

Unique challenges for condo buyers in a booming market

TORONTO - September 18, 2006 – Housing markets are booming, and the condominium market in particular is experiencing continued rapid growth.

Condominium purchases differ in several important ways from a typical home purchase. So whether this is a first home, or the first purchase of a condominium after many years of owning a detached house, buyers need to be aware of the unique aspects of a condominium purchase, and of the questions they need to ask to protect themselves.

Kathleen Waters, an experienced real estate lawyer and Vice President, TitlePLUS is available to discuss the specific issues affecting condominium. They include:

Checklist for Condo Buyers

- ✓ **Status Certificate**
 - Your real estate lawyer will obtain a copy of the condominium corporation's status certificate. It includes key information such as: details relative to common expenses, payment arrears, special assessments, any pending legal actions, insurance and any unusual additions to the common elements for your unit that have not been approved by the Board. For example, the condominium corporation may establish a special assessment (a charge beyond monthly maintenance fees) for unanticipated repairs or expenses such as a leaky roof. The added expense can be an unwelcome surprise for the new buyer.
 - Reserve Fund studies are an important aspect of condominium management. A prudent buyer wants to know that the condominium corporation is complying with its requirements to obtain Reserve Fund studies and that the reserve fund is currently considered adequate for future major repairs. Information regarding the Reserve Fund is contained in the Status Certificate.
- ✓ **Lifestyle Issues**
 - Condo rules may have an impact on lifestyle issues, such as whether you can have a pet in your unit or a barbeque on a patio/terrace. Talk to your real estate agent and your real estate lawyer in advance about any "deal breakers" for your lifestyle.
- ✓ **Property Rights**
 - Your real estate lawyer can also explain to you what sort of property rights you will have: for instance, do you actually own your storage locker or parking space, or do you just have exclusive use of them as part of the common elements?
- ✓ **Condominium Board Oversight/Governance**
 - The condominium board oversees the working of the condominium corporation and has a great deal of influence over how the condominium is run. If possible, potential buyers should try and find out as much as they can about the board and the character of the building.
- ✓ **Realty Tax Assessment**
 - Buyers of "nearly new" resale units need to be especially aware of whether a separate assessment of realty taxes per unit has yet taken place. If the assessment has not yet "caught up" with the new development, buyers may find their realty taxes increase dramatically after an assessment takes place.

- A real estate lawyer can work with the purchaser to determine whether the taxes for the unit have been separately assessed and make efforts to guard against the buyer being out-of-pocket for realty taxes attributable to previous owners.
- ✓ **Special issues for New Developments**
 - Buyers of new condominium units are entitled to a disclosure statement from the developer of the condominium. Following receipt, there is a 10 day period when the prospective buyer can rescind or try to re-negotiate the agreement of purchase and sale. This is the time to review all documentation provided very carefully and consult with a real estate lawyer as soon as possible. It is crucial to determine if you want any detailed legal advice or negotiation services during this window of opportunity.
 - Buyers of new construction condominiums also need to be aware of whether their development has plans for “phasing”, whereby developers build new units, new common elements, or even entire new buildings, on the same site. This can involve changes for the purchaser in the overall enjoyment of the property and/or delays in access to advertised amenities. It is important to be aware of other possible implications of “phasing”.
- ✓ **Obtain title insurance policy**
 - Speak with a real estate lawyer about securing a title insurance policy on your new condominium. Title insurance can protect homebuyers from costs and complications in the event that something does go wrong with their new home. According to TitlePLUS statistics, a leading provider of title insurance, the majority of claims from condominium owners relate to financial matters, some of which could not have been detected before closing. But there can also be difficult problems relating to unapproved additions to the common elements (such as a balcony enclosure) and Building Department compliance issues.

A Free Guide

The TitlePLUS program has created a free *Real Simple Real Estate Guide* to educate home buyers on the role of a real estate lawyer and the key issues around title. The *Guide* also includes financial calculators, a glossary of terms, and a locate-a-lawyer tool. The *Guide* is available at www.titleplus.ca.

About TitlePLUS Insurance

TitlePLUS title insurance is provided by the Lawyers' Professional Indemnity Company (LAWPRO®), an insurance company incorporated in 1990 by the Law Society of Upper Canada and licensed to provide professional liability insurance and title insurance in numerous jurisdictions across Canada. LAWPRO has earned an A (Excellent) financial strength rating by A.M. Best Co., a leading rating agency, for the last six consecutive years.

TitlePLUS title insurance is the only all-Canadian title insurance product on the market today. It offers home buyers insurance coverage for both title-related aspects of a transaction and the legal services provided by a lawyer. It also protects buyers and lenders under the same policy (and for the same premium) for title-related problems that could affect ownership or the marketability of



the property in the future, and legal services provided by the lawyer closing the purchase.¹ The TitlePLUS OwnerEXPRESS[®] program offers current home owners protection against title-related risks and fraud.

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¹ As with any insurance purchase, consumers should refer to the policy for full details, including actual terms and conditions. OwnerEXPRESS[®] policies do not include legal service coverage.

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