

# Selling Your House

By Lorren Wilson

This article contains a checklist of items for people to consider prior to selling their house and before meeting with their lawyer to discuss details of the sale. While this list is not exhaustive, addressing your mind to these items should reduce the time spent in your lawyer's office and assist in making the sale of your house smooth and seamless.

## First, consider the reason you are selling your house?

Your reason for selling may impact on how the sale proceeds. If, for example, you are selling your house in order to purchase another one inform your lawyer so that he can synchronize the transactions. The last thing you want is to sell your house and not have a house to move into. Or, have the sale of your house "fall through" and still be bound to purchase a new one. Armed with this information, your lawyer will ensure there is no sale without a purchase and vice versa.

## What is the sale price?

Prior to setting the sale price try to "get a feel" for the market. You can do this by simply asking someone who has recently sold a house similar to yours. Alternatively, you can have your house appraised by an industry professional. The main thing to remember when determining the sale price is to keep the purpose of the sale foremost in your mind. If you require the proceeds of sale to assist in purchasing another house ensure that your asking price is consistent with the financial requirements for your purchase. Keep in mind the legal fees and stamp duties associated with both transactions. Your lawyer will advise you of the likely legal cost and stamp duties payable. Performing the arithmetic in advance will prevent you from finding out later that you have a cash shortfall.

## Is there a mortgage on your house?

If there is an existing mortgage on your house let your lender know that you are going to "pay off" your mortgage. Most mortgage deeds require the borrower to give the lender three month's notice of their intention to repay the loan, if they intend to repay it early. Failure to notify your lender may result in you having to pay an additional sum for early repayment.

## Where are the title deeds to your house?

If your house is mortgaged your title deeds are probably with the lending institution. Your lawyer will need to examine the title deeds to ensure that you own and can sell the house. The title deeds will also contain information such as the legal description and lot plan of the property you are selling. This information will be needed to complete the sale and purchase agreement. Informing your lawyer of the location of your title deeds early in the transaction will assist him in moving the sale along.

## Have the boundaries to your property been staked?

Purchasers are entitled to know what they are purchasing. If your boundaries are staked, make sure the stakes can be identified. If your boundaries are not staked, consider retaining a surveyor to stake them for you.

#### Are you selling your house with vacant possession?

If you are selling the house you live in in order to purchase a house, which you will live in, then vacant possession should not be a problem. However, be mindful of the timing of the transaction. If you need time after closing the sale to move your possessions into your new house, inform your lawyer. He may be able to negotiate a licence agreement with the purchaser's attorney granting you the right to remain in the house, you just sold, for a short period. If your sale is subject to existing tenancies the prospective purchaser has a right to see the lease agreement between you and your tenant. Revealing this information early in the transaction may avoid misunderstandings later on. It may also affect who purchases your house and the purchase price.

As you can see there is quite a lot to consider prior to selling your house. However, by addressing your mind to these and other issues prior to meeting with your lawyer, will assist in making the sale of your house a smooth and seamless one.

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#### Where do you want proceeds of sale to be deposited?

If you require the proceeds of sale to assist with a subsequent purchase your lawyer will more than likely hold the proceeds in his firm's client trust account. If the proceeds are to be deposited into your bank account provide your lawyer with the name and address of your bank and your account number. The important thing to remember is to provide clear instructions.

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