart, which explains the three different ways in which your lawyer could protect your ownership interest in your home.

It is important that you take the time to understand these options. Once you have read this brochure, you should **immediately** tell your lawyer which one of the three methods you would like him or her to use for your home purchase.

Before you sign an offer to purchase

An offer to purchase is a contract that is binding on both you, the buyer, and on the vendor. Seeing a lawyer before you sign that offer can help avoid difficulties later on, and ensures you that your best interests are protected.

For example, your lawyer can advise you to:

- include escape clauses that will allow you to cancel your offer if you cannot proceed with the purchase. For instance, you may want to cancel your offer if you discover that the property is not what you thought it was, you were not able to arrange the mortgage you need, or you were unable to sell your present home;
- request a warranty that the property conforms to all municipal by-laws, zoning regulations and housing standards;
- include an exact listing of the accessories that you expect to buy with the home;
- require that the vendor produce an up-to-date survey;
- request that your deposit be held in a bank account that will pay you interest.

Your lawyer can also help you determine exactly how much it will cost to buy the house. You need to plan for extra costs such as land transfer tax, document registration fees, search fees, your lawyer's fees, and monies that you will have to pay the vendor for items such as heating oil already in the tank or any pre-paid utility bills and taxes – none of which are included in the purchase price.

After the vendor accepts your offer to purchase

The offer to purchase is only the beginning of the complex process of buying a home.

Once the vendor has accepted your offer, your lawyer starts to work on many fronts. You can expect your lawyer to ask you many questions about the specific property you plan to purchase and how you intend to use it. Over the following weeks, your lawyer will complete a series of legal inquiries, searches of records and extensive fact-checking, to make sure that, on closing, you really own the home and that you will be allowed to live there (in other words, confirming that the present use of the property is legal).

Providing Advice and Fact-Checking

Among many responsibilities, your real estate lawyer acts as your trusted advisor. It is your lawyer's job to check various details and advise you on a wide range of matters.

For example, your lawyer usually will:

- prepare and check mortgage documents and explain the terms of your mortgage;
- explain the different ways in which you can own the property if you are buying it with someone else, and the difference between being joint tenants and tenants-in-common;
- check the statement of adjustments to ensure that you are paying only your share of the taxes, utility and fuel bills, and other costs that have been pre-paid by the vendor;
- explain the purposes of the documents that you have to sign.

Facilitating the Buying Process

To help make the transfer of ownership from vendor to you, the buyer, as smooth as possible, your lawyer may also:

- arrange with utility companies to have hydro, water and fuel meters read on the day of closing, and to have all future bills addressed to you;
- ensure that you have home insurance in place as of the closing date;
- hold in trust your closing funds and those provided by the mortgage lender, and transfer them to the vendor to ensure the home purchase closes; and
- arrange for you to receive the keys to your home as soon as possible after closing.

Assuring you of Good Title

One of the more important parts of your lawyer's job is to make sure that you have good title to the property that you are buying.

Why is good title important?

Good title ensures that you really own the property, that it is correctly described in official documents and properly registered, and that no one else has a claim or a lien to it that you do not know about.

For example, mortgage holders, contractors, tenants and the spouse of the person selling the home may all have rights to the property that need to be resolved before the sale can proceed.

Good title is essential for you to be able to sell your home in the future.

As part of title-related responsibilities, your lawyer usually will:

- check that the person who is selling you the home has a right to sell the property, and that no one else has a claim to it or a lien on it;
- consider survey-related issues such as whether anything on your property encroaches (intrudes) on neighbouring properties, or if neighbours are in fact using a part of your property;
- contact the municipality to make sure that there are no work orders against the property which you could be forced to comply with after your home purchase has closed;
- determine if any other organizations have interests in your property that could restrict your use of it. For example, there may be easements that give utilities the right to install and access hydro or gas lines. As well, if some or all of the home is being rented, tenants have rights that could affect your ownership;
- contact local utilities and the municipality to find out if there are liens against the property because of unpaid utility or tax bills.

If there are problems that could affect title to your property, your lawyer could take steps to fix the matter (often working with the vendor's lawyer). If the problem cannot be corrected, your lawyer will explain to you the risks of taking title without resolving the problem.

Assuring you of good title: Three options to choose from

There are three different approaches that your lawyer can take to assure you of good title. **It's up to you and your lawyer** to decide which one of the three options is most appropriate in your situation.

With any of the options described below, your lawyer will conduct searches and inquiries to find out if there are any title-related problems with the home you plan to buy. Your lawyer will try to resolve most of these problems, and will advise you of how best to deal with any situations that cannot be resolved.

Option 1: Lawyer's Opinion on Title

If you select this option, your lawyer will provide you with a Letter of Opinion which states your lawyer's view of whether or not you have good and marketable title to your property. As well, your lawyer will provide you with a description of the results of the searches and inquiries conducted on your behalf, and will inform you in writing of any outstanding issues that may affect your title to the property in the future.

If a problem is identified after you have closed, you can only seek compensation from your lawyer if you can prove that he or she failed to do something that was legally required or provided legal services that did not meet the standards set by the legal profession. You may have to hire another lawyer to help you sue your first lawyer and get compensation from the lawyer's malpractice insurance plan.

Option 2: Title Insurance

Title insurance is an insurance policy that you can buy to protect your investment in your property if there is a problem with title. For example, you may find out after you have bought your home that someone else has a legitimate claim to it that has to be satisfied, or you may have to pay to move a building that is too close to a neighbour's property line.

The title insurance policy protects you against the loss that you suffer because of many title-related problems. Most title policies also cover your legal costs if your title is challenged.

Option 3: TitlePLUS®

TitlePLUS is a system that includes both an insurance policy and an electronic process that collects information from lawyers who apply for a TitlePLUS policy as they proceed through the steps in a residential real estate transaction.

The TitlePLUS insurance policy provides protection for both the title-related aspects of buying a home and the legal services provided by your lawyer. It also automatically provides both you and the lender with coverage.

If you opt to use TitlePLUS, your lawyer will ask you to sign an *Acknowledgment and Direction* just before your home purchase actually closes. This document confirms your instructions to your lawyer and that your lawyer has provided you with specific information about your purchase.

Your Choice of Options: An Important Decision

Making your choice among the three options described is a very important decision for the home buyer. The chart enclosed with this booklet addresses specific questions you may have about each option, and is designed to assist you in making the most appropriate decision in your situation.

Tips on title insurance & TitlePLUS

- Read your insurance policy in full to understand the insurance protection that you are buying. Your lawyer can provide you with a draft of the policy.
- Ask your lawyer about any items that are not covered (exclusions) by the title insurance or TitlePLUS policy before you make any decisions.
- Provide your lawyer with as much information about the property as you know. For example, make sure your lawyer knows that your home contains a separate apartment that is rented, or that there is a swimming pool in the backyard that does not show up on the survey. You must provide your lawyer with accurate and complete information to ensure that your insurance coverage is valid if there is a dispute later on.
- Your lawyer will have to disclose some information about your purchase to the company providing title insurance or TitlePLUS, assuming you choose one of these options. This is standard procedure when buying many types of insurance.
- Your lawyer will always be bound by professional rules that require him or her to act in your best interests.

© TitlePLUS is a registered trademark of Lawyers' Professional Indemnity Company, which is owned by The Law Society of Upper Canada. The Law Society is the governing body of the legal profession in Ontario. To practise law, your lawyer must be a member of the Law Society; your lawyer also is obliged to follow the Rules of Professional Conduct set by the Law Society.

If you choose title insurance or TitlePLUS, your lawyer will not receive any commission, fee or any portion of the premium from the insurer or any agent or intermediary. He or she, however, is entitled to charge legal fees and for the out-of-pocket expenses that arise from the legal services provided.



The Law Society of
Upper Canada | Barreau
du Haut-Canada



OBA • ABO
Ontario Bar Association
Association du Barreau de l'Ontario

September 2002

A COMPARISON OF METHODS FOR ASSURING TITLE
(MUST ACCOMPANY THE "WORKING WITH A LAWYER WHEN YOU BUY A HOME" BOOKLET.)

ISSUE	SOLICITOR'S OPINION ON TITLE	TITLE INSURANCE	TITLEPLUS®
WHAT SERVICES WILL MY LAWYER PROVIDE?	<p>Home buyer's lawyer will:</p> <ul style="list-style-type: none"> • undertake extensive searches and inquiries related to assuring buyer of good title; • act as your advisor on title-related and other legal issues affecting home purchase; • facilitate the closing process. 	<ul style="list-style-type: none"> • apply, on home buyer's behalf, for title insurance policy which replaces lawyer's Opinion on Title. 	<ul style="list-style-type: none"> • use software-based TitlePLUS system to apply, on home buyer's behalf, for TitlePLUS insurance policy, which replaces lawyer's Opinion on Title.
WHAT DO I PAY FOR AND HOW MUCH DOES IT COST?	<p>Home buyer pays:</p> <ul style="list-style-type: none"> • legal fees; • disbursements lawyer has to pay to do the required searches and inquiries. 	<p>Home buyer pays:</p> <ul style="list-style-type: none"> • legal fees; • disbursements, including title insurance policy premium, which varies for different policies. • overall cost may be less than cost of Opinion on Title, depending on searches required. 	<p>Home buyer pays:</p> <ul style="list-style-type: none"> • legal fees; • disbursements, including TitlePLUS policy premium, which varies with price of home.
WHAT KIND OF COVERAGE OR PROTECTION DO I HAVE?	<p>Through lawyer's malpractice insurance, home buyer is covered if lawyer:</p> <ul style="list-style-type: none"> • makes negligent mistake(s) or omits to do something that affects the home buyer's title to the property; • was negligent in legal services provided (for example, provided incorrect advice on mortgage matters). <p>No coverage for events occurring after closing.</p>	<p>Home buyer has coverage for following types of issues (which vary with policies) if problem exists at time of purchase:</p> <ul style="list-style-type: none"> • title-related problems, such as conflicting ownership interests in the property; old or improper mortgages; liens from judgments, special assessments, realty tax arrears or public utility arrears; improper documents; certain rights arising from tenancies, contracts, options, or rights of possession by a spouse; and any title defects not specifically excluded by policy; • regulatory compliance issues, such as certain breaches of restrictive covenants, encroachments, setback deficiencies, work orders and building permit deficiencies; • inability to live in home as a single residential dwelling under zoning by-laws; • absence of legal right of access to home; • in some policies, adverse circumstances affecting the land which would have been disclosed by a local authority search. <p>Generally no coverage for legal services provided by lawyer.*</p> <p>Home buyer may be able to sue lawyer for negligence through lawyer's malpractice insurance.</p> <p>There is often limited coverage in the policy for post-closing events.</p>	<p>Home buyer has coverage for following issues defined in the TitlePLUS policy, if problem exists at time of purchase:</p> <ul style="list-style-type: none"> • title-related problems, such as conflicting ownership interests in the property; old or improper mortgages; liens from judgments, special assessments for local improvements, realty tax arrears or public utility arrears; improper documents; certain rights arising from tenancies, contracts, options, or rights of possession by a spouse; and any title defects not specifically excluded by policy; • regulatory compliance problems, such as certain breaches of restrictive covenants, notices of violation, work orders, encroachments, building permit problems; and setback deficiencies; • inability to live in home as a single residential dwelling under zoning by-laws; • access-related problems, such as the absence of a legal right of access to home or inability to use certain easements or rights-of-way over neighbour's property. <p>Full coverage for legal services provided by lawyer handling purchase, including all advisory services.</p>

A COMPARISON OF METHODS FOR ASSURING TITLE
(MUST ACCOMPANY THE "WORKING WITH A LAWYER WHEN YOU BUY A HOME" BOOKLET.)

ISSUE	SOLICITOR'S OPINION ON TITLE	TITLE INSURANCE	TITLEPLUS®
ARE THERE ANY RESTRICTIONS OR LIMITS ON THE COVERAGE I HAVE?	Coverage limited to the terms and conditions of lawyer's malpractice insurance: <ul style="list-style-type: none"> home buyer must prove lawyer's legal services fell below normal standard of practice (i.e., lawyer was negligent); compensation from malpractice insurer often limited to \$1 million per claim. 	Exclusions (specific items policy does not cover) vary with title insurer and specific home purchase. Standard exclusions include: <ul style="list-style-type: none"> some rights governments may have in buyer's land; problems the buyer agreed to in purchase agreement or failed to tell title insurer about; certain expropriations; lack of any right to lands not described in policy or in abutting streets, lanes or waterways. Policy also may include some exceptions specific to home buyer's property. Exceptions and/or exclusions may limit coverage for environmental and/or native land issues. Home buyer is compensated for actual financial loss up to the policy amount, subject to some inflationary protection.	Exclusions vary, depending on specific home purchase. Standard exclusions include: <ul style="list-style-type: none"> some rights governments may have in buyer's land; certain environmental hazards; buyer's ability to change use of the land; buyer's right to undertake renovations or construction; certain native land claims; problems the buyer agreed to in purchase agreement or failed to tell lawyer about. Policy may include exceptions specific to home buyer's property. Lawyer will review exceptions with home buyer before closing. Home buyer is compensated for actual financial loss (as defined in TitlePLUS policy) up to policy amount, subject to some inflationary protection.
WHO IS COVERED UNDER EACH OF THE OPTIONS?	Generally covers only home buyer. Separate reports prepared for lender.	Generally covers home buyer, buyer's spouse/children, certain trust interests, successor/assign of vendor take-back mortgage and anyone who receives title to buyer's property if buyer dies. Separate policy required for lender.**	Generally covers home buyer, buyer's spouse/children, certain trust interests, successor/assign of vendor take-back mortgage and anyone who receives title to buyer's property if buyer dies. One TitlePLUS policy automatically covers both home buyer and lender.
WHAT HAPPENS WHEN THERE IS A PROBLEM AFTER I HAVE CLOSED? HOW DO I MAKE A CLAIM OR SEEK COMPENSATION?	Home buyer does not have absolute right to compensation but instead: <ul style="list-style-type: none"> must prove lawyer's services fell below the normal standard of practice; may have to hire new lawyer to sue lawyer who handled home purchase; must make a claim promptly against lawyer who first handled your purchase. Lawyer being sued: <ul style="list-style-type: none"> must have malpractice insurance in place when claim is made, or home buyer may have difficulty obtaining compensation; must report claim to malpractice insurer. Home buyer may have difficulty obtaining compensation if purchase lawyer has not complied with all terms of malpractice insurance policy and lawyer needs insurance money to compensate home buyer.	Home buyer makes claim directly with title insurer provided problem is covered by specific title policy. Claim must be made promptly, as required by specific insurance policy.	
WHAT IF SOMEONE OTHER THAN MY LAWYER MADE A MISTAKE. AM I COVERED?	Generally no coverage under lawyer's malpractice insurance for errors made by someone else (e.g., municipality responding to lawyer's search request provided incorrect information).	It does not matter who committed the error, provided type of loss relates to the matters covered by specific insurance policy.	
DO I NEED A SURVEY TO BE PROTECTED?	Lawyer generally needs up-to-date survey to provide opinion on survey-related issues.	Depending on specific policy, survey coverage often available without up-to-date survey.	
WHAT IF THERE WAS SOME FRAUD INVOLVED? AM I COVERED?	No coverage for fraud by lawyer that affects title to property.	Retrospective coverage for any losses because of fraud on part of lawyer, provided losses are for matters covered under the policy.	

* On selected new home projects, legal services coverage may also be included. Consult your lawyer. ** On selected new home projects, single policy may be available. Consult your lawyer.

® Registered trademark of Lawyers' Professional Indemnity Company.

