



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

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Selling Real Estate

Selling real estate is a big deal. For most of us, it is something we only do once or twice in a lifetime. Unfortunately, sometimes things don't go as planned. All too often problems could have been easily avoided.

To ensure your sale goes as smoothly as possible, here are some things to consider (wherever we say 'agreement', we are referring to the 'Agreement of Purchase and Sale' or Offer which you and the purchaser signed):

- Have your lawyer review all offers and amendments before you sign.
- We strongly recommend that you not provide a Sellers Property Information Statement (SPIS).
- Make sure that fire and liability insurance are in force and paid up. Only cancel when the sale is completed. Remember, the property remains at your risk until the sale is 100% completed.
- Before closing day, move all personal items out except those that you agreed to sell with the property. Once the sale is completed, you cannot re-enter the property.
- If you agreed to sell something with the property, you must leave the exact item that the purchasers saw when they agreed to purchase it. For example, if you agreed to sell the appliances, you cannot switch out the appliances for older models.
- Fixtures such as ceiling lights or any other items physically attached to the premises must not be removed unless agreed to in the agreement. If you are not sure what would be considered a 'fixture', ask your lawyer.
- Before closing, give one key to your lawyer who will hand it over on closing. Leave all other keys on the kitchen counter along with mailbox keys, garage door openers, etc.
- Unless it is a condition of your agreement or special arrangements have been made in writing, do not allow the purchasers to enter the property before the deal closes.
- If your property is rented, your lawyer will need the name of the tenant, the amount of rent, when it is due, the amount of any last month's rent deposit, the date when the tenancy started, details of any rent increases, who pays for utilities, etc.
- Until closing, it is important that you maintain the property in the same state as when the purchaser originally saw it.
- Make sure the property is heated continuously during cold weather as any damage resulting from lack of heat is your responsibility to repair.
- If the property will be sitting empty for more than a day or two at any time before closing, make arrangements with your house insurance representative to continue coverage. If your insurer is not notified and if a break-in or other damage occurs, your insurer could refuse any claim.
- If your property is heated with oil, let your lawyer know the size of the oil tank and have the oil tank topped up the day before closing.
- After closing, do not pay any taxes or water bills, except as advised by your lawyer. Make payments that are due before closing. If you are unable to make a payment that is due before closing, let your lawyer know in advance.

- Your sale proceeds must be used by your lawyer to pay off any mortgage including interest, pre-payment penalties, and related charges.
- Provide your lawyer with the name and address of your mortgage company and your mortgage account number. Continue making your regular mortgage payments up to the closing date. Your lawyer will usually have to pay at least a day's extra interest as the final mortgage payment cannot usually be delivered to the bank on the day of closing.
- If your sale closes on a Friday and there is a mortgage to be paid out, three days interest will be payable. However if it is a holiday weekend, four days interest will be payable.
- Make arrangements with the post office to forward your mail.
- As soon as possible, provide your lawyer with your title deed, current tax bills and assessment notice, water bills and other documentation, and, if you have one, a survey. Make a note of any additions or deletions that are not shown on the survey.
- Advise your lawyer if you will be a non-resident of Canada for tax purposes on the day of closing. If so, special steps must be taken to obtain clearance from Canada Revenue Agency and it may be necessary to withhold some funds. If this applies to you, advise your lawyer as soon as possible.
- If the property you are selling is a recently-built home, let your lawyer know if the New Home Warranty is still in effect and provide details.
- If you and the purchasers agree to make any changes to the agreement, for example, change the closing date, let your lawyer know immediately.
- If the property has not always been your personal residence, advise your lawyer and review with your accountant whether or not you must collect GST from the purchaser.
- On the day before closing, arrange for a reading of the hydro meter and gas meter and ask for the bill(s) to be sent to your new address.
- If you know of any special matters relating to the property such as unregistered easements, etc., let your lawyer know promptly.
- Make sure your lawyer has your new address and phone number, so that correspondence can be sent to you after closing.
- Unless certain circumstances apply, a lawyer cannot act for both the buyer and the seller. Speak to your lawyer in advance so that your situation can be reviewed to determine if yours is an exception.
- Although we make every effort to deposit the sale proceeds into your account promptly after closing, there is no guarantee that the funds will be in your account the same day or the next business day. You should also know that funds may not be certified, therefore your bank may hold the funds for a few days to make sure the cheque clears. If the buyer's lawyer agrees to provide us with a certified cheque or bank draft, your bank should not hold the funds. However, if you are concerned about a possible hold by the bank, you should review this with your bank.

Without a doubt, selling real estate can be an exciting venture. It is important to turn your attention to the many areas where issues can arise to ensure your sale goes off without a hitch.

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