

Buying A House

By Lorren Wilson

One of the most exciting times in our lives is when we are in a financial position to purchase a house. Before you start planning that house warming party here are a few things for you to consider. It's a good idea to make an appointment with your property lawyer to discuss the details of the purchase before putting pen to paper on a sale and purchase agreement. Keep in mind that the more information you have at hand will result in less time in your lawyer's office and more time in the furniture store. The following checklist will make your visit smooth, fast and less expensive.

The name, address and telephone numbers of all the people involved in the transaction is essential. This includes the name of real estate agencies, if applicable, and the name of the lawyer acting for the seller. When providing names remember to include middle names. Phone numbers and email addresses are helpful because people will need to be contacted during the course of the transaction.

Identify the property you are purchasing.

This may seem obvious, however people often purchase property and do not know where the boundaries are. Ask the seller to show you the boundary stakes. It only makes sense to know what you are buying. The full address of the property being purchased is also essential. If you're not sure of the address, visit the land valuation website www.landvaluation.bm.

Is the property freehold or leasehold?

Here's a useful tip, if it's an older condominium it's probably leasehold. Your lawyer will discover this information on examining the title deeds, however it doesn't hurt to give him a heads up!

Is the property being sold with vacant possession?

This can be important when negotiating the purchase price. More importantly, you want to know whether you're going to have a roof over your head when all is said and done.

Is the present use of the property consistent with your intended use?

Check the zoning. You may wish to make the purchase contingent on a successful change of use application. If you are purchasing the property with someone else, decide whether the property is to be held as joint tenants or tenants in common. There are real consequences to this distinction and your lawyer will explain them to you.

What is the purchase price?

The purchase price has an impact not only on the sort of financing you will need, but also on the stamp duty payable on the conveyance and mortgage (if necessary). Stamp duty is a whole topic in itself so I won't go into great detail here, suffice to say that the lion's share of the costs associated with buying a house goes in the form of stamp duty on the conveyance. Your lawyer will advise of the likely

legal costs and stamp duties (and certain “hidden” costs) that will come with the purchase. Also keep in mind that the cost of a mortgage is usually the sole responsibility of the purchaser. When estimating the amount of money you will need you should be aware that a lending institution will usually charge a finder’s fee for your loan. It’s always best to use “worst case scenario” figures when estimating costs, so that at the end of the day you will have more money rather than less to allow for contingencies. Careful planning at this stage will ensure that you don’t come up short when asked to pay the full amount on closing.

While there is no requirement for a purchaser to pay a seller any money before the sale and purchase agreement is entered into, it is common as a show of “good faith”. Tell your lawyer if you have paid a preliminary deposit. He will want a receipt for the payment and will take it into account when calculating the deposit needed later on when you sign the sale and purchase agreement.

All too often after purchasing a house the purchaser goes in only to find the place completely gutted. No stove, no fridge no chandelier, nothing except the shell of a house. Disappointment is easily avoided by simply asking the seller what’s included in the purchase price and getting a list of those items. There may be some negotiations on whether the items are included in the purchase price or are to be sold separately as chattels.

Confirm the completion date with the seller and your lending institution. Traditionally it takes thirty days from the execution of the sale and purchase agreement to complete the sale and purchase of a house. This is by no means set in stone so be sure to be clear.

Is a structural survey required?

Remember the Latin maxim “caveat emptor” (let the buyer beware). Consider where you will insure the property. Although the “standard sale and purchase agreement” provides that it’s the seller’s responsibility to insure the property until completion, most lending institutions will not release mortgage funds until and unless they have proof that the property has adequate insurance post completion with their interest as mortgagee noted on the policy.

Having the above information to hand on your first lawyer’s visit will greatly assist. If nothing else, you’ll really impress your lawyer with your diligence!

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