

Lawgic

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DID YOU KNOW ...

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INSPECTING YOUR HOME INSPECTION CONTRACT



BY: DOUGLAS TREILHARD
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Prospective home buyers are well-advised to have the house they intend to purchase inspected by a home inspector before closing the transaction. A condition permitting the purchaser to obtain a home inspection is a standard term of most agreements of purchase and sale.

Even with the precaution of obtaining a home inspection prior to closing, some purchasers are disappointed to discover deficiencies with their home after moving in—deficiencies that may require considerable expense to remedy. Disappointed new homeowners will sometimes look to their home inspector for compensation, believing that the home inspector should have detected the problem and warned them before they bought the house.

It is therefore important for purchasers hiring home inspectors to understand precisely what they are getting for their money.

Virtually every home inspector will have a standard form contract for the customer to sign. There is no substitute for carefully reading this document and having the home inspector explain any aspect of it that is unclear. That being said, the following general comments will likely apply to any standard form home inspection contract.

The first thing to keep in mind is that the terms of the contract define the scope of the home inspector's potential liability. You can expect to see the scope of the work explicitly restricted to a non-invasive, visual inspection.

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The home inspector will therefore not be liable for any deficiency that could not reasonably have been detected by such an inspection.

A further important term to look out for is a limitation of the home inspector's liability to a small sum, such as the price of the home inspection report (typically, a few hundred dollars). This type of clause means that, even if the home inspector was at fault and failed to detect a deficiency that later caused the homeowner thousands of dollars in damages, the homeowner cannot recover any more than the stipulated sum.

Although such limitations on liability can seem unfair from the perspective of an aggrieved homeowner, they serve an important purpose for both parties. If every home inspection involved the inspector assuming the risk of thousands of dollars in liability, then it would be uneconomical for the inspector to charge only a few hundred dollars for an inspection and report. The price of an inspection and report would have to be

increased substantially to cover the inspector's increased liability risk.

Other terms to look out for are arbitration agreements, which require the customer to submit any disputes to arbitration rather than going to court, and contractual limitation periods, which prevent the customer from starting a lawsuit after a certain amount of time has elapsed.

In short, obtaining a home inspection before purchasing a house can be a valuable way to minimize risk, but the home inspector is not an insurer against undiscovered risks and there are usually severe limitations on the remedies one can seek against a home inspector even where negligence is apparent.

Further information on the generally-accepted standards of practice of home inspectors is available through the Ontario Association of Home Inspectors.

FAREWELL TO PAUL RATCLIFFE

In December of 2015, Buset & Partners bid fairwell to Associate Lawyer Paul Ratcliffe. Paul and his family have decided to move back to Australia to be closer to family. Paul will be returning to the practice of law in Australia.

We want to thank Paul for his many contributions over the past 4 years and wish Paul and his family all the very best on their move!

REAL ESTATE TRANSACTIONS 101



BY: KRISTI BURNS

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Spring is just around the corner, which means that the local real estate market will start to heat up. Maybe you are thinking of down-sizing, maybe you are a first-time home buyer, or maybe it has been many years since you last bought or sold a house. In each case there are several things you need to consider before you start packing boxes.

These days, one of the first decisions both sellers and buyers make is whether to use a real estate agent, or whether to try to do-it-yourself in a "private" transaction. In either case, it is the purchaser's job to make an offer by formalizing the important terms of the transaction in an "Agreement of Purchase and Sale".

This Agreement (also called an "Offer") sets out the details such as the proposed price, closing date of the transaction, what appliances might be included in the price and the address and legal description of the property. A real estate agent or lawyer can provide advice about important additional terms that may not be included on the standard form of Agreement. Usually, making the transaction conditional on certain events happening, such as obtaining a mortgage or home inspection, selling your existing home or obtaining insurance, is essential. For the purchaser, once the Agreement of Purchase and Sale is signed, the most important

task will be finalizing the details of the mortgage before the condition date. The knowledge that you are "pre-approved" will likely dictate the upper limit of any offer you make. However, whatever lender you choose will still need to review the Offer in order to finalize the details of the loan. It is

important to know that in the case of a private transaction for a property which has not been formally listed, the lender will likely require an appraisal to validate the purchase price before confirming that it will finance the transaction.

Knowing that you are pre-approved for financing prior to finding a home is useful to

determine what you can actually afford. Your bank or credit union likely offers mortgages, but keep in mind that life insurance companies and investment companies often lend to their clients as well. Mortgage brokers are available to do the shopping for you and can help arrange the best financing for you. In today's market with historically low mortgage rates, other factors such as convenience, personal service and existing relationships can simplify the choice of lender. As well, keep in mind that the approval process involves providing proof of income, assets, debts and the source and amount of your down payment.

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Once all conditions are satisfied, the buyer must sign a waiver before the condition date expires to make the transaction “firm”. Then it becomes the lawyer’s job to search the title (ownership) and to prepare all of the documentation necessary to complete the transaction.

Since about 1998, title insurance has been available to purchasers in Ontario. Title insurance is a policy of insurance that you buy at the time of the purchase of your home. That insurance policy covers you and your lender against defects in the property’s title or unknown claims that could affect ownership. In fact, purchasing title insurance can

sometimes save the purchaser money because there are a few typical searches that may not be necessary if you elect to buy title insurance. Above all, buying a title insurance policy in most cases avoids the cost of needing to have a new survey prepared.

You should make your lawyer aware if there is anything unusual about the transaction, the property or your plans for it. Your lawyer and other real estate professionals have valuable knowledge to make your sale or purchase go smoothly. Soon, you’ll be unpacking your boxes in your new home with peace of mind.

DESTRUCTION OF PROPERTY?

CONTACT US TODAY!



Photo submission by Bre Craigie

UNDER OATH: BETTY ANN SUTHERLAND

Where did you grow up?

Right here in Thunder Bay. Fort William, to be exact.

What has kept you in Thunder Bay?

My husband is from here and all my family has remained so I had no reason (or desire) to leave. Plus, I really like Thunder Bay.

What is your role at the firm and what enticed you to take the job?

I am the Receptionist for the office. I have always worked with the public (retail, McKellar Admissions Department etc) so this seemed like a really good fit for me.

How long have you been with the firm?

It will be 7 years in August.

What do like most about being the Receptionist?

The people. I get to spend my days meeting and chatting with all sorts of people from clients and staff to lawyers (both in-house and from other firms) and other service providers that frequent our firm. It is a very social job!

What are you passionate about personally?

What can't you stop talking about?

My husband Brent and our two sons. We are very proud of our boys. Our oldest is living in New Zealand with his wife and is the head of science department for a local high School. Our youngest is here in Thunder Bay apprenticing to be a mechanic.

What's your favorite way to spend a weekend?

A typical Saturday for me would be shopping and having lunch with my sister. Sundays are always saved for Brent and I (and our boys if they are around) to spend time together. I never make plans on Sundays. That's my family day and I cherish it.

What would be impossible for you to give up?

Besides my family (which is a given), reading.

I am an avid reader. I'll read anything from James Patterson to Fern Michaels. Romance, mystery, murder-anything goes as long as it captures my attention at the beginning!

What surprises people the most about you?

As social and as outgoing as I am, I need my alone time. I have a room upstairs that is my "get-away" room. It is comfy and is perfectly set up with space for sewing, doing puzzles and is home to my favourite reading chair and blanket.

What is one little known fact about yourself?

I joined the Canadian Armed Forces right out of high school. I left after 6 months as I figured out pretty quick that it was not the life for me.



WANT TO ATTEND A TED TALK?

Mark Your Calendar for June 10th, 2016!



BY: LORI KRUSE
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I am part of an organizing committee that is putting the final touches on the upcoming TEDx Thunder Bay Conference! The theme is “What are We Waiting For?” and will showcase 14 dynamic and engaging speakers from all walks of life.

This all-day experience will take place at the Thunder Bay Community Auditorium and it will be like nothing you have attended before. The TED talks (famously lasting 18 minutes each) are focused on ideas worth spreading across the fields of science, innovation, technology and addressing challenges faced by many in everyday life. In addition to the talks, attendees will be entertained and inspired by a variety of artistic performances.

Attendees can also expect to see several of their favourite local vendors catering the event throughout the day and an impressive group of local sponsors that have stepped forward with support. Other highlights will include interactive exhibits and encouraged conversation breaks where attendees can delve further into the ideas introduced on stage. And, of course, all of the talks will be broadcasted so that we can get the word out that Thunder Bay is a progressive, enlightened and nurturing community.

If you are interested in helping out, it is not too late! People interested in volunteering can reach us at tedxthunderbay@gmail.com

For more information or to register to purchase tickets when they become available, please visit our website and be sure to follow us on Facebook and Twitter!

Those planning to attend should also know that Eco-Superior will be providing a bike valet service for those interested in riding their bikes to the event!



What are we waiting for?

Join us

June 10, 2016

at the Thunder Bay
Community Auditorium

To attend, sign up for ticket
notification at
www.TEDxTbay.com

Find out more:  
#tedxtbay

TEDx Thunder Bay
= independently organized TED event



tedxtbay.com



tedxthunderbay@gmail.com



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COMMUNITY INVOLVEMENT

Our firm is committed to supporting organizations that are important to our clients, employees and our community. Whether it be firm sponsored events in support of local groups or involvement on an individual basis, we are proud to live in and support the City of Thunder Bay.

Here are a Few of The Things That Our People Are Currently Involved In...

Trina Metz- Secretary for Lakehead Express Soccer Club (LEX) and Manager for the U12 Girls Lakehead Express Team

Cynthia Cline- Volunteer at Thunder Bay and District Humane Society

Tracey Nieckarz- Chair of the Thunder Bay Regional Health Sciences Foundation

Mike Strickland- Board member for Left Behind by Suicide, Volunteer for Marriage Preparation Class (St. Dominic's Church) and Volunteer legal advisor for the Thunder Bay Thunderbolts

Carolyn Enns- Volunteer for a newly established housing committee (part of the Inter-Church Refugee Committee) working on settling Syrian Refugees in Thunder Bay.

Derek Zulianello- Board member for the Thunder Bay International Baseball Association and Executive Board member for the Lakehead Thunderwolves Hockey.

Mary Catherine Chambers- Board member for the Thunder Bay Shelter House.

Employee Donations- Our firm proudly donates to the United Way of Thunder Bay's Employee Campaign, maintaining the Silver Award for our contributions.

ANNOUNCEMENTS

JANUARY 4TH

Buset & Partners LLP welcomes its newest associate Cynthia Cline to the firm. Cynthia brings 13 years of experience in the practice of corporate commercial, real estate and mining law to the firm. You can see her full profile on our website or by [clicking here](#).

NATIONAL CUPCAKE DAY!



On February 29th, Kaitlin Nistico (legal assistant to Richard Buset) combined her love of baking and animals in support of the Ontario SPCA and Humane Society. She set out with a goal of raising \$400. After baking 120 cupcakes and having another 36 baked by Cheryl Mohring (employment and labour relations clerk), Kaitlin raised an impressive \$900 in support of this worthy non-profit charitable organization.

Great job Kaitlin!



10 TIPS FOR FAMILY LAW CLIENTS

BY: NANCY MCEWEN

Law Clerk, Family Law Department

- 1 BE PREPARED**
Prepare for all meetings, telephone calls and correspondence with your lawyer. Make note of questions you would like to ask.
- 2 BE HONEST**
Speak candidly and honestly to your lawyer, and formulate realistic goals and expectations as early as possible in the representation.
- 3 TAKE NOTES**
Consider taking notes during your meetings and telephone calls with your lawyer so that you don't have to ask the same question twice. Always remember that your lawyer will bill you for his or her time, so make the most efficient use of it.
- 4 BE RESPONSIBLE**
Respond to your lawyer's requests in a timely manner. You don't want to pay for your lawyer to follow up with you.
- 5 USE STAFF EFFECTIVELY**
Establish a good rapport with your lawyer's assistant and law clerk. While they cannot give legal advice, they can answer some procedural and general questions, and their billing rate is much lower. If they cannot help you, they will get the information from the lawyer for you or schedule a meeting with the lawyer, if required.
- 6 BE ORGANIZED**
Keep your material and documents organized. When you are giving documents to your lawyer's office make a list of all the documents in chronological order. This will reduce the time spent organizing your case.
- 7 BE HELPFUL**
Provide an electronic version of your documents and material requested by your lawyer if available.
- 8 COMMUNICATE EFFICIENTLY**
Use voicemail, email and fax to communicate with your lawyer as much as possible. In person meetings will be more expensive.
- 9 PLAN YOUR EMAILS / PHONE CALLS**
Try to avoid sending multiple emails or making multiple phone calls. It is more cost effective to ask 2 or 3 questions in one email or phone call, if possible.
- 10 BE PATIENT**
When using email to communicate, keep in mind that your lawyer is likely receiving a high volume of emails and may not be able to respond to you immediately. Keep your questions short and clear and be patient on the response time.