

Working Group on Lawyers and Real Estate

Suggested Fee Schedule

Residential Real Estate Transactions

Preface

The question of what fees a solicitor charges for his/her expertise in a real estate transaction is a matter of concern to everyone involved: the client, the Court and the solicitor. To this end and as a guide, not only to solicitors who practice in Ontario, but also to clients and the Courts, the Working Group on Lawyers and Real Estate (the "Working Group") is publishing this fee schedule. However, this is only a suggested fee schedule for matters of average complexity. The circumstances of the particular retainer, the client's needs, and the specific arrangements struck with the client will govern in each case.

The Law Society of Upper Canada's *Rules of Professional Conduct* deals with fees charged by solicitors. Specifically, Rule 2.08 and the associated Commentary deals with solicitors' fees and disbursements. The Rules of Professional Conduct are available at the Law Society of Upper Canada's website: www.lsuc.on.ca.

As well, as has always been the case, lawyers frequently offer their services at reduced rates or without fee, in appropriate circumstances. Such public service, which continues to characterize the Bar throughout Ontario, is to be encouraged. This suggested fee schedule relates to fees in cases where circumstances do not dictate a reduced or waived fee.

This suggested fee schedule for solicitors may be amended from time to time by the Working Group, in order to take into account changed conditions. The Working Group prepared the suggested fee schedule for solicitors as of the spring of **2006**. The suggested fee schedule for solicitors set out below incorporates changes recommended by the Bar and the Working Group. The Working Group on Lawyers and Real Estate is comprised of representatives of the Ontario Bar Association, the County and District Law Presidents Association and the Ontario Real Estate Lawyers Association, whose members are: Clare Brunetta, Fort Frances (Co-Chair); Raymond G. Leclair, Ottawa (Co-Chair); Sally Burks, Ottawa; Kim Little, London; Paul Dixon, Hamilton; Maurizio Romanin, Toronto; Jerry Udell, Windsor; and Kathleen Waters, Toronto.

Any suggested fee is, of course, exclusive of GST and proper disbursements.



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Suggested Fee Schedule

1. Purchase and one mortgage of residential properties (including condominiums and recreational property for personal use)*

Assuming sale price of the property (inclusive of encumbrances to be assumed) of \$100,000 or less	Recommended Fee: \$850.00
On the excess over \$100,000 up to a total sale price of \$300,000	approximately one half (½) of 1 per cent of the said excess, to be determined by the time spent, the complexity of the transaction and the amount involved
On the excess over \$300,000	approximately one quarter (¼) of 1 per cent of the said excess, to be determined by the time spent, the complexity of the transaction and the amount involved

To complete the transaction in accordance with the Practice Guidelines issued by the Law Society of Upper Canada, including:

- Purchaser's solicitor for reviewing executed agreement of purchase and sale (but not including negotiating or drafting agreement) and advising in connection therewith;
- Investigating title and checking the description;
- Making requisitions on title and on other matters recited in the agreement;
- Searching the arrears of realty and all other taxes and rates constituting statutory liens;
- Advising on the applicability of GST legislation;
- Searching for executions;
- Searching for work orders;
- Discussing with the purchaser all matters relating to title, zoning and statement of adjustments;
- Reviewing and executing mortgage instructions;
- Advising the client concerning insurance requirements;
- Advising the client with respect to Rule 2.02(10)-(13) of the Law Society of Upper Canada and options for assuring title, including solicitor's opinion letter and title insurance; where appropriate for rural properties;
- Advising client with respect to road access, shore allowance, septic issues, water potability and well issues;
- Where appropriate advising the purchaser regarding Tarion warranties and claim periods;
- Attending on execution of documents;
- Attending to the closing;
- Giving opinion on title or securing title insurance policy; and
- Reporting within 30 days of closing and all other services necessarily incidental thereto.

When dealing with a condominium, to review accompanying documents, including:

- Declaration, by-laws, management contract, insurance trust agreement and all other condominium documentation;
- Advising in connection therewith;
- Examining condominium unit plan;
- Reviewing transfer;
- Obtaining and limited review of status certificate;
- Disclosure documents and related documents and statements from and concerning the condominium corporation as to its financial condition and other matters relevant to the transaction in accordance with the LSUC's Practice Guidelines and the solicitor's retainer;
- Condominium registrations and amendments thereto;
- Common expenses, insurance coverage, boundary limits of condominium unit and responsibility and participation in condominium corporation;
- Considering and advising on occupancy agreement; and
- Attending to the closing (interim closing extra).

* The fees set out herein are, of course, only suggestions. Solicitors and their clients are free to negotiate any lawful fee arrangements, whether or not in accordance with this schedule, with no adverse consequences or repercussion.

2. Sale of residential properties (including sale of a condominium unit or recreational property for personal use)*

Based on sale price of the property (inclusive of encumbrances to be assumed)

Recommended Fee: Two-thirds (2/3) of the recommended fees as in Item 1

To complete the transaction in accordance with the Practice Guidelines issued by the Law Society of Upper Canada, including:

- Vendor's solicitor for reviewing executed agreement of purchase and sale (but not including negotiating or drafting agreement) and advising in connection therewith;
- Preparing transfer, answering requisitions on title;
- Preparing statement of adjustments and advising in connection therewith;
- Advising on the applicability of GST legislation;
- Advising on the applicability of any non-resident taxes;
- Reviewing charge taken back (if any);
- Attending on execution of documentation;
- Attending to the closing and completing the sale; and
- Reporting to client and all other services necessarily incidental thereto.

In the case of a condominium unit, if required, supplying or arranging for copies of condominium status certificate and related documents, including the declaration, by-laws, management contract, insurance trust agreement, up-to-date insurance certificate.

3. Registration of Mortgage only*

Recommended Fee: \$650.00, subject to adjustment for the time spent, the complexity of the transaction, the amount involved, the result obtained and the requirements of the lender and any title insurer involved

To complete the transaction, including:

- To receipt of mortgage instructions (when not acting on purchase);
- To drafting charge and all related documentation for the registration of the charge and confirmation of the loan;
- To obtaining the mortgage funds and disbursements thereof;
- To undertaking all necessary searches and measures set out in the purchase module above necessary to comply with the solicitor's retainer; and
- To reporting to the borrower and the lender.

4. Additional matters (not included in the fees above)*

The following categories are included as work in addition to that provided in the above purchase, sale or mortgage scenarios and solicitors should review same with their clients and treat the work required and any impact on their fees accordingly:

A. Negotiating purchase or sale of property

Purchaser's or vendor's solicitor for negotiating the terms of a purchase or sale of property which may include finding a vendor or purchaser, the fee to be determined by the time spent, the complexity of the transaction, the amount involved and the result obtained.

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B. Drafting agreement of purchase and sale	Drafting the agreement of purchase and sale including attendance to take instructions and execution (but not including negotiating the terms of the agreement), the fee to be determined by the time spent, the complexity of the transaction and the amount involved.
C. Certificate of Status Review/Disclosure Documents	To full review of status certificate and related documents and statements from and concerning the condominium corporation as to its financial condition, status of any litigation and other matters relevant to the transaction; to full review of the disclosure documents for a new condominium unit; to review with the purchaser of the construction schedule and status of the property at the time of the closing; to detailed review of the reserve fund study; to review with the purchaser the impact on the financial status of the unit and corporation; the fee to be determined by the time spent, the complexity of the transaction and the amount involved.
D. Interim Closing of a new condominium unit	To interim closing of a new condominium unit; to review of interim occupancy agreement, statement of adjustments and other documentation for the interim closing; to review with the purchaser the procedure regarding the interim closing, the final closing and the purchaser's status pending final closing; the fee to be determined by the time spent, the complexity of the transaction and the amount involved.
E. Enhanced mortgage requirements during purchase transaction	For transactions with mortgage requirements which command more time and attention than the ordinary lender's requirements, including repayment of more than the existing mortgage(s) on title; including drafting of additional documentation whether declarations, guarantees or assignments of leases and rents; including execution of lender's insurance forms or waivers, the fee to be determined by the time spent, the complexity of the transaction and the amount involved.
F. Removal of executions	To obtain information regarding any executions revealed by the search; to obtain confirmation of status of outstanding obligations; to drafting necessary documentation to lift execution, including affidavit to be filed with Registrar, the fee to be determined by the time spent, the complexity of the transaction and the amount involved.
G. Additional Mortgages during purchase transaction	For each additional mortgage to be registered after the first mortgage when acting on the purchase of the property, to receipt of mortgage instructions; to drafting charge and all related documentation for the registration of the charge and confirmation of the loan; to obtaining the mortgage funds and disbursements thereof; to reporting to the purchaser and the lender, the fee to be determined by the time spent, the complexity of the transaction and the amount involved.
H. Acting for a non-resident	To review of client's circumstances to determine applicability of non-resident taxes; to preparation of application to obtain Section 116 Certificate for closing; to obtaining information to complete the application or respond to any government queries, including consultations with the client's other professionals; to additional communications with the other solicitor for closing; to obtain certificate and provide to the other solicitor; to receipt and disbursement of any funds to satisfy the estimated taxes or any required security; to reporting to the client; the fee to be determined by the time spent, the complexity of the transaction and the amount involved.

Feedback

The Working Group welcomes any feedback on this suggested fee schedule in order to improve it throughout the years. Please visit our website www.lawyersworkinggroup.com in order to find current information, developing issues and provide your feedback.