

## ***Some Common Concerns When Buying and Selling Property***

Prospective buyers and vendors raise the following concerns when they are considering buying or selling real property. It is certainly not an exhaustive list of the common concerns that arise; however, they do represent issues that any prudent home buyer should consider when contemplating a major investment of this nature.

### ***There is no survey and the bank indicates that they will accept Title Insurance in lieu of a survey.***

You should know that Title Insurance is not a substitute for a building location survey. If you really want to know the size of the lot that you are purchasing; whether or not it complies with building and zoning by-laws; whether or not there are easements, right-of-ways or encroachments onto the lands, then you need a building location survey completed by a licenced Ontario Land Surveyor. If you do not want to obtain a survey, title insurance is an option but you should know that there is only one Title Insurance product on the market that addresses the survey issue. It is available only through lawyers and it is called "Title Plus". Again, however, this is not a substitute for a survey but may provide you with a defense should issues arise in the future such as whether or not there are encroachments or whether or not the building complies with local building and zoning by-laws. In short, if you really want to know what you are buying on the ground, purchase a survey if it is not available from the Vendor.

### ***You have never had a well and you have concerns about the fact that a municipal water supply is not available.***

The first thing that you have to be concerned about is whether or not the water that the well produces is potable. You should insist that the Vendor provide you with water potability certificates from the local health unit. It is a good idea to require an up-to-date one as well as one done within the last 6 months and better yet, ask the Vendor for old certificates in order to give you a picture of the stability of the well's potability. Further, you will need a Well Driller's Certificate indicating how much water the well produces as a result of their testing. You will also want a warranty set out in the agreement by the Vendors that the well has produced sufficient potable water for normal household use. If you are thinking of buying a vacant lot on which to build your dream home, it would be wise to make the closing of the transaction conditional upon you having a well drilled producing potable sufficient water. This would let you out of the transaction should it turn out that you cannot obtain a satisfactory water source on a rural property without municipal servicing.

### ***The home is older but looks structurally sound.***

If you are buying an older home, it is always a good idea to have a qualified independent building inspector attend at the property in order to assess the building and provide you with a report as to the state of the structure. You may want to insist that the Vendor make any of these repairs found necessary by the inspection or you may decide that the property simply isn't worth it. You should realize that a building inspector of this nature does not examine the condition of chattels, wells or septic systems. If you are purchasing a property with a septic system, it is important to insist that the Vendor produce to you the permit from the local health unit or municipality indicating that the system was installed in accordance with all local health regulations. If there is any doubt or if it is an older system consider having an independent septic system contractor attend the site and determine whether or not the system is in a state of good repair. Again, you should insist upon a Vendor's warranty that the septic system was installed in accordance with applicable health regulations and that it operates satisfactorily without problem.

### ***How can we buy and sell and move as well?***

When you need to sell before you can purchase and are concerned about your ability to move in on closing day, you may want to consider Bridge Financing. Bridge Financing would allow you to purchase your home before you sell. The extra time that you have will allow you to do painting, cleaning and any

minor repairs before you have to leave your existing property and move into your new home. There are costs and other considerations in relation to Bridge Financing that you should discuss with both your banker and your lawyer.

***So what does it cost?***

Often a realtor will suggest a lawyer who provides their clientele with a discount on legal fees. All I can say is Buyer Beware! You need a full service, experienced lawyer who not only understands the nature of buying and selling real estate, but when things go wrong, can advise you how to keep a transaction together and what to do when a deal simply falls apart. The bottom line is, you get what you pay for. A real estate transaction is more than pushing paper and requires coordination with your lending institution, surveyor, insurance agent, real estate agent and all the others who will be involved in your purchase and sale.

Finally, always consider changing the locks on a house that you purchase. One never knows who a Vendor has given keys to. When you enter your new home, you want to feel safe and secure. This is also a good time to insure that adequate smoke alarms and carbon monoxide detectors, which are in good working order.

The foregoing are not necessarily legal issues, but addressing these matters will insure that your real estate purchase or sale is a happy, positive occasion.

*The opinions expressed are for information purposes only and readers should consult with a lawyer in relation to specific cases.*