

Selling a Home

What you need to know

Selling a home can be a lot of work for you and/or your realtor. For your lawyer it's usually much less work than what is required if you buy a home. This is reflected in the lawyer's fees, which are usually one-third to one-half of what they are when you buy a home.

**Are you buying a home?
Please see Info Sheet #16:
Buying a home.**

Do you need a lawyer?

Technically, no, but with so much money involved, keep in mind that there are risks. Your lawyer will protect your rights.

What does your lawyer do?

If you are selling your home, there are several things your lawyer will do:

- provide information and advice to you as needed;
- review the Contract of Purchase and Sale;
- perform a title search;
- prepare the Transfer of Land;
- order a payout statement for your mortgage;
- meet with you to go through and sign the sale documents;
- review the seller's statements of adjustments; and
- report to you.

Repairs or improvements

If you are selling a home that is unfinished at the time you and the buyer sign the Contract of Purchase and Sale, or if you agree with the buyer to make repairs or improvements to the property before closing, your contract will need to describe in detail the work to be done. If the work requires a building permit, the work will need to be verified and approved by a building inspector when finished. The best way to avoid conflicts between you and the buyer is to have your lawyer prepare the contract or contract amendment that describes the work to be done, the timelines and the verification and approval process.



Other things you might want to do with a home

Transfer title

You can add a person to title by transferring the title from one person to two; for example, if you marry and want your home to be owned by both of you. You can take a person off title by transferring the title from two people to one; for example, if you and your partner split up. To do either of these things, you can use a lawyer or use the forms available from the Land Titles Office.

Important: If you have a mortgage, you need your bank's consent before making any transfer.

Remortgage

Many people remortgage their homes to get a loan or take out a line of credit that is secured against the home. Unless your bank is providing the legal services, you need to use a lawyer. It will cost around \$1,000.

Agreements between co-owners

If you are buying a home with a person who isn't your spouse, or adding someone to the title — and especially if you are contributing unequal amounts to the purchase price — it is recommended that you have a lawyer prepare an agreement for you. The agreement will set out each person's rights and obligations, including those under any mortgage, and will address how the money will be divided when you sell the home.

Land co-ownership

There are two forms of land co-ownership:

- joint tenancy; and
- tenancy in common.

The more popular form of co-ownership, especially for couples, is joint tenancy. Joint tenancy is "indivisible," meaning the owners must act together. Joint tenancy also includes a right of survivorship; this means that if one owner dies the other becomes the sole owner.

Under a tenancy in common, each owner holds a percentage of the total title. Tenants in common may act separately and there is no right of survivorship.

Spousal consent

If you are legally married and your spouse is not on the title to your home, his or her written consent will be needed for you to sell or mortgage the property.