

## THE LEGAL POINT OF VIEW

### BUYING A HOME

#### THE AGREEMENT OF PURCHASE AND SALE

Once you make a written offer to purchase a house and it is accepted in writing by the vendors the document becomes a legal contract, commonly known as an agreement of purchase and sale. This agreement is an extremely important document in the purchase of a home and should be examined by both the lawyer for the purchasers and the lawyer for the vendors before it is signed. Once it is signed you are legally bound by the terms of the agreement and it will be very difficult to get out of, if not impossible, at least without a great deal of expense. After all, a house is often the largest purchase you will make in your lifetime and a lawyer can ensure the transaction is completed smoothly. You could complete the purchase yourself but "simple" real estate deals are often more complicated than one expects. And if you make a mistake the transaction

may fall through or be expensive to correct. If your lawyer makes a mistake he or she will be responsible and you can look to him or her for the costs and inconvenience of correcting the error.

The agreement of purchase and sale lists basic details such as: the names of the present owners and the prospective purchasers; a short description of the property; financing details; whether or not appliances are to be included in the deal; the date by which the seller must accept or reject the offer, and the proposed completion date. A real estate agent, who is the agent for the vendor, usually prepares the agreement and as mentioned above it is a good idea to have your lawyer look it over before signing. The real estate agent will take the offer to purchase to the vendors who may make a "counter-offer" changing some of the conditions in the offer such as the purchase price or the time allotted to procure financing. Counter-offers may be accepted by the purchaser by intalling the changes on the agreement.

The purchasers will be required to pay a deposit to the real estate agent in order to demonstrate that the offer is being made in earnest. The agent holds the deposit in trust and it is applied to the purchase price. If your offer is rejected the deposit will be returned and if the sale collapses the deposit often becomes part of the damages sued for.

Once the agreement is signed by both parties the lawyers for each side of the transaction will start to prepare all the necessary documents and searches in order to have everything ready for the closing date.

- Jane Monaghan

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