



INFORMATION SHEET FOR ALBERTA PURCHASERS

It is not unusual for hiccups or delays to occur when selling property in one province and buying property in another. Fortunately, many of those hiccups or potential delays can be minimized when the process is understood, steps are taken early in the process and the communication lines between all advisors (on both sides of the border) are kept open. This information sheet is intended to assist Alberta based clients who are buying property in B.C.

The biggest concern for these types of transactions is when the seller will receive their sale proceeds that they need to fund the purchase in B.C.

Where possible, the easiest solution is to leave time between the sale and the purchase, or obtain bridge financing. However, where this is not possible then it is necessary to take steps to ensure the sale proceeds are received as timely as possible.

In Alberta, in order to release sale proceeds to the seller actual registration is required. As Alberta has a registration lag of between 1 day and 1 week (under normal circumstances), if the purchasing party has not obtained title insurance then there is always a risk that registration will not be received on the day of closing.

An easy solution to this problem is ensuring the seller's lawyer has advised the buyer's lawyer that delays will not be agreed too and the funds must be available on the day of closing. One would think this would be assumed, however the type of land title system Alberta has, has created an environment where practioners assume late closings are an option (unless told otherwise). If the buyer's lawyer is aware of this they can ensure their clients have purchased the appropriate title insurance to ensure closing occurs on time.

Another potential cause to delay the transaction – and the biggest concern – is the real property report (aka RPR aka survey).

In Alberta, an up to date RPR is a required closing document under the purchase and sale agreement that the seller must provide. In fact, the contract states that the buyer's lawyer must have a reasonable period of time to review the RPR prior to submitting for registration. If the RPR is not sent in a reasonable amount of time prior to the completion date, the recommended practice is to allow the buyer possession of the property without releasing any of the sale proceeds to the seller.

On average, it can take 4-6 weeks to get an RPR completed and sent to the city for municipal compliance (another requirement under the sale contract). This can unfortunately put the seller in a bind if they have not taken steps to get an updated RPR well before the closing date. It should also be noted, title insurance is not viewed as an alternative to getting an RPR.

Where a quick closing is anticipated the Seller may want to try and contract out of providing the RPR, if the buyer will agree to same. However, where the buyer is receiving advice on the contract this will rarely be agreed too.

Once the sale proceeds have been transferred to the seller's lawyer, it would be advisable to have the Alberta selling lawyer direct deposit the sale proceeds directly into the B.C. lawyer's trust account. In that way, potential bank holds on the funds can be avoided.

Finally, many Albertans will be surprised to know that there is property transfer tax applicable on purchases of B.C. property. Although there are exemptions available, most of them will not be available to anyone moving into the province. Alberta clients should be aware of this additional cost that will need to be provided to their lawyer in B.C. before the closing date.

Please do not hesitate to contact us if you have any questions. We look forward to working with you.

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