

Seeing A Lawyer About Buying a Home

Before you sign an offer to purchase a house.

Before you sign an offer to purchase a house your lawyer can advise you on the words to include in your offer to purchase a house.

You may want:

- 1.** escape clauses - a clause that will allow you to cancel your offer if you find out the house is not what you thought it was, if you cannot get a large enough mortgage to finance the purchase, or if you cannot sell your current house, etc.
- 2.** a guarantee that the property conforms to municipal by-laws, zoning regulations, and housing standards.
- 3.** a clause about who will pay insurance on the house between the time your offer is accepted and the closing date.

After the vendor accepts your offer to purchase Your lawyer will:

- check that the person selling you the house has the right to sell the house and that no one else has a claim to it (ie, mortgage holders, unpaid contractors, etc.)
 - check an existing survey of the property or arrange for a new survey to be done in order to make sure that the property is accurately described in sale documents and in the mortgage
 - contact the municipality or township to make sure that the property does not violate any by-laws or zoning regulations and that all taxes have been paid
 - contact the public utilities commission to find out if they are owed any money and let them know when you are becoming the new owner
 - talk to you about any special restrictions on the property (ie, others may have the right to use your property to get to their property or for hydro lines, etc.)
 - prepare and check mortgage documents and tell you what the mortgage says you must do
 - check the statement of adjustments, which shows the exact amount that you will have to pay the person selling the house on the closing date
 - explain the purpose of all the documents that you have to sign
 - do a last check at the Registry Office on the closing date, before money and keys change hands
- Questions to ask your lawyer.
- What parts of the process of buying a house will you take care of for me?
 - How much will it cost for you to do this legal work for me?
 - How much are the disbursements likely to cost?
 - What might change the amount of money I owe you?
 - What do I need to do before the closing date?
- exerpts taken from
Lawyers&Clients written by the Law Society of Upper Canada

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 searched 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 lawyers 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 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 new 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 of 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 Acknowledgement 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 below addresses specific questions you may have about each option, and is designed to assist you in making the most appropriate decision in your situation. *TitlePLUS is offered by the Lawyers¹ Professional Indemnity Company (LPIC), which is owned by The Law Society of Upper Canada. The Law Society is the governing body of the legal profession in Ontario. To Practice 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.

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 of 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 in 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.