



2788 boul. St. Joseph Blvd. Orleans, ON K1C 1G5  
105-555 Legget Drive, Kanata, ON K2K 2X3  
9 Antares Dr. Ottawa, ON K2E 7V5  
1300-340 Albert Street, ON K1R 7Y6  
[www.jacquesrobert.com](http://www.jacquesrobert.com)

613-837-7880 613-837-7664 fax

### **"REAL NEWS!" December 2013 issue**

Dear clients, friends and family,

We hope this finds you well.

As the Holidays approach, we would like to thank you for your continued support throughout this year.

We have exciting news to share with you. We have opened a new location in Barrhaven to serve clients in South-West Ottawa. Our new Barrhaven office is located at 104-2 500 Claridge Drive, Nepean, ON, K2J 3G5. We now have five locations conveniently located around Ottawa to serve our clients. See the bottom of our newsletter for a full list of our locations and addresses.

We would also like to introduce you to two new additions to our team. Robin Goski joined our team as an Associate Lawyer on November 19th, 2013 and can be reached at [rgoski@jacquesrobert.com](mailto:rgoski@jacquesrobert.com). Lynda Francoeur also joined our team in November as our receptionist and is fully bilingual.

In this issue of Real News, we continue to take a closer look at some post-closing issues. We covered utility arrears in our last newsletter and we will now take a look at "hidden defects". We give you a broad portrait of what to do, what are your recourses and what you should consider.

For our next issue in March 2014, we will look at why home owners cannot pick up the keys to their newly purchased home earlier on the closing day.

Did you know that we post all of our newsletters online? Yes, they are available on our website by clicking [here](#).

We also include a list of some of this winter's community events for those of you interested in getting involved in the community.

We thank you for your ongoing support.

Sincerely,

*Jacques & Team*

## Now Serving Clients in Barrhaven!

We are pleased to announce the opening of our new office in Barrhaven. This expansion allows us to serve our clients better by providing quality service conveniently located where our clients are anywhere in Ottawa. Call us today to book your upcoming real estate closing in our new Barrhaven location.

## What exactly is considered a "fixture" or "chattels" :

A fixture is securely fixed to a certain place and is bound to a property whereas a chattel is a movable piece of personal property. Problems usually arise when some items are not mentioned in the Agreement of Purchase and Sale and that one party really wanted to have the said item along with the sale of the property.

- Fixtures: what items are automatically included as « fixtures » in an Agreement of Purchase and Sale is quite unclear. It is much more complicated than as the famous saying of « what is screwed as opposed to nailed » to the property. As a general rule, any item that is not specifically stipulated in the Agreement of Purchase and Sale is deemed to be excluded from the transaction.
- In case of disputes, the following criteria are used by the Courts to indicate if a particular item should be considered as fixture :
  - Degree and type of annexation
  - Nature of the item
  - Inherent character of the item
  - Any surrounding circumstances
  - Intention of the owners
  - Type of transaction (residential vs commercial)
- Be careful with oral representations from the Sellers. To prevent any misunderstandings, you should include in the contract all items you would like to include and/or be removed from the property. Bear in mind that items can also become negotiations points between yourself and the other party.

## Hidden Defects:

- A hidden defect is a problem that could not have been discovered before the closing of the transaction either because it was not possible to discover or that the Sellers purposely hid the problem.

- An important principle that applies to Real Estate transaction is called « Caveat Emptor »; Latin for « Buyers Beware ! ». According to this principle, the Buyers have to take all necessary measures to insure the quality of the construction of the house and its present state. It is strongly recommended to conduct a professional home inspector.
- Sellers are not legally obligated to declare every single problems or defects pertaining to the property (unless questions are asked) as long as there are no risks for the health or security of the Buyers. When a question arises, the Sellers then have the obligation to tell the truth; to respond in a non-fraudulent manner.
- There are no guaranties applicable to a residential property. However, in most cases, Buyers do add guaranties to the contract about the general condition of the house and will include a clause to say that all fixtures and/or chattels will be in « good working order ».
- A document that can help with this is called the « Seller Property Information Statement » (SPIS); which constitutes a questionnaire pertaining to the property and contains specific questions. Bear in mind however that this questionnaire does not operate as a warranty and is often incomplete or incorrect (because most of the time, the present owners may not know that much about the property). In fact, most lawyers will advise their clients not to complete such Statement.
- If you have been a victim of hidden defects, the first step would be to get a quote to repair the problem, then contact your lawyer and ask that a letter be written to the other lawyer. If you do not get a positive (or any) answer from the other party (either through their lawyer or them directly), your only other option would be to bring the matter to the Small Claims Court. However, keep in mind the actual value of the repair - it may end up costing more in legal fees, time and effort than having the repairs done.

## What should I do to prepare myself / to insure a smooth transaction:

- If you are in doubt if something is considered a fixture or not, include/exclude it in the Agreement of Purchase and Sale. It can also become a negotiating point.
- never rely on oral promises
- ask every possible question that you may think of
- Add the condition of « leaving the house in the same condition as inspected/broom clean ». If the paint is really important to you (which is also a large grey area of the law), make sure to include such provision in the contract.
- Do your homework! That may include contacting the City of Ottawa to ensure there are no upcoming projects or significant changes in the area you are considering buying.
- When all avenues are expired, speak to litigation lawyer to enquire about your case

## Community Events

### A list of community events taking place in Ottawa this winter:

- **Originals Ottawa Christmas Craft Sale:** December 12-22, 2013 @ Ernst & Young (EY) Centre - 4899 Uplands Dr., Ottawa, ON. For more information [click here](#).
- **New Year's Eve on Sparks Street:** December 31, 2013 @ Sparks Street Mall. For more information [click here](#).
- **New Year's Eve Hogmanay Party:** December 31 @ Ottawa City Hall - 110 Laurier Ave. W., Ottawa, ON. For more information [click here](#).
- **National Figure Skating Championships:** January 9-15, 2014 @ Canadian Tire Centre - 1000 Palladium Drive, Ottawa, ON. For more information [click here](#).
- **Winterlude:** January 31-February 17, 2014 (weekends) @ Rideau Canal Skateway. For more information [click here](#).
- **Winter Jazz Festival:** February 14-16, 2014 @ National Arts Centre - 53 Elgin St., Ottawa, ON. For more information [click here](#).
- **Ottawa Fashion Week:** February 6-9, 2014 @ Hilton Lac-Leamy - 3 boulevard du Casino, Gatineau, QC. For more information [click here](#).

### Upcoming events in Ottawa:

- For all upcoming events in Ottawa, please contact the Ottawa tourism website at : <http://www.ottawatourism.ca/en/visitors/plan-a-visit/event-calendar>
- Nuit Blanche Ottawa : <http://nbog.ca/>
- Orleans Star Newspaper : <http://www.orleansstar.ca/>
- Ottawa Chamber of Commerce : [http://www.ottawachamber.ca/ottawa\\_events/upcoming\\_events.aspx](http://www.ottawachamber.ca/ottawa_events/upcoming_events.aspx)
- Ottawa Kiosk - events information : <http://www.ottawakiosk.com/events.html>
- Upcoming artists to Ottawa : <http://eventful.com/ottawa/events>

**\*\*IMPORTANT:** please note that the information provided in this newsletter is not intended to be legal advice. There could be many factors unknown to us that could have an impact on your situation. Please do not hesitate to contact us if you require any further information on these issues.

## About the Jacques Robert Law Office

With the dynamic vision of its key player, Jacques Robert, our firm has grown to be one of the largest real estate law firms in the Ottawa area. To meet the changing face of Real Estate Law we are continually upgrading our systems and competitively adjusting our pricing structures.

Our highly trained legal team, consisting of Robin Goski (associate lawyer), Adriana Caruso (law clerk), Melanie McNeil (law clerk), Lynda Francoeur (receptionist/admin), Victoria Robert (administrative assistant) and Milva Caruso (law clerk and office manager) are all well versed in the area of real estate law, wills and estates. We offer a fully bilingual service to our clientele - nos services sont également disponibles en français.

Our firm is on the recommended rosters for the Department of National Defense, RCMP as well as many corporate relocation firms. We are on the recommended list for all of the major builders in the region.

We have 5 locations for our clients signing convenience: the East, Central, West, South and South-West parts of the city. Our Central Administration is conducted at the East office which is located in Orleans just minutes from the Queensway, the main freeway through Ottawa from West to East. We are open daily from 8:30 am until 5:00 pm.

East      Central Administration  
2788 St. Joseph Blvd.  
Orleans, ON K1C 1G5

South     Capital Corporate Centre  
9 Antares Drive  
Ottawa, ON K2E 7V5

West      The Corporate Centre  
Tower A  
304-555 Legget Drive  
Kanata, ON K2K 2E2

Central    Constitution Square III  
1300-340 Albert Street  
Ottawa, ON K1R 7Y6

South-    104-2 500 Claridge Drive  
West      Nepean, ON K2J 3G5

Tel. : (613) 837-7880

Fax.: (613) 837-7664

Visit our website at [www.jacquesrobert.com](http://www.jacquesrobert.com) for more information.

## Disclaimer

The foregoing articles are for information purposes only and are not intended to replace advice from a qualified legal professional.

The information contained herein must not be relied upon to make any decisions whatsoever.

Any use of this document does not create or constitute a lawyer-client relationship.

In all cases, contact your legal professional immediately for any advice on any matter referenced in this document before making any decision whatsoever.