



Non-residents buying & selling property



Jacques Robert REAL ESTATE LAW

Ontario real estate law allows non-residents of Canada to buy and sell property. However, there are certain considerations that the non-resident must be aware of. A non-resident can be a foreign investor, but a non-resident can also be a Canadian citizen who has been moved by their employer to the United States or another country for work. If enough time has elapsed between the client's move to the other country and the sale of their property, the client will be considered

a non-resident under the Income Tax Act. Once a client is considered a non-resident, the special considerations would apply.

On a purchase of property, the non-resident would follow the same procedure as a purchase by a resident of Canada. In Ontario as a whole, we do not, at this time, have special rates of Land Transfer Tax or an additional tax for non-residents as some other Canadian provinces have adopted. However, as of this April, a 15% tax

is imposed on the purchase of an interest in residential property in the Greater Golden Horseshoe Region for purchasers who are not Canadian citizens or permanent residents of Canada. The Non-Resident Speculation Tax applies in addition to the Land Transfer Tax. Another difference between a non-resident and a resident purchasing property would be their ability to obtain financing through the bank. Banks need to verify the identity of their clients and often require Canadian identification documents to prove identity. A non-resident may not have Canadian identification, so a non-resident would have to verify with the bank prior to signing an Agreement of Purchase and Sale whether the bank will accept the foreign

identification. If the bank will not accept the foreign identification, the non-resident will either have to find a different bank willing to lend to a non-resident, or the non-resident will have to pay cash for the transaction.

On the sale of a property, a non-resident will have requirements in addition to the requirements on a typical sale by a resident of Canada. The non-resident will have to provide an up-to-date clearance certificate which shows that the non-resident does not owe any money to the Canadian government. It can take several weeks for a compliance certificate to be issued by the Canada Revenue Agency. Therefore, the seller should apply as soon as possible after signing an Agreement of Purchase and

Sale to ensure that the compliance certificate is obtained before the completion date.

If the lawyer does not receive a compliance certificate before closing, the lawyer will have to withhold 25% of the purchase price of the property until a compliance certificate is received. If money is owed to the Canada Revenue Agency, the lawyer will have to pay the amount owing to the CRA and the remainder will be released to the seller.

When the vendor is a non-resident, and has not produced a compliance certificate, the purchaser can then become liable to pay a specified amount of tax on behalf of the vendors. The purchaser's lawyer will ensure that the proper amount is held back on the transaction if

a compliance certificate is not issued before closing. It is therefore important to ensure that you inform your lawyer if you know or suspect the seller is a non-resident so that the lawyers will be ready to request the compliance certificate or the necessary holdback.

The requirements for a non-resident to purchase or sell property are not overly challenging, but they do require the non-resident to be organized and prepared early for the sale of the property of the purchase.

co-authored with Robin Goski, associate lawyer.

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

RENTAL GUIDE

Specific steps need to be taken to overcome bedbug infestation

BY DICKIE & LYMAN LLP
who practice landlord/tenant law
and other areas of law

Q: I live in an apartment in a walk-up building in Ottawa. A few weeks ago, I noticed bedbugs in my apartment. Apparently the bedbugs were brought into the building by an unsavoury tenant who moved used furniture into their apartment. The tenant has now left the building, but the bedbugs are still here. My landlord gave me two cans of Bed Bug Killer to spray my apartment with. But that didn't get rid of the bedbugs. The bedbug situation is getting worse, and I

have many bites each night. What should I do?

A: This is an unfortunate situation all around, and the problem will take at least several weeks to be solved.

Bedbugs are a common pest found in many rental units, private homes and public spaces. Anyone, anywhere can get bed bugs. Their presence is not determined by the cleanliness of living conditions. They are often brought into a home on used furniture and used clothing. But they can be brought into a unit through no fault of a tenant, such as in suitcases after travelling or by simply sitting on an

infested couch.

Bedbugs are not known to spread disease but their bite can cause itching, allergic reactions or a secondary skin infection.

If bedbugs are visible, you can help contain the situation by cleaning them up with a vacuum cleaner. A HEPA filter will keep the bugs contained within the vacuum cleaner.

You can also make your bed an island by putting mattress encasements on it, moving it away from the walls and putting traps under all the legs. That should allow you to sleep without being bitten. Google "Ottawa public health bed bugs" for more

information.

To get the problem solved, you need to communicate effectively and promptly with your landlord. You should tell your landlord, both by telephone and in some written form, that you believe your unit has bedbugs, and the cans of spray haven't fixed the problem.

It is the landlord's responsibility to maintain the rental unit so that it is fit for habitation, including arranging for pest control services. It is the tenant's responsibility to cooperate with the landlord to help manage the bed bug problem.

Your landlord should bring in a licensed pest con-

trol operator to assess the situation and treat the unit. You will need to do some preparation, and you will almost certainly need to treat your clothes, bedding and towels.

If you see bedbugs in the clothes, you will want to wash the clothes, but if you don't, it is sufficient to dry the clothes at a high heat without washing them first. Remember to take the clothes to the laundry in one set of bags, and bring them back in new bags to avoid re-infestation. You need to keep the treated clothes separate from untreated clothes, and keep the treated clothes in sealed containers until the apartment is free of bed-

bugs.

Usually two bedbug sprays are required because the approved pesticides do not have sufficient residual effect to kill the bedbug eggs. The goal of the first spraying is to kill all the live bedbugs. Then the pest control operator will wait a few weeks for any eggs to grow into juveniles, and then spray a second time to kill the juveniles before they in turn produce more eggs.

If your landlord does not get the pest control operator in to take effective action, then your quickest recourse is to call Ottawa By-Law and Regulatory Services at 311.