

MULLIN DEMEO

BARRISTERS & SOLICITORS

The Lawyer's Role in a Sale Transaction

Here is a list of some of the tasks that your lawyer may attend to in assisting you when you sell your property. The list may vary, however, as each sale is unique:

1. Review the Contract of Purchase and Sale and advise of potential problems, if any.
2. Conduct a search of title, in order to determine which registered encumbrances, such as mortgages, judgments, tax liens, builders liens, or notices, must be paid out or dealt with and discharged from title prior to the transfer of ownership.
3. If the property being sold is a rental property, assist the Seller in giving notice to the tenant to vacate the property (if necessary).
4. Obtain a mortgage balance statement from the Seller's mortgage lender, to determine the amount necessary to pay and clear the mortgage balance on the day of closing.
5. Review transfer documents received from the Buyer's Lawyer, including: Statement of Adjustments (showing debits and credits for Seller and Buyer for such items as purchase price, municipal property tax, strata fees, where applicable, water account, tenant rent or damage deposits, real estate agents' commissions, and deposits paid by Buyer), Transfer of Title, Strata Act forms (if the property being sold is strata title) and Statutory Declaration concerning Survey Certificate.
6. Discuss with the Buyer's lawyer, and resolve, any problems concerning title issues and/or accuracy of figures.
7. Arrange for clearance certificate from Revenue Canada if the Seller is a non-resident of Canada for the purposes of the Canada *Income Tax Act*.
8. Meet with the Seller to review and sign all documents, including the Seller's Statement of Adjustments, Mortgage Payout Statements, and transfer documents.
9. Return necessary documents to the Buyer's lawyer with appropriate undertakings as to the discharge of mortgages and removal of other objectionable encumbrances from title.
10. On the completion date, receive funds from the Buyer's lawyer, pay out the Seller's mortgage balance to lender, and pay out any other amounts as may be required, such as back property taxes, and real estate commissions. The lawyer will then pay the balance of the sale proceeds to Seller.
11. Prepare and forward mortgage payment and discharge documents to mortgage lender; prepare and forward any other encumbrance discharge documents to other parties and register discharge documents at Land Titles Office when returned.
12. Report to the Buyer's lawyer with discharge particulars when received from Land Title Office.