

## LEGAL COSTS

### FEES & DISBURSEMENTS:

In addition to legal fees, all law offices require reimbursement of their out-of-pocket expenses incurred as part of the completion of the purchase or sale of your home. These out-of-pocket expenses include such items as courier charges, land titles office searches, necessary discharges, photocopying, fax charges, long-distance charges, etc.

It should be noted that GST and PST are payable on all legal fees. GST is payable on real estate commission for the sale of a home and on some of the disbursements incurred as a result of the purchase and/or sale of a home.

The legal services provided relate to such things as:

- title searches at the land titles office;
- investigating municipal taxes for the property;
- exchanging information with the other lawyer;
- preparing all documentation necessary to complete the transaction;
- answering client questions and meeting with clients to review and sign all necessary documents;
- negotiating satisfactory closing trust conditions;
- ensuring all appropriate documentation has been completed and registered;
- reporting to lenders and to the client regarding the transaction.

Please feel free to contact our office for a fee quote. We would be happy to provide one and we believe our fees are fair and competitive.



**CURTIS A. KNUDSON**

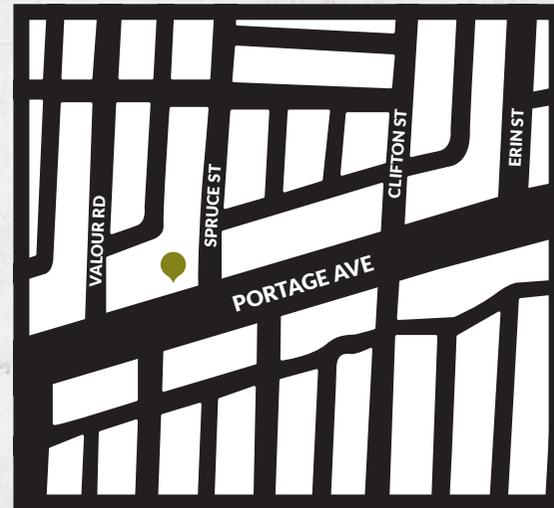
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## LEGAL SERVICES

**REAL ESTATE LAW  
WILLS & ESTATES  
NOTARY PUBLIC**

## OUR OFFICE



202-1311 PORTAGE AVENUE

# KNUDSON LAW OFFICE

CURTIS A. KNUDSON, B.A., LL.B.



## BUYING & SELLING REAL ESTATE

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## CONSIDERATIONS

### BUYING AND SELLING REAL ESTATE

Buying and selling a home may be the most significant financial transaction a person will make during their lifetime. Knudson Law Office recognizes the importance of these transactions and we do our utmost to ensure that the legal aspects of these matters are handled in a competent, courteous and professional manner.

### OFFER TO PURCHASE

An Offer to Purchase is the form used to create the agreement between the buyer and the seller. Once the Offer to Purchase is signed by both the buyer and seller, the agreement between the parties is established, and your lawyer will be limited by the agreement with regard to their ability to assist you. Therefore, prior to entering into an Offer to Purchase you should investigate all matters of importance to you with respect to the home and insert the necessary provisions in the Offer to Purchase.

There are many things to consider when preparing or responding to an Offer to Purchase. Therefore, you may wish to seek the assistance of a realtor who will work with your lawyer, or if you have chosen to proceed without a realtor, you should consult your lawyer.

Price is also a key component to any sale/purchase transaction. Apart from the purchase price and your ability to finance the purchase, a few questions you may ask prior to entering into an Offer to Purchase should include:

- what are the property taxes for the home;
- what amount of Land Transfer Tax will be payable (see the *Buying A Home* section);
- what monthly utility charges are anticipated.

If you require financing to complete the purchase of your home, you should make sure that it is a condition of your Offer to Purchase. In this respect, you should consult with a mortgage specialist as soon as you can upon reaching the decision that you wish to purchase real estate.

# BUYING A HOME

## LAND TRANSFER TAX

In Manitoba, a buyer is required to pay a Land Transfer Tax. There are only very limited exceptions to the payment of the Land Transfer Tax. Land Transfer Tax is calculated based on the fair market value of the property (usually the purchase price) and a variable percentage used by the provincial government based on the fair market value of the home. For the current calculation of Land Transfer Tax that may be applicable on your purchase, please consult our website for further information, or contact our office to obtain the current Land Transfer Tax.

## INTEREST

In Manitoba, if part of the purchase price is to be paid by way of a mortgage, the registration of the transfer of land and the mortgage documents will, sometimes, result in the mortgage funds not being provided to the seller's lawyer as of the date of possession. The standard form Offer to Purchase provides that interest is payable on this unpaid amount, at the same interest rate as charged by a buyer's lender, until the mortgage funds are provided to the seller's lawyer.

## MORTGAGES

Most homebuyers are not able to purchase a home without obtaining a loan. As a result, it is usually a requirement that the buyer arrange a mortgage with their lender. A mortgage will increase the number of documents to be prepared and to the costs to complete your purchase (i.e. survey/title insurance, appraisals, inspections, CHMC fees and premiums). These costs should be considered when determining the amount of funds required to complete the purchase.

## PROPERTY TAXES

In a typical real estate purchase, it is common for there to be an adjustment to the purchase price with respect to property taxes. In Winnipeg, property taxes for the calendar year are due on June 30. Therefore, depending on whether taxes have been paid for the current calendar year or whether they remain unpaid, the seller of the home may need to be reimbursed for any prepaid taxes, or the buyer may need to be compensated if taxes have not yet been paid for the current calendar year.

# SELLING A HOME

## REAL ESTATE COMMISSION

If you have hired a real estate agent you will be required, as a term of your agreement with the agent, to pay real estate commission for their services. The real estate commission is usually payable as a percentage of the price obtained for the property being sold. Typically, real estate agents retain the deposit on the purchase and forward their statement of account for the balance of the real estate commission payable and GST, to your lawyer for payment. After receiving authorization from you, the law office will use the sale proceeds received from the buyer to pay the outstanding real estate commission.

## PROPERTY TAX ADJUSTMENT

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## TRANSFERRING CLEAR TITLE

It will be a requirement of most Offers to Purchase that the seller transfers title to the land, free and clear of all registered encumbrances, mortgages, liens, etc., with a few exceptions. As a result, your lawyer will conduct a search of the title to determine which registrations will remain on title and which must be discharged as a requirement of the Offer to Purchase.

## MORTGAGE PAYOUT

The most common registration to be discharged is the mortgage(s) granted by the seller to their lender. Your lawyer will obtain a payout figure from the lender to determine how much of the sale proceeds will be required to obtain a discharge of the registered mortgage(s). The mortgage payout(s) will include the principal and interest accruing to the date of the payout along with any penalties and other costs payable under the terms of the mortgage.

## MISCELLANEOUS PAYOUT(S)

In addition to paying out your mortgage(s), you will also need to pay off home improvement loans obtained through utility companies or government agencies. If you have obtained personal loans in which your lender has filed a caveat against the property as security for the loan, then these loans will need to be paid out in order to obtain a discharge of the caveat. If you have been involved in legal proceedings in which a judgment was issued against you, then you may find that your property has liens or judgments registered against it which also must be paid out in order to clear the title for the buyer. Finally, certain registered claims may need to be paid out including hot water tank rental agreements, (if you rented your tank and the buyer did not agree to assume the rental agreement), and your final water bills.

As with your mortgage(s), all of these payouts will necessarily add to the amount of monies taken from the sale proceeds and decrease the amount of monies payable to you for your purposes.

## INTEREST

When you sell a home, a typical Offer to Purchase provides that the buyer is entitled to pay for part of the purchase price through proceeds of a new mortgage. If so, payment of the sale proceeds to you may be delayed by the time required to register the buyer's transfer of land and a new mortgage at the Land Titles Office. In that regard, a seller is normally entitled to interest to be paid by the buyer from the date of possession until the date of payment to the seller's lawyer. However, in Manitoba there are methods of providing a seller with payment of the sale proceeds immediately, or shortly after possession.

## GST

The issue of GST on the sale of property can be a complex issue. It is the responsibility of a seller to determine whether a particular transaction should have GST applied to it.

The GST applies to all transactions of sale of real property unless the particular transaction meets all of the requirements of one of the exemptions as set out under the applicable legislation. The most common exception is the sale of a used residential property.



*Commitment.*  
*Down to Earth Communication.*  
*Solid Advice.* | **KLO**