

The Role of a Lawyer in a Typical Residential Real Estate Transaction

By Kathleen Robichaud in Real Estate Law

What does a lawyer do in a typical purchase or sale of a residential home? Below is a chart with some definitions to follow that describes the main steps that a lawyer will take when assisting a client with the purchase or sale of their home.

Purchase	Sale
<ul style="list-style-type: none">• Review of the Agreement of Purchase and Sale and Status Certificate where applicable and note any deadlines to insure the deal proceeds as scheduled;	<ul style="list-style-type: none">• Review the Agreement of Purchase and Sale and note any deadlines to insure the deal proceeds as scheduled;
<ul style="list-style-type: none">• Arrange for and review the title search	<ul style="list-style-type: none">• Obtain and review parcel register
<ul style="list-style-type: none">• Request other required searches – tax arrears, common expenses, zoning, work orders, etc	<ul style="list-style-type: none">• Obtain property tax information from client or from City
<ul style="list-style-type: none">• Obtain information regarding satisfaction of conditions/deliverables (i.e. invoices to show repair work completed, clean water test obtained, septic permit)	<ul style="list-style-type: none">• Receive, review and respond to requisitions, which might include following up with clients about things the clients are supposed to look after before closing
<ul style="list-style-type: none">• Prepare and send requisition letter and closing documents required from Sellers and Sellers counsel on or before the requisition date	<ul style="list-style-type: none">• Provide an undertaking to the buyers and their lawyer to pay out existing encumbrances (as provided for and agreed to in the typical Agreement of Purchase and Sale);
<ul style="list-style-type: none">• Request and obtain title insurance or provide an opinion on title	<ul style="list-style-type: none">• Obtain mortgage pay out statement if there is a mortgage

<ul style="list-style-type: none"> • Prepare transfer for review and completion by seller's counsel 	<ul style="list-style-type: none"> • Review draft transfer and complete missing information
<ul style="list-style-type: none"> • Prepare draft Charge as instructed by Lender for review and execution by client 	<ul style="list-style-type: none"> • Attend with the clients for review and execution of closing documents and obtain keys from clients to be held in escrow;
<ul style="list-style-type: none"> • Attend with client for review and execution of closing documents and obtain remaining closing funds from client 	<ul style="list-style-type: none"> • Prepare and deliver Statement of Adjustments to the lawyer for the buyers;
<ul style="list-style-type: none"> • Enter escrow closing arrangement with the lawyer for the sellers; 	<ul style="list-style-type: none"> • Enter escrow closing arrangement with the lawyer for the buyers;
<ul style="list-style-type: none"> • Receive mortgage funds and rest of closing funds in trust 	<ul style="list-style-type: none"> • Deliver closing package to the lawyer for the buyers, including keys;
<ul style="list-style-type: none"> • Review Statement of Adjustments and prepare certified cheques for sellers as directed by counsel and in keeping with the Agreement of Purchase and Sale 	<ul style="list-style-type: none"> • Receive closing funds in escrow and in trust (to be released only according to the terms of the escrow arrangement);
<ul style="list-style-type: none"> • Receive keys and deliver to client once released, release closing funds 	<ul style="list-style-type: none"> • Review and release transfer
<ul style="list-style-type: none"> • Register Transfer and Charge once released from escrow 	<ul style="list-style-type: none"> • Attend at bank to prepare certified cheques from Trust Account to pay out existing Charge and any other liens or encumbrances required to be discharged on closing;
<ul style="list-style-type: none"> • Report to buyer clients 	<ul style="list-style-type: none"> • Attend to payment of existing Charge so as to discharge the existing Charge (or mortgage) as well as of any other liens or encumbrances required to be paid;
<ul style="list-style-type: none"> • Report to Lender 	<ul style="list-style-type: none"> • Prepare payment for and deliver payment of real estate commissions owed;
<ul style="list-style-type: none"> • Advise municipality of change in ownership 	<ul style="list-style-type: none"> • Pay out closing proceeds as directed by the clients;

- Follow-up with counsel for sellers to ensure that discharge of previous charge has been registered

- Report to client;

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- Attend to or ensure discharge of existing mortgage is registered

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- Advise municipality of change in ownership