

Vendor's Closing Certificate explained



Jacques Robert REAL ESTATE LAW

As part of the legal documents on a sale, your lawyer will have you sign a document called a Vendor's Closing Certificate. In the Ottawa area, the County of Carleton Law Association has standardized a set of clauses that warrant the property to the buyer. Over the next three articles, we will review these clauses and explain what the warranties mean for the buyer and seller.

Possession and Keys

Subject to the Agreement of Purchase and Sale in the noted transaction, the Vendors shall deliver vacant possession of the Property and any chattels included in the Agreement. All keys, entry mechanisms, and access and alarm codes, as applicable, for the Property not accompanying this Certificate shall be left on the Property.

- The seller warrants that they will leave the property vacant, which means that the seller will remove their personal items. Removing the personal items includes removing all garbage from the property, and any chat-

tels (for example, furniture or appliances) that are not included in the purchase. This clause also states that all chattels included in the purchase, for example, a fridge or stove, will be left with the property. Finally, this clause also states that any keys, alarm codes or entry mechanisms that the seller did not leave with their lawyer,



GETTY IMAGES

should be left at the property for the buyer to receive once they take possession of the home.

Bill of Sale

The Vendors own the chattels set forth in the Agreement and convey title to them to the Purchaser free and clear of liens and encumbrances.

- This clause means that the items listed as chattels included in the purchase (for example a dishwasher or freezer) will be included in the purchase and that they

are not subject to liens or encumbrances. For example, there can be no writs of seizure and sale of personal property against these chattels. If there are writs, the judgement will have to be paid out first and then the sale can take place, once the seller's name and property are clear of any liens. It also means that any rent-to-own items are paid out on the closing of the sale.

Property Taxes

The Vendors have paid the Property taxes and any local improvement rates (and any

interest and penalties thereon) as shown on the Statement of Adjustments.

- On the sale of a property, the lawyers adjust for the property taxes to ensure that the seller will be paying from January 1st of the current year to the closing date; the buyer will become responsible for the property taxes from the closing date onwards. If the seller is in arrears on their property taxes, the full amount of the arrears and all interest must be paid before or on closing.

Utilities

The Vendors have paid or will pay promptly all accounts to the closing date for any utilities and services that may form a lien against the Property.

- This clause takes into account that the final utility bills may not have been sent out by the closing date of the sale. There will be one final bill from each utility company covering the period from the last bill to the closing date. Therefore, the sellers are not warranting that the utilities have been fully paid, but that when the final bills are issued after closing, the seller will pay their final bills. This clause is specifically referring to utilities that will cause a lien against the property (for example, water

and sewer charges from the City of Ottawa).

Fuel Oil / Propane

If the Vendors have claimed an adjustment for fuel oil or propane, the Vendors have filled the tank(s) to capacity, and paid for same in full.

- On the closing of a property, the seller will have the fuel oil or propane tanks filled. On closing, the seller will be credited by the buyer for filling the tanks. This clause warrants that, if there has been an error in the adjustment, the seller and buyer will readjust the credit after closing. If the buyer will be changing the oil tank or propane tank immediately after closing, the buyer can inform their lawyer; the lawyers will adjust only for the oil remaining in the tank as opposed to the fuel tank being filled again before closing.

This issue covered the first five clauses of the Vendor's Closing Certificate. The next issue will cover adjustments on closing, HST and Family Law clauses contained in the Vendor's Closing Certificate.

co-authored with Robin Goski, associate lawyer

Jacques Robert is an Ottawa real estate lawyer. For more information, visit www.jacquesrobert.com

Make a home offer they can't refuse

Buying a home can be very competitive. A well-maintained property with all of the bells and whistles that today's buyers demand figures to attract many offers, and buyers who have found their dream homes must be prepared to make an offer that sellers can't refuse.

Standing out in a sea of other potential home buyers is not always so easy, but there are steps buyers can take to ensure their offer is the one sellers ultimately accept.

- Get preapproved for a

mortgage. Sellers' patience may wear thin with buyers who are not preapproved for a mortgage when making their offers. Preapproval can speed up the selling process, as buyers won't need to secure financing afterward. When sellers receive multiple offers on their homes, they are more likely to sell their homes to buyers whose financing is already lined up as opposed to buyers who have to scramble to secure loans.

- Establish a strong rapport with the sellers. It's not

uncommon for homeowners to develop emotional attachments to their homes, and buyers should keep that in mind when viewing a home and negotiating their purchase. Sellers won't want to hear about how ugly a home is or how much money buyers will have to spend to bring the home up to their standards. While buyers must weigh such variables when making their offers, keep it as cordial as possible and avoid any inflammatory remarks during the negotiation process. Sellers may be more likely

to accept a lower offer from a buyer they like than a higher offer from someone they don't like.

- Don't delay an inspection. When a property is drawing significant interest, buyers can set their offers apart from the rest by arranging for a near-immediate inspection. Some buyers may want sellers to give them a couple of weeks to arrange for an inspection, and that may irritate sellers who want to sell their homes as quickly as possible. Have an

inspector ready to perform an inspection within days of making your offer.

- Include an escalation clause. When making an offer on a home, prospective buyers can include an escalation clause. Such a clause acknowledges that a potential buyer is willing to increase his or her initial offer by a predetermined amount to exceed any bids that are higher than that initial offer. When sellers trigger such clauses, they are often required to show the other

offers they received that triggered the escalation clause. Escalation clauses show the sellers you really want the house while keeping potential buyers' hopes of buying the home alive when the bids are competitive.

Prospective home buyers may find themselves in some stiff competition upon finding their dream homes. But a few simple strategies can make their offers stand out and increase their chances of buying their ideal homes.

-Metro Creative Connection