



## **Memorandum to Sellers of Residential Properties**

Prepared by Dust Evans Grandmaitre Professional Corporation

This memorandum has been prepared and is intended for your general information only. It is not held out and is not to be construed as advice with respect to your particular sale. Specific problems relating to your sale should be referred to our office.

### **Our Fees and Other Cost Considerations**

Quoted fees and disbursements are based on the assumption that there will be no unusual complications in the transaction as it progresses. While we make every effort to keep our costs within the amount quoted, circumstances beyond our control may arise that would require considerably more time on your file than originally anticipated. Examples of events which may result in an increase in our fees and disbursements are: a change in closing date; documents having to be signed under a Power of Attorney (unless this was foreseen when the estimate was given); additional mortgages having to be discharged; and bridge financing being arranged and repaid. In the event that the transaction does not close, our standard hourly rates will apply and fees will be calculated based on the amount of time spent on the file.

If your account is reimbursable by your employer, relocation company or any other third party, we will provide you or the third party with our account when required. If your account is reimbursable or to be paid by someone else, please let us know as early as possible so that appropriate arrangements for payment can be made.

### **Adjustments**

There will be adjustments to the purchase price for certain items at closing. The most common adjustments are for deposit(s) paid and realty taxes. If the amount you have paid towards taxes for the year amounts to more than your share up to the date of closing, you will be given the appropriate credit. If it is less, the purchaser will be given a credit. Generally, you should pay all tax installments due up to and including the closing date. If there is an installment due very close to or on the date of closing, you should make the payment and obtain a receipt as evidence of payment on the date of closing. A copy of this receipt should be delivered to us as soon as possible after you receive it. You should not pay any tax installments due after the closing date; you should deliver the tax payment stub to us on the date of closing for delivery to the purchaser. If you are on an automatic payment plan with the municipality, it is of utmost importance that you discontinue the plan effective the date of closing.

Other less common adjustments are for fuel oil (where there is an oil tank), cost of an estoppel certificate, common expense fees (if you are selling a condominium) and mortgage interest (where the mortgage is being assumed). In the normal course of events it is impossible for us to advise you of the amount of these adjustments until very close to the closing date. However, they are normally between a few hundred and a thousand dollars.

### **Discharge or Assumption of Mortgages**

Any mortgages registered against the property and that the purchaser has not agreed to assume must be paid in full from the proceeds of sale and discharged from title. We will obtain a discharge statement from the mortgagee and pay the mortgage out on the basis of the statement received. You should contact the mortgagee approximately one week before closing to clarify which payments need to be made prior to closing. You may find that you are responsible for any payments due on the date of closing, as the discharge statement may be prepared assuming the final regular payment will be made. You should also clarify what, if any, interest or penalties will be charged if the mortgage is being paid out before the maturity date.

As soon as possible after closing takes place, we will forward funds to pay any outstanding mortgage. Every effort will be made to deliver these funds on the closing date so that you will not be charged additional interest on the mortgage. However, if the transaction closes late in the day (as most do), or if there is any unavoidable delay in forwarding the funds to the mortgagee, you may be charged interest on the mortgage until the next banking day. Most mortgagees charge interest on the amount outstanding until the next banking day if they do not receive funds by 1:00 or 2:00 p.m. Check with your mortgagee to determine their policy.

If a mortgage is being assumed by the purchaser, an assumption statement will be obtained and the principal amount outstanding on the mortgage plus any accrued interest to closing will be credited to the purchaser. Be aware that the assumption of your mortgage by the purchaser does not relieve you of liability unless a specific written release is obtained from the mortgagee. You may wish to speak to your mortgagee about this.

Of course, we will require the names and addresses of any outstanding mortgages well before closing. Account numbers are also helpful if you have them.

### **Taking Care of the Utilities**

If the property is heated by metered gas, electricity or oil, meter readings must be taken at the time of closing. You should contact any of these utilities at least two weeks prior to closing, advising them of the date of closing, requesting a meter reading be taken on that date, and directing them to forward the final bill to your new address. If you will be difficult to reach following closing, you should prepay your bill using an estimate provided by the utility company. This will avoid confusion following closing. Any automatic payment plans should be cancelled effective the date of closing.

If you have an oil tank, you must arrange to have it filled on closing day. You should pay the bill for this and advise us of the size of your tank; we will ensure you receive a credit on the Statement of Adjustments for a full tank of oil.

## **What to Do If You Will Not Be Present On the Closing Date**

If vendors of this property will not be available on or before the closing date to execute documents, a Power of Attorney should be prepared permitting someone to sign on that person's behalf. If there are no friends or relatives who could perform this function, your lawyer at this firm would be pleased to accept the appointment as your Attorney for this purpose. If you anticipate the need for a Power of Attorney, please contact us immediately so we can take instructions, prepare the necessary documents and have you sign them. The Power of Attorney must be registered on title prior to the closing date.

## **Survey**

Any survey you have for the property should be delivered to the purchaser or his or her lawyer.

Generally, a copy of the survey is delivered upon acceptance of the Offer to Purchase. Any original survey can be delivered to the purchaser at the time of closing. It is important to provide us with the best copy or original of the survey in your possession or control, as an incomplete or illegible survey is not useful to the purchaser.

## **Insurance**

Your insurance representative should be made aware of this transaction. Be careful, however, not to cancel your insurance until after you have been advised that the transaction has closed. In some situations, a closing may be postponed, in which event it would be important to maintain your insurance. You should make arrangements with your insurance representative to have most of the paperwork completed prior to closing so that only a phone call or faxed message is required to confirm the closing and advise that insurance can be cancelled.

## **Closing and Distribution of Proceeds**

On the closing date, we meet with the purchaser's solicitors to exchange your keys and signed documents for the balance of funds owing. After this exchange takes place and the Deed has been registered, we deposit the balance of funds in our trust account and provide you with a cheque. Normally your cheque will be available for pick up or delivery to your bank between 5:00 and 6:00 p.m. on the day of closing. In rare cases, very late closings or other factors may prevent us from releasing funds to you the same day. In these instances, the cheque will be available to you on the following business day. It is our practice to deduct any outstanding real estate commission as well as your legal fees and disbursements from these funds before remitting you the balance. If you have any objections to this, please contact us so that we can discuss your concerns.

In the normal course of events the signing of papers will not take place until the morning of or the day before the closing date. In the meantime, you may rest assured that we are proceeding with the file's necessary work in order to complete the transaction on time. As the closing day approaches, we will make an appointment with you to visit our offices to review and sign all documentation. If we are signing on your behalf as power of attorney (see below), we will call you to review the documents and numbers. Please make sure you can be contacted by

telephone on the day prior to and day of closing. It is critical that we can reach you should something happen on the day of closing that requires instructions from you. Before closing, we will require at least one set of keys to the premises, which we will deliver to the purchaser on closing. The remaining keys may be left at the premises.

One of our secretaries and legal assistants will assist with your file, and they may be able to help you if your lawyer is not immediately available. If not, please leave a detailed message and your lawyer will get back to you as soon as possible.

Thank you for having entrusted us with this transaction. For your assistance, set out below is a checklist you might find helpful.

### **Sale Checklist**

- Check that fixtures and chattels specified in the Agreement of Purchase and Sale have been left on the premises.
- Check that any work required of you has been completed.
- Advise utility companies by phone of changes of ownership.
- On the closing date, record the utility meter readings.
- Ensure that the oil tank, if there is one, is filled to capacity on the date of closing and pay the final bill.
- Advise the tax department of the change of ownership.
- If your property is serviced by metered water, advise the water department of the change of ownership.
- Advise the condominium corporation, if applicable, of the change of ownership, and arrange to have any post-dated cheques returned to you.
- Leave all remaining keys, garage door openers, manuals, warranty certificates, etc., in the premises.

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