



LAFRENIÈRE SANNA
— ESTATE LAW —
A B O U T I Q U E F I R M

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Insuring Title to Your Property

Options for You

As required by Rule 3.2-9.4 of the *Rules of Professional Conduct*, all lawyers acting for purchasers of real estate properties situated in Ontario are required to advise their clients as to available options with respect to insuring the title to their property. Such options may include: a lawyer's opinion on title; or purchasing a title insurance policy from various title insurance companies operating in Ontario.

It is our law firm's practice to advise that you obtain title insurance policy from a reputable title insurer – instead of us providing with a legal opinion in respect to your title. There are several reasons for the above position. First, in the event if we rely on inaccurate and/or incomplete information received from survey (if any) and/or from various governmental offices, there could be a high risk of adversary consequences. Secondly, we as lawyers cannot provide you with any opinion or protection from losses with respect to title fraud.

What We Advise and Why

Instead of providing you with a legal opinion on title, we will give our opinion to the title insurer who in turn issues a title insurance policy to you. A policy of title insurance will insure you against losses resulting from the various covered matters in the policy, including the matters that we would otherwise be giving an opinion to you, such as:

- (i) Your title being defective or unmarketable because of someone else owning an interest in it;
- (ii) Outstanding liens, work orders or encumbrances;
- (iii) Realty tax arrears;

- (iv) Survey-related matters, including encroachments (other than fences and boundary walls) and violations of municipal set back requirements.

Coverage for losses applies to the extent that these matters exist as of the policy date (being the date your transfer/deed is registered) but that are unknown to you at that time. However, as with all insurance products, title insurance does not cover defects which you are aware of prior to the closing of the transaction (such as adverse circumstances disclosed in a home inspection report or seller property information statement) or which you may have agreed to in your *Agreement of Purchase and Sale*. You should also be aware of other exceptions, such as environmental matters and First Nations land claims.

It is not a home warranty and does not guaranty that your home will be free of defects or that it is constructed well. It is also different from fire insurance policy which covers the replacement cost of your real estate in the event of insurable events.

The benefits of a title insurance policy include:

- Acceptance by most lenders of a title insurance policy instead of an up to date survey (which is often required by a lender), therefore, this option can allow you to save the cost of obtaining a new survey in the event if your lender requests such a survey;
- Coverage for loss or damage arising from many forms of title fraud;
- A no fault claims process such that you will not have to pursue a lawsuit to obtain recovery for a covered matter;

- Coverage for legal fees related to defending your interest in title for matters covered under the policy;
- Coverage for off-title searches, therefore, this option can allow you to save the disbursements costs payable to law firm for performing such off-title searches. However, in certain circumstances, such as where the size of the property is important or if you are planning on adding onto an existing structure or changes to the use of the property are contemplated, we recommend that certain off-title searches be done even if title insurance is being purchased. If this is the case, please advise our law firm as soon as possible.

Our law firm recommends our client to proceed with title insurance because of the additional benefits it provides beyond what can be provided

in a legal opinion on title. Please contact our office immediately to advise as to whether you wish to opt for a legal opinion on title or if you wish to title insure your transaction (a sample title insurance policy can be provided upon request), as your decision will affect the manner in which we proceed with your transaction.

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