

Things you need to know before buying a house

Authors: Bjorn Christianson, K.C., Lucy Kinnear, Mason Broadfoot

published 03/21/2018

Do you have questions about the Offer to Purchase? You can call us *before* you sign the Offer!

What does my lawyer need from me?

- Copy of accepted Offer to Purchase;
- Your current mailing address, phone number(s), and occupation(s);
- Name of your bank or credit union and contact person; and
- Name of your house insurance agent



How much will my closing costs be?

Closing costs vary depending on the price of the house and the requirements of your Mortgage lender. Most house purchases involve the following closing costs:

- Legal fees
- Land Transfer Tax
- Land Titles Office fees
- Survey or Title Insurance fees, and
- Tax Certificate fee

When do I place house insurance?

You should arrange your house insurance well in advance of the Possession Date.

If you are getting a Mortgage, your bank or credit union will require confirmation that they have been listed as first loss payable on your house insurance policy.

How are property taxes adjusted?

If the Possession Date is **before** the date the taxes are due in your municipality, a tax adjustment is usually **deducted** from the purchase price.

The tax adjustment is calculated as:

[Net Taxes/365 days] X [# of days in the year *before* Possession Date]. For example:

February 1 is the Possession Date
January 1 to February 1 = 31 days
Net taxes for year are \$1,200
 $\$1,200/365] \times 31 = \101.92

If the Possession Date is **after** the tax due date, a tax adjustment is usually **added** to the purchase price.

The tax adjustment is calculated as:

[Net taxes/365 days] X [# of days in the year *including and after* Possession Date]. For example:

December 1 is the Possession Date
December 1 to December 31 = 31 days
Net taxes for year are \$1,200
 $[\$1,200/365] \times 31 = \101.92

Can the Buyer and Seller share a lawyer?

If everyone agrees, yes. Usually, both the Buyer and Seller will receive their own bill detailing the legal fees. The Buyer's fees are typically higher, because more work is involved with preparing the Mortgage paperwork. Land Transfer Tax and registration fees are a cost to only the Buyer.

Advantage of using same lawyer:

Generally the sale is completed faster, because no documents have to be mailed to another lawyer.

Potential disadvantage of using same lawyer:

If a dispute develops between you that the lawyer cannot resolve, the lawyer may not be able to act for either side. Both sides will need to get new lawyers thus running the risk of the deal costing more or taking more time to be completed.

What does my lawyer do?

- Obtains Mortgage Instructions from your bank or credit union;
- Confirms property taxes are current;
- Contacts your insurance agent to confirm house insurance is in place;
- Prepares Purchase and Mortgage documents and meets with you to sign them;
- Obtains the Purchase funds from you and your Mortgage lender;
- Holds any money in a secure trust account
- Sends the Purchase funds to the Seller's lawyer;
- Ensures the Seller's Mortgage and any unwanted liens are removed from the Title;
- Registers the Transfer and Mortgage documents at the Land Titles Office; and

- Updates your Will, if you would like.

What is Land Transfer Tax?

Land Transfer Tax is collected by the government when transfers of land take place. It is paid by the Buyer, when the Transfer is sent to the Land Titles Office.

The amount of the tax is based on the fair market value of the property.

0% - between \$1 - \$30,000

0.5% - between \$30,001 - \$90,000

1.0% - between \$90,001 - \$150,000

1.5% - between \$150,001- \$200,000

2.0% - over \$200,000 (without limit)

Utilities

Before the Possession Date, you should contact Manitoba Hydro and the municipal water department (if applicable) to set up

What is a Survey?

A Survey (also known as a Building Location Certificate) is a sketch of the property prepared by a licensed Surveyor that details the location of all buildings on the property.

Without a Survey, you cannot be sure that the buildings and structures purchased are located within the property lines, or that it is free from encroachments by buildings or structures on adjoining properties. For this reason, we recommend that you obtain a current Survey to protect your own legal and financial interests relating to the property.

What is Title Insurance?

Instead of getting a new Survey, you can obtain Title Insurance. Title Insurance is intended to cover you for any loss you suffer in the future as a result of not having obtained a new Survey. Title Insurance is generally less expensive than a Survey.

How should we take Title to the property?

If more than one person is to be the owner, you should consider whether you wish to take title as “joint tenants” or as “tenants-in-common,” the main difference being what happens to the property upon death of either co-owner.

As joint tenants, when one of you dies, the survivor is automatically entitled to ownership of the entire property.

As tenants-in-common, the survivor shares the property with the deceased person's heirs.

When will I receive the house keys?

If you used a Realtor to find the house, you will receive your house keys from your Realtor or your lawyer on the Possession Date.

If no Realtors were involved in the purchase, you will likely receive your house keys from your lawyer or directly from the Seller.

We recommend that you walk through the house on the Possession Date to make sure that everything included in the Offer to Purchase is still there. Any appliances, windows, etc. that are in significantly worse condition than when you made the Offer should be reported immediately to your Realtor or lawyer.

How long does this process take?

On average, once your Mortgage has been approved and all conditions of the Offer to Purchase are satisfied, and once we have received Mortgage Instructions from your lender, it will take us around 2 weeks to get your paperwork ready to sign.

You will need to sign your papers with us, and bring in your down payment and closing costs, at least 3 business days before the Possession Date.

On the Possession Date, the Transfer and Mortgage papers are sent to the Land Titles Office for registration. Registration usually takes 3 to 4 weeks.

Once the Land Titles Office has completed the registration, we will report to you with your new Title.

DISCLAIMER: *This article is presented for informational purposes only. The content does not constitute legal advice or solicitation and does not create a solicitor client relationship. The views expressed are solely the authors' and should not be attributed to any other party, including Thompson Dorfman Sweatman LLP (TDS), its affiliate companies or its clients. The authors make no guarantees regarding the accuracy or adequacy of the information contained herein or linked to via this article. The authors are not able to provide free legal advice. If you are seeking advice on*

specific matters, please contact Keith LaBossiere, CEO & Managing Partner at kdl@tdslaw.com, or 204.934.2587. Please be aware that any unsolicited information sent to the author(s) cannot be considered to be solicitor-client privileged.

While care is taken to ensure the accuracy for the purposes stated, before relying upon these articles, you should seek and be guided by legal advice based on your specific circumstances. We would be pleased to provide you with our assistance on any of the issues raised in these articles.