

COURTESY OF DE RUBEIS LAWYERS

KNOW THE FACTS

WHEN YOU PURCHASE OR SELL YOUR HOME IN ONTARIO

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DE RUBEIS LAWYERS

REAL ESTATE

PURCHASES

We are pleased to offer the following closing costs for single family urban residential properties with a purchase price of \$500,000 or less and with one mortgage:

\$1,495.00 + HST, Exclusive of disbursements (i.e. utilities and title searches, title insurance, mortgage preparation and mortgage and deed registrations).

NOTE: Land Transfer Tax is an additional expense and payable at the time of closing. It is based on the purchase price and possible rebate for first time buyers.

* Additional mortgages (or secured properties, or bridge loans) add \$300.00 each

* No mortgage - subtract \$300.00

* new home purchase - add \$300 - includes review of agreement of purchase and sale, additional documents to be reviewed and signed

* Condominiums:

- status certificate review included (\$300 if purchase is not completed)

- interim closings - add \$400.00

* Tenanted, Commercial/Industrial, Rural/Cottage Properties are quoted on a case by case basis

SALES

We are pleased to offer the following closing costs for single family urban residential properties with a sale price of \$500,000 or less and with one mortgage to be paid off or discharged:

\$1,125.00 + HST
EXCLUSIVE OF ALL DISBURSEMENTS.



The above costs are for transactions involving an average amount of time and complexity. Tenanted, Commercial/Industrial, Rural/Cottage Properties are quoted on a case by case basis as additional time, documents and disbursements are usually required.

These rates are effective January 1, 2021 and are subject to change without notice.

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About De Rubeis Lawyers

Home Buyers

Your Lawyer's Role When Buying a Home

The primary role of your solicitor in your real estate purchase is to conduct searches and make inquiries as are necessary to assure your home is free and clear of any liens or encumbrances and to answer any concerns you may have about the transaction. Generally, you contact your solicitor once the offer has been accepted however, you may wish to contact him prior to submitting the offer if there is anything you do not understand about your agreement of purchase and sale. This valuable service is usually available at no cost to you.

At the outset, your lawyer will recommend to you the best manner of assuring your ownership in the home. This assurance may be in the form of a written opinion of title or a policy of title insurance or a combination of the two. In either case, certain searches and inquiries will be conducted as a basis for the opinion and/or title insurance policy. The solicitor is generally charged a fee by the various government departments to conduct these searches and inquiries and passes these fees on to you. These fees are known as disbursements.

If you are purchasing the home together with another person, you will be asked the manner of "taking title." Spouses often-



take title as joint tenants which means equal ownership and, on the death of one owner, the property passes automatically to the surviving owner. The other option is to become co-owners as tenants-in-common. This way, there is no automatic right of survivorship as the deceased person's interest passes to his or her heirs by will or succession laws (if no will exists.)

TITLE SEARCH

Your lawyer will conduct a search of the title to the property prior to the date for requisitions contained in your agreement of purchase and sale (see Paragraph 8 of the OREA Agreement). The search is conducted in the appropriate division of the Land Registry Office to determine if the vendor is in fact the owner of the property and has the right to sell the lands. This search will also reveal any mortgages or easements affecting the title. If the solicitor finds any problems on title he will notify the vendor's solicitor of his concerns and the vendor's solicitor is required to answer or solve those problems.

On the closing date the title search is updated to ensure no other registrations have taken place since the property was originally searched.

UTILITIES AND TAXES (INCLUDING LOCAL IMPROVEMENT CHARGES)

Your solicitor directs enquiries to the local authorities for gas, electricity, water consumption or sewer charges to determine the status of the accounts and to determine if there is any rental equipment on the premises. Enquiries are also made of the City to determine the status of the realty taxes and any local improvement charges a new owner may face. These enquiries are conducted because arrears of these utility charges and taxes can form a lien on the property.

BUILDING, ZONING AND SURVEY

Your solicitor directs an enquiry to the Municipal Building Department to determine if the building and structures on the property comply with the zoning by-law as they relate to the location of the structures and the use of the property (e.g. single family or multiple family). In addition this enquiry will determine if the building department has any outstanding inspections or orders for work to be performed on the property.

In order to obtain a complete answer to an enquiry, the solicitor must submit a plan of survey of your property. A survey shows the exact location of all structures and improvements on the property in relation to the lot lines. Without the plan of survey, your solicitor cannot determine whether the location of the buildings and structures comply with the applicable zoning by-laws.

If a plan of survey of the property is not available, a new one can be ordered or alternatively a policy of title insurance may be purchased which insures the owner and lender against the risk of any forced removal of non-conforming structures or improvements because of non-compliance with the applicable by-laws.

SEARCH FOR WRITS OF EXECUTION

Your solicitor conducts a search for writs of execution in the appropriate Sheriff's Office or Enforcement Office to determine if there are any judgements filed that would affect your property. This search is done by name. The vendor and previous owners are searched. An execution arises when a creditor obtains a judgment against a debtor for an amount of money. This judgment when filed in the Sheriff's Office or Enforcement Office forms a lien against that debtor's property.

Writs of execution will also be searched against you as purchaser if you are placing a mortgage on the property you are purchasing. This is to ensure there are no judgements against you that would affect the mortgagee's interest in your property. Your lawyer searches writs of execution prior to the date he must make requisitions of the vendor and again on the closing date. The cost of the search is \$11.00 per name.

CONDOMINIUM STATUS CERTIFICATE

This search is only applicable if you are purchasing a condominium. The certificate provides your solicitor with :

- (a) insurance particulars for the Condominium Corporation;
- (b) the amount of money in the reserve fund which fund is used for repairs and upgrading of the common elements;
- (c) details of any lawsuit against the condominium corporation; and
- (d) the amount of the common element fee and the standing of the common element account.

COMMUNICATION WITH THE VENDOR'S LAWYER

When your solicitor has completed all of his initial searches, he will write to the vendor's solicitor outlining any problems or concerns that have been revealed by these searches. In addition he will enclose in this letter documents he has prepared and which he requires the vendor to sign.



These documents may include written promises by the vendor to pay all utilities charges and realty taxes up to the closing date, warranties and a declaration regarding the vendor's possession. This correspondence is generally referred to as the Purchaser's Requisition letter. This letter must be sent prior to the requisition date commonly found at paragraph 8 of the standard OREA Agreement of Purchase and Sale. Therefore, it is important that the agreement of purchase and sale be given to your solicitor well before the requisition date to afford him time to complete his searches.



FINANCING

If mortgage financing is required to complete your transaction these arrangements should be made and a written commitment issued by your lender prior to making your agreement of purchase and sale firm and binding. Prior to signing your mortgage commitment you may wish to consult with your lawyer to ensure you understand its terms and that sufficient funds to close the transaction will be available. Once you have accepted the financing being offered, provide the financial institution with your solicitor's name and address. The financial institution will then forward its instructions to your solicitor along with the mortgage proceeds for closing.

HOME OWNER'S INSURANCE

Prior to the closing date, you must arrange home owner's insurance to cover the property from and including the day of closing. When you contact your insurance broker you must advise him of the name and address of any mortgage lenders. In addition, your insurance broker must send a letter to your solicitor confirming insurance coverage for yourself and the mortgage lenders.

NEW HOME PURCHASES

If you are purchasing a new home, you must complete an inspection of the home under the Ontario New Home Warranty Program prior to closing. This inspection is arranged with your builder. At this time, you will complete a form known as a Certificate of Completion and Possession which will include any building deficiencies revealed by your inspection. Proper completion of this certificate requires the builder to rectify any deficiencies noted thereon within a limited time period depending upon the nature of the deficiency. You should arrange this inspection prior to your final meeting with your lawyer as he requires this certificate to complete the transaction.

SIGNING DAY AT YOUR LAWYER'S OFFICE

A few days prior to closing, your lawyer will contact you to arrange an appointment and advise you of the exact amount of funds required to close your purchase. At this time, you will be required to bring in the balance of the closing funds by certified cheque payable to your lawyer in trust. All items relating to your purchase will be reviewed with you. You will be signing various closing documents such as a mortgage and a land transfer tax affidavit.

CLOSING DAY

Your lawyer will make arrangements with your mortgage lender to pick up the mortgage funds. Your lawyer will also arrange to send the closing funds and any other documentation to the vendor's lawyer. The vendor's lawyer will forward the deed of ownership and keys to your lawyer. Once this exchange is completed, your deed of ownership will be registered and keys will be made available at the lawyer's office for you to pick up. Since the actual closing time is subject to the availability of the vendor's lawyer and the mortgage funds, the closing is often not completed until the afternoon. As a result, your keys may also not be available until the afternoon. Therefore, it is recommended that movers and moving trucks be arranged with this in mind. Finally, it is important that you provide your lawyer with a telephone number where you can be reached on the day of closing if your current number is being disconnected.

AFTER CLOSING

Following the closing date (usually within 30 days), your lawyer will provide you with a reporting letter containing his or her opinion on title as well as copies of your title documents and any title insurance policy.

PURCHASER'S CHECKLIST

- Discuss your proposed purchase with mortgage lenders to determine the amount of mortgage financing for which you qualify.
- Once you have decided to purchase a property, make sure your offer is conditional on financing. If your offer is conditional on an inspection and you wish to have one, your realtor will arrange it for you.
- When your offer has been accepted, contact your lawyer and advise him/her of the details of the purchase. Advise your realtor of the name and address of the lawyer you have retained.
- Arrange the mortgage financing required to complete your purchase.
- Notify your lawyer when your financing conditions and other conditions have been satisfied. Advise him/her of your exact names, dates of birth and how you want to take title to the property. Discuss the making of a Will and Power of Attorney.
- Arrange for movers or a moving truck for the date of closing. Contact your post office and file a Notice of Change of Address.
- If you are using an OHOSP or your RRSP to fund your purchase, contact your financial institution to advise them of the closing date and complete the necessary forms.
- Contact all utility offices and your security/alarm company to set up accounts for your new home and arrange for a meter reading and discontinuance of service at your present location.
- Get home and fire insurance that meet your mortgagee's insurance requirements.
- One week prior to closing, contact your lawyer to:
 - Set up a closing appointment for signing purchase documents, including Wills and Powers of Attorney, if prepared
 - Bring your two pieces of identification to the signing meeting
 - Request the final amount required to close your purchase
- If you are purchasing a new home, contact the builder to set up your New Home Warranty Inspection.
- Certify a cheque payable to your lawyer in trust and attend to your lawyer's office for signing. Usually a day or two before closing.
- On closing day, attend at your lawyer's office to pick up your keys.

WHAT YOU NEED TO KNOW ABOUT TITLE INSURANCE

what is it?

Title Insurance is an insurance policy issued to an owner or lender which assures the condition of the title to the home at the time of the purchase or loan. In other words, it is assurance of the ownership in the land, including its size and the status of other potential interests in the land such as liens or easements. The policy is issued to you and your lender for a one-time fee and will serve as protection to you for as long as you own your home (and sometimes longer).

Typical examples of the coverage provided by Title Insurance:

- An error in the land registry records or City records results in an unknown mortgage or work order against your property. Your title insurance company will pay out or discharge this unknown defect;
- Your neighbour claims that he owns three feet of the property you just purchased. Your title insurance company will resolve the issue through payment to you or your neighbour or may hire a Lawyer to defend against the neighbour's claim (at the insurer's expense).

ISN'T IT JUST FOR PROPERTIES LACKING A CURRENT SURVEY?

One of the best known benefits of title insurance is the coverage afforded an owner or lender against title defects which a current plan of survey would have shown. Although a title policy does not replace the information you or your lawyer would receive from an up-to-date survey (the location of boundaries, fences, buildings, pools, additions, decks, sheds, etc.), it continues to be a less expensive closing alternative to completing a purchase and/or loan transaction. Depending upon a purchaser's intentions to improve the property after closing, a current plan of survey may still be necessary.

A title policy provides far more assurances to owners and lenders than simply "survey coverage". It also gives an owner or lender a no-fault, no cost method of resolving a covered title problem. The traditional method of protecting an owner or lender's title involves a lawyer performing an ever-expanding list of costly searches for any potential title defect. Based on such searches, the lawyer then gives a written opinion of title to the owner and lender.



If your lawyer obtains a title insurance policy as an alternative to the traditional opinion of title, there are certain benefits:

- where title defects exist, an owner or lender must normally claim against the lawyer based upon some error or omission on his part. A lawyer would not usually be liable for inaccurate or deficient search information he received from the public records;
- in most cases, the assurance provided by title insurance coverage is more comprehensive and includes a no fault procedure to make a claim if a title problem should arise (as in the case of your house insurance);
- it is more difficult in the traditional method to fix the "legal cost" of the transaction because the usual searches are often unpredictable yet will be passed on to the purchaser by the lawyer as "disbursements".

WHAT ARE THE COSTS OF TITLE INSURANCE?

We at De Rubeis, Chetcuti LLP will recommend title insurance whenever we believe it is in our client's best interest. Title insurance eliminates the need for many costly searches including the cost of a current survey. This allows us to provide a fixed fee for single family homes. Please see our costs on the inside front cover pricing page.

Based upon our discussion over the years with our real estate clients and various real estate professionals, a fixed and competitive legal fee is the single most desired feature in the closing process. We believe our approach provides the best title assurance available and the best method of pricing our services.

Please feel free to call our office for a full explanation of our pricing policy and the costs of your real estate transaction.



YOUR LAWYER'S ROLE WHEN SELLING A HOME

When selling your home, your lawyer will assist you in dealing with the buyer and your bank. He will also prepare the various documentation needed to complete the transaction.

PRELIMINARY ROLE

Your lawyer may be asked to review your agreement of purchase and sale before you sign it. This valuable service is usually available at no cost to you. It is important that you provide your real estate sales representative with all title documentation in your possession such as a copy of your transfer/deed, mortgage, plan of survey, realty tax bill and any other document relating to the ownership of the home.

AFTER ACCEPTANCE OF THE OFFER

Once you have accepted the purchaser's offer, your lawyer will also wish to obtain from you all deeds, mortgages, plans of survey and any other title documents in your possession. He will review this material. A pay-out amount will be requested from your mortgage company and your plan of survey (if available) will be forwarded to the purchaser's lawyer. When received, the pay-out amount will be discussed with you to ensure its accuracy.

DOCUMENTATION AND COMMUNICATION

Your lawyer will prepare a new transfer/deed, statement of adjustments, declarations and standard undertakings which will be required to complete the transaction. He will also communicate with the purchaser's lawyer to answer any questions and to ensure the title documents to be delivered on closing are complete.

COMPLETING THE SALE

Your lawyer will attend with you to sign all of the documents and to receive keys from you. At this time, you will also receive a summary of the monies to be received and to be paid out. Thereafter, your lawyer will arrange to exchange documents, monies and keys.

After this meeting, your lawyer will pay-out your mortgage, any expenses of the sale (real estate commission, legal fees, realty taxes etc.) and will pay over the balance of the funds to you or whomever you direct. A written report will be prepared by the lawyer and mailed to you ideally within 30 days after the sale.

VENDOR'S CHECKLIST

ONCE YOU HAVE ACCEPTED THE OFFER:

- o Arrange to deliver all title documents in your possession to your lawyer's office. These include but are not limited to your transfer/deed, mortgage, plan of survey and property tax bill.
- o If there are any conditions on the offer, advise your lawyer as soon as the conditions have been met.
- o Contact all utility companies to advise of the closing date and request them to read meters, disconnect service and to forward the final bills to your new address.
- o Notify your security/alarm system company
- o Arrange for movers, if necessary
- o Advise the Post Office and Driver's License Office regarding change of address.
- o If applicable, revise or make your Will and Powers of Attorney.
- o In the week prior to closing, arrange a meeting with your lawyer to sign documents, deliver keys, provide forwarding address and telephone number and arrange the delivery of funds after the sale.
- o Cancel your home/fire insurance for one day after closing.

Mortgage Glossary

AMORTIZATION

Gradual re-payment of a mortgage loan by means of partial payments on a regular basis.

APPRAISAL

An independent estimate of the property value by a certified appraiser on a specific date.

BI-WEEKLY PAYMENTS

Bi-weekly payments speed up the repayment of your mortgage since you are making the equivalent of one extra monthly payment each year. We urge you to take full advantage of this plan.

BLENDED PAYMENT METHOD

All monthly mortgage payments are identical, each being comprised of part principal and part interest on the outstanding debt for the chosen term. Early monthly payments by this method are mostly composed of interest, but as amortization progresses, payments will consist of less interest and more principal, and the later payments will be composed almost entirely of principal.

CASH BACK MORTGAGE

For a cash back mortgage, the borrower will receive a cash back rebate equal to a certain percentage of the amount he or she borrows.

COMMITMENT LETTER

Based on the property appraisal and the borrower's ability to pay, the lender issues a commitment letter which sets out the terms, conditions and loan amount under which a lender is prepared to lend in the form of a mortgage.

CONVENTIONAL MORTGAGE

Maximum loan to value ratio of 75% based on whichever is less: the purchase price or the appraised value. Mortgage loan insurance is not required for conventional mortgages.

HIGH RATIO MORTGAGES

For a down payment of less than 25%, the loan to value ratio is greater than 75% and lenders will require mortgage insurance to protect against payment default. Your premium is based on the size of your down payment and house value.

INTEREST ADJUSTMENT

Interest calculated on a mortgage loan for the number of days between the closing date and the end of the month. Borrower will have to pay this interest adjustment amount on the closing date.

JOINT TENANCY / TENANCY IN COMMON

Under joint tenancy, the interest of the deceased automatically transfers to the survivor of the tenancy. Under Tenancy in Common, the interest of a deceased tenant's ownership transfers to heirs in accordance with the deceased's last will and testament.

PORTABILITY

Remaining mortgage amount with the same interest rate is allowed to be transferred from the existing home to a new location. The borrower is required to pay the legal fees to transfer the mortgage.



Mortgage Glossary continued

PREPAYMENT OPTION

The borrower has the privilege to prepay any part or all of the outstanding balance of a mortgage prior to maturity.

RATE COMMITMENT

The duration of time a lender is prepared to hold the committed mortgage rate for you.

REALTY TAX HOLDBACK

If you choose the option to pay the property tax installments with your monthly mortgage payments, on closing date, your lender will hold back the necessary funds to cover the current year's property taxes which are owing.

VARIABLE (ADJUSTABLE) RATE MORTGAGE

The interest rate changes during the term of the loan in response to changes in the prime lending rate. The rate is equal to the prime lending rate at any point in time minus a constant spread. Borrowers are usually charged a slightly lower interest rate as an incentive during the initial period of the term. In most cases, the borrowers are allowed to convert to a fixed term of 3 years or longer.

NEW

HOME BUYERS

LAND TRANSFER TAX REBATE FOR FIRST-TIME BUYERS OF NEW HOMES

Available only to individuals who are at least 18 years of age. You and your spouse can not have previously owned an interest in a home anywhere. If your spouse owned a home prior to your marriage, you may be eligible for a partial rebate. Use our land transfer tax calculator to see your rebate. If an individual owns less than 100% interest in the newly-built home, the amount of the rebate would be reduced and calculated according to the amount of interest in the home. The application for rebate can be made at time of closing so that no land transfer tax need be submitted at that time.

PURCHASING A NEWLY BUILT HOME - ONTARIO NEW HOME WARRANTY PROGRAM

All builders in Ontario must be registered with the New Home Warranty Program (ONHWP). This guarantees the purchaser of a new home a government backed warranty of fitness of their new residence. In most cases, the cost of enrollment in ONHWP is charged by the builder to the purchaser (carefully review the fine print of your purchase contract). The cost is therefore paid by the purchaser on the closing of the purchase.

ONHWP protects your deposit up to a maximum of \$20,000 if the builder cannot or will not complete the sale, through no fault of yours. There is a one year deadline for claims for construction defects and Ontario Building Code violations, two year protection from basement, roof, wall and window leakage, and defects in electrical, plumbing and heating systems, and seven year protection from major structural defects.

Under the ONHWP, you will complete a pre-delivery inspection (PDI) that will give you the opportunity to record any obvious defects and/or damaged items prior to taking occupancy. Once your new home is substantially complete and ready to occupy, your builder will contact you to set up an appointment. The PDI should never occur after you have occupied the home because anything missing or damaged could be attributed to the move-in process. Review your contract, including any features lists, colour selection sheets and change orders to ensure that all of the extras, upgrades and styles you requested as part of your purchase agreement have been installed.

In case of a dispute, the ONHWP offers the services of a neutral third party or mediator to resolve the dispute with your builder.

Your Agreement of Purchase and Sale will set out your rights if construction of the home is delayed. If adequate notice of a delayed closing is not given, you maybe be entitled to a daily sum in compensation. Your Agreement may also preclude you from paving your driveway, changing the landscaping or finishing your basement for a period of time.



HST ISSUES

- New Homes are not exempt from HST
- Unless special terms are included in the Agreement of Purchase and Sale, a purchaser must pay HST on the purchase price of the home but will normally qualify for a rebate to the extent of 36% of the HST paid
- It is very common for builders to sell their homes at a purchase price which is inclusive of HST. In these cases, the builder will pay all applicable HST but will require a purchaser to assign over the HST rebate normally available to purchasers of new homes.

NEW HOME CHARGES AND COSTS

Your purchase agreement could include some hidden charges that will be added to the purchase price. Some or all of these costs may be charged to you (read the agreement carefully or ask your lawyer if any of these apply):

- Water Connection Charge approximately \$300 to \$600
- Tree Planting and other Landscaping approximately \$500
- Hydro Connection \$300 to \$500 plus HST • Law Society Levy \$73.65
- See Ontario New Home Warranty Enrollment Fee on www.tarion.com





FINANCING AND DOWN PAYMENT PROGRAMS

CMHC/GE CAPITAL Insured Mortgage Financing

In many transactions, the Federal Government will allow your bank to lend to you monies which exceed the usual 75% of the purchase price. These are referred to as "high-ratio" mortgages and allow the purchaser to buy a home with as little as 5% down payment (provided the purchaser has sufficient income to qualify).

The 5% down option allows you to borrow up to 95% of the value of the home. The value will be determined by the lender and could be based on an appraisal however in most cases it is based upon the purchase price. Any first time buyer who buys a home to use as a principal residence and has sufficient gross family income will be eligible for this program. Certain hardship exceptions to the requirements may be available.

High ratio mortgage loans require the buyer to purchase mortgage insurance from Canada Mortgage Housing Corporation or G.E. Capital. This is all arranged by your banking institution or mortgage lender. The premium is a one time fee based on a percentage of the loan amount and can be paid up front at the time of closing or can be added to your mortgage amount and repaid over the life of the mortgage.

| Loan-to-Value | Premium on Total Loan |
|---|-----------------------|
| Up to and including 65% | 0.60% |
| Up to and including 75% | 1.70% |
| Up to and including 80% | 2.40% |
| Up to and including 85% | 2.80% |
| Up to and including 90% | 3.10% |
| Up to and including 95% | 4.00% |
| 90.01% to 95% — Non-Traditional Down Payment** | 4.50% |

RRSP Home Buyers' Plan

First time home buyers (including buyers who have not owned their own residence in the last 5 years) may withdraw up to \$25,000.00 from their RRSP tax free, provided he or she purchases a home prior to October 1 of the following year. If both spouses qualify and are taking joint ownership of the property, up to \$50,000.00 can be withdrawn. The amount withdrawn must be re-paid to the RRSP, interest free, over a 15 year period commencing in the year following the year of withdrawal, with a minimum annual repayment of 1/15 of the amount.

*Note: The 2019 budget proposes to increase the limit to \$35,000 or \$70,000 total for spouses.

about DE RUBEIS LAWYERS

This year, 2024, marks the firm's 43rd anniversary in the practice of law. Most of our work revolves around real estate, mortgages, title insurance, wills and estates, and asset protection. In addition to the many individuals and families whom we have had the pleasure to serve, we provide real estate legal services to several financial institutions and real estate brokers throughout Ontario.

We are comprised of four lawyers, as well as a friendly support staff of committed individuals. We take great pride in having state-of-the-art technology which we have found has enabled us to provide legal services more efficiently and at lower cost to our clients.

We are constantly striving to find non-traditional ways of serving your legal requirements.

Contact us today!

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know the facts

is a complimentary publication of De Rubeis Lawyers

The information provided is intended to assist those persons contemplating the purchase or sale of real estate. It will not replace the advice and guidance of a real estate professional or a lawyer.