

Selling A Home

Are you planning to sell your home?

Our clients tell us that deciding how and when to sell their home is a very important financial decision. Every year we help many clients with the sale of their homes. There is a lot to consider when selling your residence such as the following:

Market Value

Market values fluctuate on an ongoing basis so it is difficult to know the current value of a piece of property. There are two common approaches used to determine current market value. One is to obtain a professional appraisal and the other is to have a qualified realtor provide an opinion for the property value.

Method of Sale

You can either sell your home yourself or through a real estate agent. Most people do not have the time and expertise or the ability to attract that unknown buyer so most retain the services of a professional real estate agent. If you list your property with a real estate agent you will have the choice of a multiple or exclusive listing agreement. The most common is a multiple listing as it provides greater exposure for your property. Once you have made your decision you should ensure that you review and understand the listing agreement including the terms of the agreement, the length of the agreement, the commission structure and when commissions are payable. For example, if you sell your home personally during the listing period, you may still be obligated to pay commissions to your realtor.



Mortgages

If you have a mortgage on your home, you should determine whether the mortgage is assumable, transferable and if there are any prepayment penalties. If you have a mortgage which is assumable without qualification, the general rule is that the financial institution will not release you from your personal covenant under the mortgage in which case they could sue you if the buyer does not meet the obligations under the mortgage which they assumed from you. Under current laws, a financial institution must provide you with a release of your obligations in certain circumstances. You should review your situation with your lawyer prior to any agreement that allows a purchaser to assume your mortgage.

What are you selling

When you sell your home all fixtures are included whether or not they are specified in the Contract of Purchase and Sale. Generally a fixture is something attached to the house and includes items such as light fixtures, built-in dishwashers, etc. If these items are not to be included in the sale, then they must be specifically excluded in the Contract of Purchase and Sale.

Contract of Purchase and Sale

When a purchaser makes you an interim offer to purchase your home, make sure you review it carefully and understand every clause. If you do not understand a clause, then you should review it with your

lawyer. If you disagree with a term in the agreement, you can cross it out and change it. Remember all changes must be initialed. If the buyer accepts and initials your changes then the offer as amended by you (the counter offer) is a binding agreement on both parties.

Subject Clauses

If the purchaser has made an offer subject to certain conditions, you should limit the time within which the purchaser has to meet those conditions. The time limit should be reasonable for the purchaser to satisfy the conditions. It should not be too long because your property is effectively off the market and there is no binding agreement until the subject clauses are removed. To protect yourself you may wish to include an additional clause in the Contract of Purchase and Sale where you can put the purchaser on notice that you have another buyer and if the original purchaser does not remove the subject clause within a specific period of time then the original Contract of Purchase and Sale is terminated.

This information applies as a general rule but may change depending upon the specific circumstances of your own situation. You should consult a lawyer before acting on any of this information.

If you have any questions, please do not hesitate to contact us:



Preparing to Move

- Hire movers or rent a truck.
- Change your address with Canada Post.
- Arrange dates to cancel utilities (water, electricity, phone, cable, etc).
- Notify companies of new address (credit cards, subscriptions, etc).
- Contact insurance broker to change insurance.
- Notify family and friends of new address and phone number.

PUSHOR MITCHELL

LLP

LAWYERS, PATENT & TRADE-MARK AGENTS

301 - 1665 Ellis Street,
Kelowna, British Columbia
V1Y 2B3
Telephone: 762-2108
E-mail: lawyers@pushormitchell.com
Website: www.pushormitchell.com