

## The Legal Process Overview

Most of us do not buy and sell homes frequently, so the legal process is not usually a familiar one and can appear complicated.

This overview is meant to be a brief description of the normal process of buying a home but please remember that every situation and transaction is unique and requires the advice of a legal professional.

### Important milestones

- Writing the Offer
- Negotiating the offer for acceptance by both parties
- Satisfying and removing all the buyers subjects/conditions on time
- Closing and completion
- Possession

### The contract of purchase and sale – The Offer

An offer to purchase real estate must be in writing and is generally written by the Buyer's realtor on a standard form "Contract of Purchase and Sale" which contains all the standard terms and conditions, as well as places for the specific details of this offer.

The offer will have an expiration time and date, generally one to three days after presentation of the offer. Unless rescinded, the offer is binding as it is written. The offer contract must be signed by the Buyer, and any changes or corrections to the writing on the contract must be initialed.

As well as the offer price, the contract will also specify the list of inclusions and exclusions (window coverings, appliances, etc.), the amount of the deposit, a list of subject conditions (i.e. subject to home inspection, or subject to financing, etc.), the closing date and possession date.

The Seller will accept or counter the offer, using the same contract document. For a counter offer, changes are clearly written on the document and initialed, and the contract is signed by the Seller. When an offer is countered, it forms a commitment by the signing party; when both parties indicate acceptance of all the terms by initialing the last changes, the document is a binding contract.

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Following acceptance, the Buyer usually has a few days to a week to remove subjects, and the Seller may need to cooperate by providing access to the property for an inspector or surveyor. When subjects are removed (also in writing) the sale is "firm".

### **Conveyancing - The Closing / Completion**

Conveyancing is the process of transferring title of the property from the Seller to the Buyer. In BC, title is registered at the BC Land Titles Registry to ensure that land ownership is always fully documented and transferred smoothly.

Usually, the Buyer and Seller use the services of lawyers for the conveyance. A day or two before "closing" the Buyer transfers the balance of the money required for the purchase to their lawyer, in trust. The lawyer holds the money, does a final confirmation with the Land Registry that the Seller is in fact the current owner, calculates the exact amount of money that must change hands, including the deposit and the adjustments, and files the paperwork with the Registry once all the conditions have been met and the money is in hand, then releases the cash to the Seller after Title has been registered in the Buyer's name.

### **Possession - Property Access**

Possession is the transfer of keys and the subject property from the seller to buyer. This generally happens within 48 hours of the closing / completion and is organized by the realtors involved to ensure all insurance and liability items are considered.

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