

SERVICE LAW FIRM

78 Mary Street, P.O. Box 40, Stn. Main, Barrie, Ontario, L4M 4S9
Phone.: (705) 737- 2123, Fax.: (705) 737- 2194

VENDOR'S MEMORANDUM

This Memorandum deals generally with the sale of land in Ontario and specifically with the sale of residential land. This outline is not intended to be relied upon to provide legal advice for any particular set of circumstances and liability for any such use is disclaimed. Always consult a Barrister and Solicitor who is qualified to practice law in the Province of Ontario for legal advice.

AGREEMENT OF PURCHASE AND SALE

The Agreement of Purchase and Sale is a contract for the purchase and sale of real property. It is this contract which sets out the terms of the sale and which governs the procedures followed during the course of the sales process. The contract must be in writing and contain certain terms, including a description of the land, the sale price, deposit, the closing date (the date on which the sale becomes final) and usually contains numerous other terms and conditions.

Once signed and accepted, it is a binding contract. There is no "cooling off" period allowing a vendor or purchaser to escape. The time to get legal advice concerning the contract is before it is signed, not after.

DOCUMENTS

It is your obligation as Vendors to deliver to us all documents reflecting your title to the property, including the following:

1. your Transfer or Deed;
2. copies of outstanding mortgages or an annual mortgage statement;
3. a survey, if available;
4. Tax bills;
5. copies of Utility bills;
6. Fuel tank capacity (if applicable)

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7. Rental Agreements (e.g. Hot Water Tank); and
8. your Contact Information including home/work and cell telephone numbers, e-mail address and after closing address.

STATEMENT OF ADJUSTMENTS

A standard Agreement of Purchase and Sale recites that the price which shall be paid, shall be "subject to the usual adjustments". Adjustments are usually defined by a term of the Agreement (in the small print of a pre-printed form) and include annual real estate taxes, mortgage principal and interest where a mortgage is being assumed and the value of a full fuel tank if heated by oil or propane or other unmetered fuel and rents.

Taxes

It is the Vendors' obligation to pay realty tax installments up to the day before closing on the due dates as set by the municipality. The day of closing and thereafter are the obligation of the new owner. Taxes are adjusted on the basis of the realty tax amount per day allocated between the vendors and purchasers regarding their proportionate period of ownership, with the day of closing allocated to the purchasers. If the installments of taxes paid are less than the vendors' proportionate share, the Vendors must allow the Purchasers a credit for the difference. If the installments of taxes paid are more than the vendors' proportionate share, the purchasers will be required to pay monies to the Vendors to reimburse the overpayment.

Mortgage Interest and Tax Account

It may be a term of the Agreement of Purchase and Sale that the Purchasers will assume an existing mortgage. If the closing date does not fall on a mortgage payment date, an adjustment is necessary. If, for example, mortgage payments are made on the first of the month, and the transaction closes in the middle of a month, the purchasers will have to make a full month's payment on the next payment date but will have been the owners for only part of month.

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The vendors will give a credit to the Purchasers for the interest which accrues for that portion of the month for which they were the owners.

Also, many mortgages require that the owners pay an amount on account of annual real estate taxes together with their mortgage payments. These payments form a fund which is used to pay taxes when they become due. If the fund is in a positive amount, the Statement of Adjustments shows a credit to the vendors; if a negative balance, the purchasers will be entitled to a credit for the deficiency.

Fuel Oil/Propane

If your home is heated by fuel oil or propane, it is not possible to tell with certainty how full the tanks are. The usual procedure is to have the tanks filled on the date of closing and the cost of a full tank credited to the vendors at the current price.

FIRE INSURANCE

Some years ago, a practice had existed of transferring fire insurance coverage from the vendors to the Purchasers, but this practice has been discontinued as many insurance companies refused to transfer coverage after a deal has closed, leaving the purchasers without coverage. It is our policy that purchasers must place their own coverage. You should speak with your agent to determine the best method of dealing with your coverage. NEVER cancel the policy until you have confirmed that your sale has closed.

NOTIFICATION OF UTILITIES

As part of our service to you, we will contact each of the utilities which serve your home and advise them of your upcoming transaction. We ask that you also speak with them several days before closing to confirm that final meter readings will be taken.

SOLICITOR'S ACCOUNT

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A solicitors' account is consists of two general categories of charges which are set out in a detailed account delivered with the transaction reporting letter. The first category is the solicitor's fee. It is payment for services rendered and liability undertaken. The second category is disbursements.

Solicitors' fees are charges for labour connected with the sale of a property, including:

1. receiving and reviewing the executed Agreement of Purchase and Sale;
2. preparation of the deed/transfer;
3. preparation of the Statement of Adjustments;
4. preparation of undertakings, direction for funds and other documents required to complete the sale;
5. contacting utility companies to read meters;
6. responding to the Purchaser's Solicitor's Requisition letter;
7. correspondence with the mortgagee prior to closing and obtaining a statement for discharge purposes with respect to the previous first mortgage;
8. delivering discharge funds to the mortgagee after closing in accordance with the discharge statement;
9. obtaining and registering a discharge of the mortgage and reporting to the purchaser's solicitor with registration particulars of the discharge;
10. meeting with you to sign all necessary documents;
11. meeting with the purchasers' solicitor to close the transaction; and
12. preparing the final report.

Work that is not standard in a transaction of normal complexity results in additional fees. Fees will be charged on a time and disbursements basis in accordance with the standard firm fee schedule in force from time to time. Additional services may include:

1. preparing Affidavits regarding Writs of Seizure or Sale;
2. reviewing Vendor take-back mortgages;
3. resolving outstanding work orders;
4. correcting boundary or title problems;
5. preparing additional documents; or
6. resolving disputes arising before or following closing.

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While these are only some examples where an additional fee would occur, in most sales, the transaction will be completed at the normal fee.

Disbursements are expenses which are spent by the solicitor on your behalf representing "money out of pocket". Some of these disbursements are predictable. However, some disbursements are not. Disbursements may include:

1. Registration fees paid for the registration of Mortgage Discharges;
2. Execution Certificates, as needed depending upon the terms of the transaction; and
3. administrative Expenses, which will vary with each transaction. Actual expenses which are spent on your behalf will be recovered. Expenses may include postage, photocopies, courier charges, mileage, long-distance telephone calls, facsimile transmissions, and other miscellaneous but necessary expenses.

DOCUMENTS TO BE SIGNED

A few days prior to closing, we will require you to come to our office and sign all necessary documents and review the transaction to that time. At that time, please bring a set of keys for your property, which will be delivered to the new owners' solicitor at the time of closing.

With the implementation of electronic registration in the Province of Ontario, it has become our standard practice to require that all vendors bring photographic identification with them to our office. Examples of acceptable photographic identification include:

1. Ontario Driver's License;
2. Canadian Passport;
3. Certificate of Canadian Citizenship;
4. Certificate of Naturalization;
5. Certificate of Indian Status issued by Government of Canada;

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6. Permanent Resident Card; and
7. Citizenship and Immigration Canada Form IMM 1000, IMM 1442 or IMM 5292

DISPOSITION OF SALE PROCEEDS

On closing, the balance due on closing is received in trust and applied in settlement of your obligations arising out of the sale. Typically, this will require that we pay:

1. Mortgage debt and Mortgagee's administrative fees;
2. Mortgage discharge registration fees;
3. our account;
4. Real Estate Commission, net of any deposit held by the agent; and
5. final utility accounts where a holdback is necessary.

Provided that the transaction has been closed while banks remain open, the balance of funds will be paid to you on the day of closing.

We hope the above information has been helpful to you, but should you have any questions or concerns, please do not hesitate to contact our office.