

buyingrealestate

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## The Decision to Purchase

Purchasing a home can be both exciting and frightening! It is probably one of the biggest financial investments you'll ever make. You'll not only have to live with your decision, but also live in it, so you don't want to make any costly mistakes. Before you start looking for your "dream" property, organize yourself by considering a few basic questions:

- *What are my choices?*
- *What can I afford?*
- *What are my needs?*
- *What is a real estate agent?*
- *Where do I start?*
- *How do I make an offer?*
- *How do I close the deal?*
- *What Choices do you have?*

To meet the many kinds of needs that people have, a number of different housing styles and types have developed over the years. Your individual requirements and your income level will govern the housing type which is most suitable for you at the present time.

## Types of Housing Structures

### Single family, detached house

A detached house is one which has no common walls with any other residential structure, resting on its own land with a front, rear and side yards. It may be any size from a small, one storey bungalow to a huge mansion.

### Duplex

A duplex is two separate dwellings which are attached either side-by-side (a semi-detached house) or one unit above the other.

### Townhouses

In British Columbia the term "townhouse" is usually used to describe one of a group of dwellings (most often two storey) joined together by common walls, each with its own entrance from the outside.

### Apartment

An apartment is one of several dwellings (most often single storey dwellings built one above the other) joined together by common walls, each having its entrance from a common hall. The overall building containing the apartments may be from three to 33 or more storeys.

### Mobile or Manufactured Home

A manufactured home is a factory-built residential structure designed to be moved from one place to another, although wheels are not necessary. It is often placed on a rented space (called a "pad") in a manufactured home park.

## Types of Housing Ownership

### Freehold

A freehold interest (also known as a fee simple) is the more precise term for what we ordinarily refer to as "ownership" of a property. The owner of the freehold interest has full use and control of the land and the buildings on it, subject to any rights of the Crown, local land-use bylaws and any other restrictions in place at the time of purchase.

### Leasehold

In some cases you might purchase the right to use a residential property for a long, but limited, period of time. The owner of this right of use has a type of ownership called a leasehold interest. This type of ownership is used most often for townhouses or apartments built on city-owned land. It is

also used occasionally for single detached houses on farmland, on Indian reserves and for apartments where the owner of the freehold interest of an entire apartment block sells leasehold interests in individual apartment units to other "owners". Leasehold interests are frequently set for periods of 99 years, but regardless of the length of the original term, you will only be able to purchase the remaining portion. Of course, the shorter the remaining portion, the less you, or the person who eventually purchases from you, will be willing to pay for the leasehold interest.

### Condominium

It is a common error to believe that this term describes a particular structural style of housing. You should be aware that it is actually a type of housing ownership. The condominium form of ownership (more formally called a strata title ownership) is designed to provide exclusive use and ownership of a specific housing unit (the strata lot) which is contained in a larger property (the strata project), plus shared use and ownership of the common areas such as halls, grounds, garages, elevators, etc. This type of ownership is used for duplexes, apartment blocks, townhouse complexes, warehouses and many other types of buildings. Because ownership of the common space is shared, the owners also share financial responsibility for its maintenance.

### Cooperative

In the cooperative form of ownership, each owner owns a share in a company or cooperative venture that owns a property containing a number of housing units. Each shareholder is assigned one particular unit in which to reside.

## What can you afford?

Before you start looking for a new home, it is important that you become aware of how much you can afford to pay. This knowledge will allow you to spend your valuable time looking productively at home which are within your predetermined price range. You can calculate a relatively accurate figure for yourself if you assemble the following information:

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*(The cash you have saved to be used for this home purchase called the)*

**DOWN PAYMENT**

plus

**BORROWED MONEY**

*(you are able to arrange)*

Less

**CLOSING COSTS**

*(and other "last minute" costs associated with a real estate purchase)*

Equals:

**MAXIMUM PRICE**

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### The Down payment:

Lending institutions will require you to make a down payment of at least 5% to 10% of the purchase price of the home. Lending Policy may vary from time to time. However, as a general rule, you should make your cash down payment as large as possible. The less money you borrow, the smaller your monthly payments. Your deposit will form part of your down payment.

### The Borrowed Money:

Almost everyone who purchases a home borrows some of the money needed to pay for it. The easiest way to determine how much money you will be able to borrow as a mortgage loan is to consult with one or two lending institutions. These lenders will apply standard tests, based on your family's current income and debts in order to decide the amount of money they will lend you. They will ask for information

about your finances and make a thorough credit check, in order to be sure you are able to repay a loan.

### How much can you afford to pay in mortgage payments?

Based on your income: Allow no more than 30% of your gross monthly income (before deductions) to make your monthly housing payments. This test of your ability to repay a mortgage loan is generally referred to as the Gross Debt Service Ratio. Complete the following calculation to determine the approximate amount you will be able to spend for the mortgage payment, the property taxes and, where applicable, 50% of the condominium maintenance fees. Some lenders will require that this total maximum monthly payment also covers heating costs.

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**YOUR GROSS MONTHLY INCOME**

Plus

**SPOUSE'S GROSS MONTHLY INCOME**

Plus

**OTHER INCOME**

*(Monthly, potential revenue)*

Equals

**TOTAL MONTHLY INCOME**

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*Multiply the line above by 30% to calculate your*

**TOTAL MONTHLY MAXIMUM HOUSING PAYMENT**

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### Based on your other Financial Obligations:

If you have other financial obligations, such as car or credit card payments, the lending institutions will also apply the Total Debt Service Ratio test to determine the maximum mortgage loan for which you can qualify:

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**Monthly Housing Payment**

*(as calculated previously)*

Plus

**Monthly Debt Payments**

*(car, credit card, etc.)*

Equals

**TOTAL MONTHLY PAYMENT**

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The total of your monthly housing payment added to your other monthly debt payments should not exceed 40% of your monthly gross income. The Gross Debt Ratio and the Total Debt Service Ratio tests protect both you and the lender by ensuring that you do not take on more debt than you can reasonably afford to repay. Many lending institutions will pre qualify you for a specific size and type of mortgage loan before you begin searching for your new home. Taking the time to apply for a pre-approved mortgage will give you the security of knowing how much you can afford to spend. Before concluding the loan agreement, most lending institutions will require an appraisal of your selected property. The appraised value is a professional opinion of the value of the home and may differ from the purchase price you are willing to pay. The appraised value may affect the final size of the loan.

**The Closing Costs**

It's easy to count your available cash but remember that all of these cash savings cannot be used as your down payment. There are last-minute costs such as taxes, legal fees, appraisal fees, moving expenses and house insurance to pay before you are finally in your new home. The time for you to budget for those "end" expenses is NOW. You must be prepared to pay most, and perhaps all, of the following closing costs.

**Property Purchase Tax:**

The British Columbia Provincial Government imposes a property purchase tax which must be paid before any property can be legally transferred to a new owner.

**Harmonized Sales Tax:**

The Harmonized Sales Tax (BC HST), effective July 1, 2010, is 12% tax applicable to most goods and services, including **new** homes, **new** commercial property, leases, etc. Buyers and Sellers with questions regarding HST liability, transitional rules, exemptions and rebates are encouraged to seek out independent professional advice from a tax lawyer or accountant, or from the nearest Canada Revenue Agency office.

**Property Tax:**

If the current owners have already paid the full year's property taxes to the municipality, you will have to reimburse them for your share of the year's taxes.

**Appraisal Fee:**

When the lending institution requires an appraisal of the property before approving your loan, it may be your responsibility to pay the appraiser's fee.

**Survey Fee:**

The lending institution may also require that a survey certificate be presented to them. The purpose of the survey is to formally establish the boundaries of the property and to ensure that all buildings are within those boundaries. If the current owner cannot provide a recent survey certificate, it will be your responsibility to pay the surveyor's fee.

**Mortgage Application Fee:**

Lending institutions may charge a mortgage application fee. This application fee may vary between lending institutions.

**Mortgage Default Insurance:**

This type of insurance is required on all mortgage loans in excess of 75% of the appraised property value. Its purpose is to insure that the lender will not lose any money if you cannot make your mortgage payments and the value of your property is not sufficient to repay your mortgage debt. The insurance premium is paid to the lender and ranges from 1/2% to 3% of the loan value; however, in most cases this premium is added to the loan amount, and paid for over the term of the loan.

**Fire & Liability Insurance:**

The mortgage lender will insist that you purchase an insurance policy which guarantees that, in the event of fire, the lender will receive the balance owing on the mortgage loan before you receive any insurance proceeds.

**Legal Fees:**

The transfer of property ownership from the seller to the buyer must be recorded in the Land Title Office in order to protect the new owner's interests. You will probably want to engage a lawyer or notary public to act on your behalf during the completion of your purchase. The legal fees for this service will include payment of a registration fee. If you are financing your purchase with a new mortgage loan, there will be a further fee to prepare and register the mortgage documents.

### **What Should YOU Purchase?**

Before you begin looking for your new home, it is important that you consider the needs of all the people it must shelter and what effect their daily activities will have on your desire for a certain size or location, both now and in the future.

#### **COMMUNITY:**

*Rural? Small town? City?*

*What facilities are available? Shopping centers? Places of worship? Recreational facilities? Hospitals? Schools?*

*Are property taxes comparable to those in other communities?*

*Are there any future developments planned which you may not like?*

*Are the sewage and water systems adequate?*

*What is the availability and cost of utilities: electricity? Gas? Water?*

*What public services are provided: police? Fire protection? Ambulance? Garbage collection? Mail delivery? Snow removal?*

#### **TRANSPORTATION:**

*Is there nearby public transportation available?*

*Do you mind a long commute to work or to visit friends?*

*Can you afford to drive and park at your workplace?*

*Will another car be needed for your spouse to drive to work, to shop or to take the children to school or other activities?*

*Are major roads easily accessible?*

#### **NEIGHBORHOOD:**

*Is private and public property maintained to your satisfaction?*

*What is the composition of families living nearby: quiet, mature people? Teenagers? Potential playmates for children's?*

*Are their incomes and lifestyles compatible with yours?*

*Have property values risen, fallen or remained stable in the recent past?*

*Are there any known projects on the horizon which could substantially change the quality of lifestyles or the property prices in the area?*

*Do you feel comfortable with the current zoning regulations? Will they protect property values yet still allow you to use a dwelling in the way you envision: outdoor basketball hoops and barbecues? Storing your boat? A home-based business? Keeping livestock? Cutting trees? High fences? A basement suite? Etc.*

*When you walk up and down the streets of the neighborhood, can you picture yourself living there for several years into the future?*

#### **DWELLING:**

*Are you interested in brand new only? A historic, character house? An already renovated resale? A solid older house that just needs redecorating? A "fixer-upper" and do major renovations yourself?*

*What combination of space do you require? Think not only about bedrooms, bathrooms and garages but also the areas for hobby activities and children's play; and storage for clothes, skis, bicycles, windsurfers, tools, garden equipment, etc.*

*Is a large, well-equipped kitchen important to you? How about a fireplace? A large entrance hall? A sun deck? A pool?*

*Would you prefer a small lawn and low-maintenance garden or do you enjoy cutting grass and making things grow?*

*Do you need a dwelling with room to eventually accommodate more children? Elderly parents? In-laws?*

#### **SCHOOLS:**

*What schooling is available: primary? High school? Adult evening programs? College? How close are the schools and how do the children get there?*

*Are the schools crowded? Is the sports program satisfactory? Do the students have a high achievement record? If your family has special educational needs, are these available?*

### What is a Real Estate Agent?

It is important that in British Columbia the person you hire to assist you to purchase your home must be licensed as either a real estate salesperson or a real estate agent. Responsibilities of the Listing and Selling Agent: In every real estate transaction, there is a seller and a buyer. A real estate licensee may be employed as an agent for the seller, as an agent for the buyer or both. Early in the first meeting with "a real estate agent" the agent should provide you with full disclosure about the nature of his or her relationship with you, as a buyer, and any relationship he or she may have with the seller. The licensee is required to provide this information and implications to you.

### Your Relationship with a Real Estate Agent

There are various types of Agency relationships that occur between the buyer, the seller and the licensee. The most common relationships are as follows:

#### One Agent Acts for the Buyer and One Agent Acts for the Seller.

When a seller employs a real estate licensee to help sell his or her property, the licensee becomes the AGENT of the seller. As a buyer, it is possible for you to select a licensee to act as your AGENT. It is in your interest to obtain the licensee's consent to represent you. As a buyer, you become the PRINCIPAL and the licensee becomes your AGENT. This licensee is referred to as a BUYER'S AGENT. As a buyer's agent, he or she would owe you utmost loyalty and must disclose to you any and all information obtained from any source which might influence your decision to purchase. Further, he or she may not reveal any confidential information you have disclosed, to another person who might jeopardize your bargaining position.

#### Both Agents Act for the Seller

When a seller employs a real estate licensee to help sell his or her property, an agency relationship is created. The seller becomes the PRINCIPAL and the licensee becomes the AGENT of the seller. This licensee is referred to as the LISTING AGENT. As a buyer, you may have been working with a licensee to view new properties. It is possible that the licensee you consider "Your Real Estate Agent" may have a responsibility to represent the seller and not you as a buyer. As a buyer, you should ensure you clearly understand for which party a licensee is acting. If a licensee discloses that he or she is representing the seller, keep in mind that any information you give them must be passed on to the seller and this could jeopardize your bargaining position. However, any licensee acting as an agent for a seller still has a legal duty not to misrepresent the property to the buyer, to exercise due care when answering questions and to treat all parties fairly and honestly. This legal responsibility means that you, as a buyer, can gain the benefit of a licensee's knowledge and expertise even though he or she is an agent of the seller.

#### One Agent Acts in Transaction

Where only one real estate agent is included in the transaction, he or she may: act only for the buyers, act only for the seller or act as an agent for both the buyer and the seller, but only if both principals have agreed to allow this. When a licensee is acting as an agent for both the buyer and the seller, he or she should take the utmost care to explain their agency relationship to you. If you are in doubt about whether any licensee you meet during your search for a house will be representing you or the seller, ASK that licensee as soon as you meet! Remember it is possible to enjoy the benefits of a licensee's knowledge and experience, regardless of whom that licensee is representing.

#### Services a Buyer can expect from a Real Estate Licensee

You can expect licensees to provide you with services such as:

- *helping you to clarify the type of property you need and can afford*
- *providing information about available properties and sources of financing*
- *arranging appointments to view available properties*
- *providing accurate answers to any questions you may have about a specific property you are considering*
- *explaining the forms used in a real estate transaction and assisting you in making a written offer to purchase*
- *presenting your written offer to the seller*
- *familiarizing you with the steps you must take to complete the purchase after the seller accepts your offer*

Keep in mind that if the licensee with whom you are working with is the seller's agent, any information you give to him or her must be passed on to the seller. It is in your best interest to discuss with that licensee only what you would discuss with the seller in person.

### The Big Search

Now it's time to begin your informed search for that "right" home. You have gathered all the information you need to make a rational decision rather than an emotional one, but it may not be easy! You, like everybody else, will probably want what you can't afford. Try not to be discouraged. Every homeowner started somewhere and there is definitely a place for you! By being systematic; browse through newspaper ads; drive around; visit open houses; discuss your requirements with your agent; and most importantly, take a careful look at each house.

#### What should you look for?

Don't be shy! You are about to invest a lot of money and you should investigate each property thoroughly. Pay particular attention to the following:

- *What size and shape is the lot? Is it fully serviced with sewage, water, gas and electrical lines?*
- *How many square feet of living space are there?*
- *How many rooms?*
- *Condition and age of the roof - are there any leaks or recent repairs?*
- *Are the interior walls and ceilings solid? Drywall or plaster? Is there any evidence of leaks or cracks?*
- *Are the floors firm and level? Does the ceiling sag?*
- *Is there evidence of termites or dry rot?*
- *What type of floors are beneath the carpeting?*
- *Are stairs and door frames level and well joined?*
- *Is the natural lighting to your liking? Which way does the front face - north, south, east or west?*
- *Is the kitchen suitable? Are there enough outlets and space for appliances? What about cabinets? Are storage areas and closet space adequate?*
- *Can the wall space be utilized to suit your needs? Check the locations of the doors and windows.*
- *What is the condition of the basement and foundation? You should check the walls and floors. Is the floor dry? Are there hookups for a washer and dryer?*

Each house is unique. Keep some notes to enable you to remember the details later!

### Making an Offer

Once you have found the property you would like, a written offer to purchase must be prepared. Considering the substantial nature of this investment, you should work with a real estate licensee when preparing an offer to purchase. An offer is usually recorded on a standard form entitled: CONTRACT OF PURCHASE AND SALE

What should the offer contain? When you prepare an offer it should contain a number of standard details, plus any conditions which are important to you. Be fully aware that once you sign this document, and the seller also signs it, a legally binding contract has been formed. Legally binding means both you and the seller will be bound by the terms of the contract and must each perform your respective obligations as stated within that contract. Either of you can go to court to compel the other to perform his or her part of the contract.

Your offer should include:

- *Date of offer.*
- *Date and time your offer expires.*
- *Full legal names and addresses of both the buyer and seller.*
- *Full legal description of the property.*
- *Amount of the deposit you are giving (which will be held in a trust account).*
- *Sale price.*
- *Amount of your cash down payment and details as to how you will finance the remainder of the purchase price.*
- *Your desired closing and possession dates.*
- *A list of the conditions which must be satisfied before the sale can occur. These are called "subject clauses" or "conditions precedent".*
- *A list of items which are not attached to the building (chattels), but which you state are to be included in the sale price; for example drapes, refrigerator, stove, etc.*
- *Your signature.*

### What are the seller's options?

When the seller receives your "offer to purchase", he or she has three options.

#### 1. Accept the offer exactly as written

If the seller signs your offer without making any changes, a legally binding contract has been formed. Legally binding means both you and the seller will be bound by the terms of the contract and must perform your respective obligations as stated. Your performance can be enforced in a court of law.

#### 2. Reject the offer

#### 3. Make a counteroffer

If the seller changes anything at all on your original offer, the seller is considered to have rejected your offer and to be making a new offer back to you. This new offer is usually referred to as a "counteroffer". When you receive a counteroffer, you then have the same three options as the seller had: accept, reject or make a further counteroffer. The process of counteroffers may continue until an agreement is reached. If the counteroffer is unacceptable to you or if you have changed your mind about the purchase, the seller does not have the option of returning to your original offer and accepting it.

### What are the buyer's options?

If after making a written offer you decide you don't want to purchase the property, it may be possible to revoke the offer. Many legal problems can result from the revocation of an offer, so you should seek professional advice about the correct procedure to follow.

#### About "Subject" Clauses

The purpose of a subject clause (also known as a condition precedent) contained in an offer to purchase is to set out a specific condition which must be fulfilled before the sale can go through. Subject clauses must be carefully and precisely worded. You would be wise to get professional help in composing them; however, it is ultimately your responsibility to be sure the clauses mean what you want them to mean. There can be as many subject clauses as you are able to negotiate with the seller; however, the fewer you put in an offer, the more serious you seem as a buyer and the better the chance is that your offer will be accepted. Remember that you are, in fact, asking the seller to take the property off the market during the period while you are attempting to fulfill the conditions you have set. Some possible items you might wish your purchase to be "subject to" include:

- *a satisfactory professional building inspection.*
- *the arrangement of the financing you require.*
- *the lender's approval of your application to assume the seller's existing mortgage.*
- *the sale of your present home.*

When you place "subject to" clauses on your offer to purchase, you are required to use every reasonable effort to see that the conditions are satisfied. Once you have fulfilled the conditions, written notification should be given to the seller that you are removing the subject clauses.

If you are unable to meet the conditions, after making every reasonable effort to do so, the contract ends and there are no legal obligations to complete the purchase. A seller may wish to accept your offer containing subject clauses, yet still be free to consider other offers until you have removed the conditions. To allow him or herself this freedom, the seller may ask for a clause in the agreement which permits the seller to require you to remove all subject conditions within a short, specified time period (usually between 24 and 72 hours) if the seller receives another attractive offer. If you cannot do so, your conditional contract comes to an end. Vendors are most likely to request this time clause where you have made an offer which is subject to the sale of your current home.

## **Completing Your Purchase**

The contract of Purchase and Sale which you signed will state the completion day for the transaction. On that day legal ownership will transfer from the old owner to you in exchange for the purchase price of the property. Do you need legal assistance to complete the purchase? It is normal practice for the buyer to engage a lawyer or notary public to prepare the documents necessary to transfer the legal ownership. Among other things, he or she will protect your interests by:

- *searching the title in the Land Title Office registration system to find if anyone other than the seller has any legal rights to the property and to see if there are any registered easements or restrictive covenants.*
- *preparing the documents to transfer ownership from the seller to you, including the property purchase tax return.*
- *ensuring that the seller's old mortgage has been properly discharged if this is required.*
- *confirming that all payments for which the seller is responsible have been made.*
- *arranging for you to sign the transfer documents.*
- *preparing a Statement of Adjustments outlining all monies owed by you and the funds you will need to complete the transaction.*
- *delivering the final amount due to the seller and ensuring you are registered as the owner in the Land Title Office.*

The day has arrived!! You have signed the documents, turned over your cheque and received the keys.

**THE HOME IS YOURS !!**