



Jacques Robert Real News June 2011

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Dear real estate professionals,

We hope that in each upcoming newsletter we will address relevant issues that arise in our day-to-day and provide you with useful information and tools to continue providing the best service to our clients.

We also include a list of this month's community events for you to pass on to your new clients moving to Ottawa and interested in getting involved within the community.



You may already have some burning questions you would like answered. We invite you to submit them and we will do our best to address these and other legal issues in our upcoming newsletters.

We thank you for your ongoing support.

Sincerely,

Jacques

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Disclaimer: The foregoing articles are for information purposes and do not constitute legal advice.

Tenants in common and joint tenants what is the difference?

By Jacques Robert

Before closing, your Purchaser clients will need to decide whether they want to take title to the new property as "tenants in common" or "joint tenants".

The big difference between both relates to survivorship.

With a **tenancy in common**, if one owner passes away his/her interest, at death, will pass to his/her estate, to the beneficiaries under a will, or in the case of an intestacy (where there is no will) to his/her heirs as provided for by the *Succession Reform Act* (Ontario).

In **joint tenancy**, if one owner passes away, his/her interest will pass to the surviving tenant automatically and cannot be affected by the will of the deceased.

If you or your clients would like additional information, please do not hesitate to contact us.

The importance of a seller's residency

By Sarah R. Morgan

The OREA form paragraph on residency states as follows:

"Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada."

What does this mean? What is the practical impact of this clause on your client(s)? What is the impact of failing to discuss this clause with your client?

1. At the outset, confirm whether your client is a resident of Canada and whether your client will continue to be a resident of Canada during the length of the transaction. If your client has any questions regarding the legal meaning of a "resident" please ask him/her to contact us.
2. If your client is a resident of Canada (thus not a non-resident), there are no issues and the client will simply swear to this effect on closing.
3. If your client is not a resident of Canada, there will be fiscal repercussions to the sale and you should advise your client immediately to contact their accountant and advise them of the possibility that 25% of the net sale proceeds will be withheld.

Please keep in mind that there are forms that your client will need to fill-out and file with the government which may impact your deadlines.

4. Your client must either advise the CRA of the proposed disposition thirty days before the actual sale or advise them of the disposition within ten days after the actual sale. Please note that failing to do so can result in monetary penalties of up to \$2,500.

As you can discern, failing to discuss this clause with your client can lead to frustration, confusion, additional costs, delayed closing and the withholding of sale proceeds.

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For more information, you can direct your clients to the following CRA website (<http://www.cra-arc.gc.ca/tx/nrsdnts/ndvdl/nrs-eng.html>) and/or to their accountant.

The Ontario Land Transfer Tax

The Ontario Land Transfer Tax is payable by Purchasers of real property in Ontario.

To assist our clients in anticipating their closing costs with more certainty, we include a calculator on our website. To access our online calculator please visit our website at: <http://www.jacquesrobert.com/our-fees/land-transfer-tax-calculator.aspx>.

Some purchasers are eligible for a \$2,000 rebate, some are not. Please ask your clients to contact our office directly to determine if they are eligible.

Ask them to contact Sarah directly by telephone at: (613) 837-7880 ext 234 or by email at: [smorgan\(at\)jacquesrobert.com](mailto:smorgan(at)jacquesrobert.com).

Community Events

A list of community events taking place in Ottawa this June:

- Orleans Festival – June 3-4, 2011 (Orleans). For more information please visit: <http://www.orleansfestival.ca/>.
 - Blackburn Fun Fair – June 3-5, 2011 (Blackburn Hamlet). For more information please visit: <http://www.classicamusements.ca/blackburn-fun-fair/index.htm>.
 - Orleans Soap Box Derby- June 11, 2011 (Orleans). For more information please visit: <http://www.orleanssoapbox.com/>.
 - Family Fun Fair – June 11-13, 2011 (Bayshore). For more information please visit: <http://familyfunfair.ca/info.htm>.
 - Festival Franco Ontarien – June 16-18, 2011 (Downtown). For more information please visit: http://www.ffo.ca/programmation.php?lang=en_CA.
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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.

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