



TERMS USED IN A TYPICAL REAL ESTATE TRANSACTION

Below are some terms and a basic description of what they mean. The definitions are not full and complete, but, they will help a buyer or seller understand the terms.

CONDITIONS

Items needed to be satisfied before an offer to purchase becomes a firm deal, for example, the arrangement of financing satisfactory to the purchaser.

CONFLICT OF INTEREST (ETHICS)

A lawyer can sometimes continue to act even if a conflict of interest exists or presents itself. A lawyer may represent both the Lender and the Borrower in a typical house purchase transaction. However, a lawyer cannot act for both the Vendor and the Purchaser in a typical arms length Purchase of a house.

DEED

The deed is the written document that is signed, acknowledged and delivered by the seller of the real estate to the buyer by which the seller transfer the real estate. As this is the document evidencing and affecting the transfer, it is critical that the document be drafted with clarity. Ambiguous language in a deed can be the source of title different types of deeds can affect the seller's liability in the future. The use of a lawyer knowledgeable in real estate can ensure that the proper transfer is made. While there are many reasons to transfer deeds, you'll generally need to do so if someone's name is removed or changed on the property title. To ensure a legal change to the property title, you'll want the services of a real estate attorney. A qualified real estate attorney will prepare and file the real estate transfer deed. Be prepared to provide basic information about both the property in question and the individuals who need to be listed on the title. The real estate attorney will do an inquiry to establish the legal description of your property. He will also confirm the current owners whose names appear on the deed. Usually this process will fall into one of three categories:

1. For a transfer to a trust, a certificate of trust or abstract of trust needs to be supplied.
2. For a transfer to a business, a certificate of formation or article of incorporation needs to be provided.
3. In case of the death of a co-owner on the current deed, a legal copy of the death certificate will be needed and an affidavit will be arranged. Sign the new real estate deed. It will be filed with the appropriate county recorder's office. Usually the filing and recording process takes from four to eight weeks, and you will receive the new real estate deed in the mail.

ENCUMBRANCE

Something that attaches to land that diminishes the value of it, such as a mortgage, a construction lien, a writ of execution or even a right of way.

ESCROW CLOSING

A way to allow lawyers to receive documents and funds in a type of trust arrangement before the final closing happens.

FEES

The money a lawyer charges for the work

KEY (FOR ELECTRONIC REGISTRY SYSTEM)

An electronic data file with passwords.

LAND TRANSFER TAX

A tax that is paid by the buyer when a property is purchased.

MORTGAGEE

The person who lends the money, also called the Lender. Often the mortgagee is a bank, but, an individual or a company that is not a bank can also lend money.

MORTGAGOR

The person who borrows money, also called the charger.

PLANNING ACT

A piece of legislation that is used to help control the manner in which land is subdivided

PROPERTY TRANSFER BETWEEN RELATIVES

Sometimes an aging parent wants to give legal responsibility for their home to their child. If the property has a mortgage on it, the child who receives the property will need to get a loan before completion of the property transfer. Next, the parent will complete a “quitclaim deed,” or deed of release, to transfer ownership. This is sometimes a recommended process for people who are related, as it’s rather straightforward and doesn’t require a lawyer. A notary must be present when signing the deed. The notary will sign and stamp it, making it legally binding. Depending on your location, you may need the signatures of additional witnesses. Be sure to photocopy the document, distribute it to all parties and file the quitclaim deed with the local land records office where the property is located.

REGISTRATION

People used to meet in person at a registry office and exchange documents, keys, and money. Now documents are typed and exchanged through an escrow arrangement with each lawyer at their own separate offices. Once everyone has what they need, the documents get registered electronically (with the exception of the few properties that remain in the old paper registry).

RETAINER

An agreement with your lawyer regarding the services that he or she will provide, and the amount of money you will pay as a deposit toward fees and disbursements.

TENDER

Presentation of items required to close the deal.

TITLE INSURANCE

A type of insurance that protects property owners against things like unpaid property taxes or unknown defects on the title.

TITLE SEARCH

A search to retrieve documents on a piece of real property in order to determine whether there are any outstanding encumbrances and what the nature of the encumbrance is if there are any, whether the person who claims to be selling the property is the registered owner, and whether or how the purchaser will be able to gain access to the property. Title searches are one of the most important steps in a real estate transaction. A title search identifies those who have claims against any current or past owners of a property. It also provides information on the legal owner of the property, and lists all recorded documents that affect the property. This is important step in ensuring that a buyer is obtaining clear title to the property free of encumbrances. At Agnihotri | Anwar LLP, we carefully review title, and take the time to explain the results to you and actively pursue the satisfaction of any claims prior to closing to ensure a smooth real estate transaction and a happy client.

STATEMENT OF ADJUSTMENTS

A documents that shows how much money the purchaser has to pay including credits for pre-paid property taxes. On a resale property, adjustments include items that have already been paid for by the seller that benefit the buyer after the closing date, which are pro-rated, and a credit is given to the seller as an adjustment on closing. These include, realty taxes, prepaid condominium fees, and/or fuel oil. On a new home bought directly from a builder, adjustments are larger than adjustments on a resale property as these adjustments may include hydro, water meter installation costs, Tarion New Home Warranty Enrolment Fee, boulevard tree planting, grading deposit, gas water heater, driveway paving, educational lot levy, municipal fencing and more.



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