

The Offer:

There's a variety of things you should know before taking possession of a house

After weeks of searching, you have finally found the house you want to make your home.

The next step is to formalize your intent to buy, which means making an offer to purchase. The details of your intent to buy are written in a formal document called an agreement of purchase and sale.

The offer is a significant step in the process of buying a house because if it is accepted, you and the seller have entered into a legally binding contract. As a buyer, you must be prepared to fulfill your commitment to the contents of that agreement.

Purchase and sale

The agreement of purchase and sale states much more than how much you are offering to pay for the property.

It contains a description of the property and details relevant to the sale. Items such as the deposit, fixtures, chattels, time limits, completion date and how the

balance of monies is to be paid are stated in the document.

Normally a deposit accompanies the offer as a pledge that you will fulfill the contract. Any money you put down with the offer will be applied towards the total agreed purchase price upon closing of the transaction.

The deposit is usually given in the form of a cheque made payable to the real estate broker who has listed the property for sale.

Generally, the offer is valid for a specified period of time. Within this time, the seller will consider your offer and either accept it, reject it outright or make a counter proposal.

If the seller refuses a buyer's offer, the deposit is returned in full because no commitment has been accepted.

On the other hand, if your offer is accepted, and the closing date is an extended one, you may ask for your money to be deposited in an interest-bearing account.

It's wise not to rush into signing the

agreement of purchase and sale. Once the document is signed and accepted, if the buyer changes his mind, the seller may keep all the deposit or an agreed portion as a condition of the buyer's release from the contract.

If the buyer reneges on the contract, and the seller suffers loss or incurs expenses, the buyer may be liable for damages in excess of the deposit.

Time limit

An offer normally specifies the time limit within which the offer is open for the seller's consideration. If the seller doesn't accept the offer within the time frame, the offer is void and the deposit is returned. If there is a sign-back (counter-offer) by the seller, this irrevocable date may have to be changed for the buyer's consideration.

Few offers are unconditional. Most include conditions to be satisfied before the agreement is firm and binding.

Sometimes the buyer's offer is conditional upon obtaining a mortgage. This financing clause should include the terms and current interest rate, how the mortgage is to be paid and stipulate the amount of time a buyer

has to obtain the mortgage.

Often sellers receive offers that are conditional upon a buyer selling his/her house within a specified time period. Within this time, the buyer may have the option of waiving this condition by notifying the seller in writing.

If the buyer does not sell his/her house in the time specified in the offer, then the offer becomes null and void and the buyer's deposit is returned in full.

The seller may also during this time period continue to offer the property for sale and in the event he receives another offer satisfactory to him, he may notify the buyer in writing.

Generally, the buyer has 48 hours from delivery of such notice to waive the condition failing which the offer becomes null and void and the buyer's deposit is returned in full. The seller is now free to accept a new offer.

Fixtures and chattels are often a source of misunderstanding between buyer and seller.

Chattels are personal property which are tangible and moveable. They include such items as rugs, blinds, appliances, and bookshelves.

Fixtures, light fixtures, furnaces and some types of window coverings are permanent improvements to the property that if removed may cause damage to the property.

The law is not always clear as to what constitutes a fixture and there are circumstances when something that might ordinarily be considered a fixture is to be removed by the seller. An example would be a dining room chandelier is a family heirloom that the seller wishes to retain.

If there is anything you want in the house, list it in the offer as part of the purchase. The seller's listing may also specify such inclusions and exclusions.

The article is provided by the Ontario Real Estate Association (OREA) for the benefit of consumers in the real estate market.

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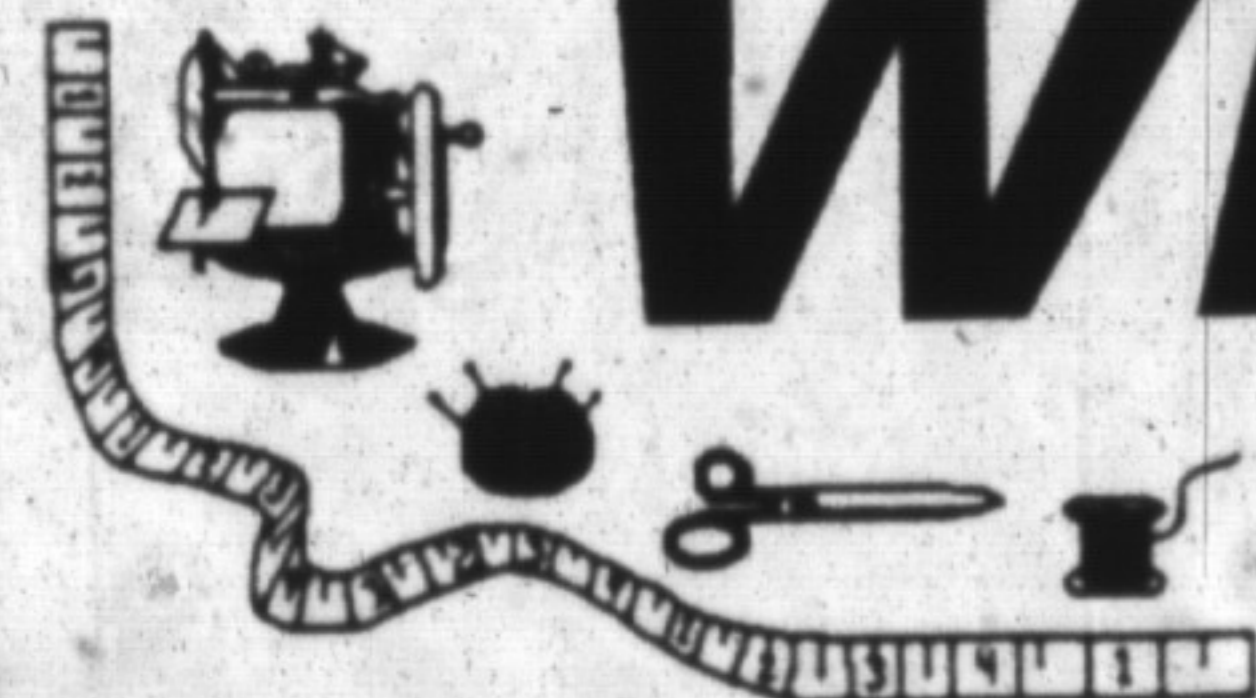


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