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A BUYER'S CHECKLIST

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A BUYER'S CHECKLIST

The following is a checklist of some of the common issues which may arise in the purchase of a home or other property. ***It is not intended to be a complete list and you should consult with your lawyer or the Realtor to address any issues or concerns.*** It is important to remember that the issues and matters set out in the checklist should be reviewed carefully and dealt with in the Agreement of Purchase and Sale before you sign. Once the Agreement is signed, it is binding upon the parties and you may not withdraw from the transaction or amend the agreement without the consent of the vendor.

- INSPECT! INSPECT! INSPECT!** Unless the home you are purchasing is a new home covered by HUDAC Warranties, it is your responsibility to ensure that you have thoroughly inspected the property you are about to purchase. Unless specific warranties are included in an Agreement of Purchase Sale, the general rule is "Buyer Beware" with respect to the condition of a property. If something concerns you, a clause must be inserted in the Agreement before you sign.
- What will it cost to operate the home?** You should determine the operating costs for the house. You may wish to obtain the necessary information so that you understand the carrying costs for your home after purchase including hydro, gas, insurance, taxes, telephone, etc.
- Are there tenants?** If there are tenants you will need to know:
 - What is the rent
 - Who are the tenants
 - Are there leases
 - Is there an improvement loan on the property
 - How will you get occupancy

See a lawyer! You should discuss issues relating to tenancy with a lawyer very carefully as certain rules apply to the acquisition of a property which contains rental units. Tenants cannot be required to vacate a tenancy unless residential tenancy laws are met, and if there are tenants you must exercise caution as to the timing of your closing and the date that the tenants will vacate (assuming you wish to occupy the space now occupied by the tenants).

- Is there a building location survey and if not, do you need one?** If you wish to obtain a building location survey, obtaining a copy of this survey plan from the vendor may save you money. You should discuss with a lawyer the benefits of a building location survey. This is done to determine whether the home is wholly contained within the property which you are purchasing. For the purposes of obtaining your financing Title Insurance is an alternative to a survey but you should discuss this issue with your lawyer. (See below)

- Will you obtain Title Insurance?** Title Insurance is a relatively new aspect of title conveyancing and is available at a cost to protect purchasers from a number of risks and potential problems you could encounter in regards to your newly purchased home. This is something which you should discuss with your lawyer early on in the process of buying your home.
- Are there any encroachments onto another property?** Are there any fences, garages, or sheds encroaching onto the neighbour's property? If so these issues may have to be addressed specifically in the Agreement of Purchase and Sale.
- Are there any encroachments onto the property you wish to purchase?** Are there any fences, garages, or sheds belonging to the neighbour which are encroaching on the property you are buying? These issues may also have to be addressed with the vendor before purchasing.
- Are there any easements or limitations on title?** Are there any easements or rights of way or special restrictions on the property? These often may not be changed or altered but you should be aware of what easements or restrictions or covenants are on title to the property you are purchasing. Your lawyer will assist you on these special issues.
- Are there any municipal zoning issues?** The use of a property in both urban and rural areas is often covered by zoning by-laws. The intended use of the property must conform to zoning. If not, there may be serious issues which must be discussed with a lawyer. This can also be addressed before you sign your Agreement of Purchase and Sale.
- Are there any "special" circumstances?** Are there any special *problem* issues that could arise, such as:
- environmental problems relating to storage of chemicals, oil or gas tanks
 - foundation or water penetration in the basement
 - an old building with UFFI (Urea Formaldehyde Foam Insulation) – a banned insulation product
 - prior structural damage or fire damage
 - building under construction or renovation
 - operation of a business in the home
- If any of these issues apply to the home that you are about to purchase you should review this carefully with a lawyer in order to ensure that the agreement includes warranties that protect you.
- Are there any municipal work orders or deficiencies relating to the home?** The vendor or the real estate agent may be able to answer this question. There is a search that can be conducted to determine whether there are any work orders.

- What items in the home are included?** Pay attention to:
- blinds and curtains
 - furniture and appliances
 - carpets and rugs (is it wall-to-wall or is it an area rug?)
 - built-ins, shelving, cabinetry (look carefully – are they included or not?)
 - exterior items?(Pool or equipment; gardening or landscaping elements)

If you wish to ensure that these items are included in the sale, they must be listed in the Agreement of Purchase and Sale. If not, they are excluded. (See below)

- Will any fixtures be removed?** Confirm what items are fixtures and which items will be removed from the home. Inspect the home carefully to confirm what items are fixtures and will remain on the property. Carpets, shelving units, light fixtures and other items in a home may sometimes appear to be fixtures attached to the property but in fact are moveable. If you are unsure, ask and ensure that the items are included in the Agreement of Purchase and Sale.

- Are there any rentals in the home?** Is there a water tank, furnace, satellite dish, etc. which is not owned by the Vendor – If so you will have to determine the carrying cost for the rental payments for such items.

- What is the closing date?** This is a mutually negotiated term. The date must be a date that the Land Registry Office is open for business. Once confirmed the date cannot be changed without the consent of both parties.

- Will the Vendor be out of the home on closing or before closing?** The Agreement usually provides that the vendors must provide vacant possession on the day of closing. Sometimes a specific time is referred to but often there is no such reference. If the time of your entry into the home is extremely important (for example when you are selling another home before buying this home) this item should be addressed in the Agreement of Purchase and Sale. As well, if closing takes place during the winter months the Vendor may have to store (or leave behind) items outside the home that cannot be accessed due to snow accumulations.

- Are you dealing with all of the registered owners?** In the event you are dealing with multiple owners, separated spouses, corporations, estates, the Crown or if you are purchasing a property under Power of Sale, there may be special considerations to address in the Agreement of Purchase and Sale.

- Is there GST payable on the sale?** All real estate transactions are subject to GST unless they fall into certain categories. One exception relates to used residential or personal use property (which applies to most used home sales). If a home is newly purchased or renovated GST may be payable. Even though you may be buying the home as a residence or cottage, what is important is how the vendor used the property before sale. If the property was used for business purposes, GST could be payable. In some cases, there are unusual circumstances which must be reviewed.

Extra considerations for a rural or cottage property (and occasionally municipal property)

- Is the well producing sufficient water?** You may wish to obtain a test of the well water. You may wish to ensure the location of the well is within the property.
- Is the septic system certified and functioning?** If financing is to be obtained, a certified septic system is a requirement and you must comply with health regulations. If the vendor did not originally install the septic system under a health unit permit, you may not be able to satisfy the bank of this requirement and your financing may be denied. You also do not wish to encounter problems with the system after purchasing, so inquiries regarding septic systems are very important to satisfy yourself that you are not buying a septic bed problem.
- Is there road access?** In some cases, a remote property may not have open road access year round and there may be a cost associated with having a road open to your property if it is not on a public maintained roadway.
- Is there water access?** On many bodies of water in Northern Ontario, there are reservations to the Crown with respect to water access. If a cottage is involved and there are issues relating to docks, beaches, etc., you may wish to have your lawyer search this specific issue.
- What services reach the property?** This includes looking at hydro, snow removal and road maintenance?
- Is this a part of a property which will require a severance?** In Ontario, the *Planning Act* applies to the division of a property into multiple parcels. If the vendor is intending to complete a severance it is extremely important to consult with a lawyer as to the methods of the severance, the time frame for closing and other considerations and issues which may arise in the course of a severance.
- Is the Timber included?** Many properties in Northern Ontario have various restrictions relating to timber which originate with the Letters Patent. In some cases timber is included and in some cases it is not included. If this is important to you, you should have this issue addressed within the Agreement and have your lawyer specifically search the patent before signing the Agreement. Often times there is nothing that can be done to change limitations relating to the original patent.
- Are mineral rights included?** If this is important to you, just as with the timber rights, you may wish to investigate this issue before signing your Agreement.
- Are there any other Ministry or government restrictions?** i.e.: road, water, shoreline, etc.?