

Further Information

For further information on selling and buying residential property, and on your potential relationship with an industry member, please visit the Real Estate Council of Alberta website (www.reca.ca).

The Real Estate Council of Alberta is mandated to protect the interests of consumers when working with real estate industry members.

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Financial Considerations

Beyond the sale price, other financial factors could impact your decisions during the selling process. Before you sell, call your mortgage lender to fully understand the terms of your mortgage and to discuss your options. If working with an industry member, you will be asked to sign a mortgage verification form, granting permission to verify your mortgage terms and conditions.

Your Mortgage

You may choose to use the proceeds from the sale of your property to discharge (pay out) your mortgage. If you have an *open* mortgage, you will probably be able to discharge it without penalty. If you have a *closed* mortgage, you will probably have to pay a penalty to do so. You may be able to *port* your mortgage to the home you purchase. This needs to be clarified by your mortgage lender.

The buyer may ask to *assume* your mortgage or borrow the money from you to purchase your property. There are costs and potential liabilities with each option, so it is critical that you understand your particular situation.

Purchase Contracts

Developed by the industry, the typical Purchase Contract sets out the terms and conditions of a real estate transaction. This standard form agreement may be modified by buyers and sellers to reflect the requirements of their transaction.

When you are presented with a Purchase Contract, you may accept, reject or counter the offer. If you choose to counter the offer, the negotiations continue until both parties agree to the terms, or the offer expires.

If both the buyer and seller are working with industry members, their representatives cannot make or accept an offer on their behalf unless he or she has been clearly authorized to do so in writing. However they must communicate the progress of the negotiation to their respective parties. You should also be aware that, in general:

- you can only counter one offer at a time;
- an offer or counter offer may be withdrawn at any time before acceptance;
- withdrawal or acceptance of an offer or counter offer is only effective once either situation is communicated to the other party or to the other party's industry member;
- when an offer or counter offer has been accepted there is a binding contract between buyer and seller, even if it may be subject to certain conditions having to be satisfied.

Familiarity with the clauses will help you know what questions to ask your industry member or legal representative, know what to expect in the preparation of an offer or acceptance and be better able to negotiate the sale of a home.

Multiple Offers

Your industry member must communicate all offers to you as they are received. However, there are no rules that govern the order in which you respond to multiple offers; nor are you obliged to accept the highest offer. You decide which offer, if any, will be accepted, countered, or rejected. You and your industry member are under no obligation to disclose to a buyer that other buyers have also made offers for the home. Nevertheless, such disclosure may be in your best interest. Your industry member should explain your options in a multiple offer situation.

Terms and Conditions

Buyers commonly insert conditions to meet their needs. For example:

- obtaining satisfactory financing
- satisfactory inspection reports for the condition of the property
- sale of the buyer's current home
- third party approval of transaction (e.g. parent, employer, etc.)
- confirmation of tenancy information
- confirmation of renovation costs

Other terms of the Purchase Contract include the possession date and the inclusion or exclusion of attached goods (affixed to the home) and unattached goods (not affixed to the home).

Property Insurance

Through no fault of the seller, a home can suffer damage from accidental causes (fire, flooding, high winds, etc.) between the date the contract is entered into by a buyer and a seller and the completion date of the transaction.

In Alberta, the risk of loss or damage to the property lies with the seller until the purchase price is paid. If loss or damage to the property occurs before the seller is paid the purchase price, then any insurance proceeds shall be held in trust for the buyer and the seller according to their interests in the property. As a best practice, keep insurance on the property until you receive the money agreed to as the purchase price for your property.

If the property will be vacant at any time during the selling process or prior to completion of the transaction, it is important to let your insurance company know, and to comply with their requirements in order to maintain your insurance on the property while it is vacant.

THE SELLING PROCESS



Your complete guide to selling your home in Alberta, from choosing the right type of representation to handling offers

You've decided to sell. Now what?

Contact a Real Estate Professional

Real estate professionals are licensed by the Real Estate Council of Alberta and complete education in order to offer the public advice on buying and selling real estate. When selling your residence, you will need to determine a listing price. Real estate industry members can help you with this by providing a current market evaluation comparing recent sales in your neighbourhood. For further information on how to price your home, contact various industry members in your area to find one you wish to work with.

Know your Options

An industry member is obligated to discuss the different types of relationships that you can have with them. These include:

- Common Law Agency
- Customer Status
- Designated Agency
- Transaction Brokerage

The industry member is also obligated to present the *Agency Relationships Guide*, which provides basic information about your rights and responsibilities and those of the industry member. The industry member's obligations to you will vary depending on the relationship that you choose.

Choose the relationship which suits your needs and confirm your choice in writing with the industry member. Further information on different relationships and a copy of the *Agency Relationships Guide* and the *Agency Relationships Video* are available at: www.reca.ca in the **Consumer Tools** section.

Gathering your Documents

To facilitate the marketing of your property you will usually need a current Real Property Report with evidence of municipal compliance. If your home is a condominium, you will need to gather your condominium documents. If you are not aware of these documents you should contact your industry member or your lawyer for further information.

Disclosures

Sellers cannot conceal defects or mislead buyers about the condition of their property, and if answering questions you must be honest. Whether you decide to sell your property yourself or through an industry member, you must disclose any *material latent defects* to potential buyers.

- A *latent defect* is one that is not discoverable through the exercise of reasonable vigilance during an inspection of a property;
- A *material defect* is one that reasonable persons would agree is a significant shortcoming in a property in light of the particular transaction.

Further information on *material latent defects* can be found at: www.reca.ca in the **Consumer Tools** section.

Inclusions/Exclusions

When you sell a property, you must decide what you are taking with you and what you are leaving behind. Attached goods are those considered affixed to the property, such as curtain rods or water softeners. Anything that is attached to the property stays, unless otherwise agreed to by the buyer and seller. Attached items that you want to take with you must be identified in the Purchase Contract as exclusions. There may be unattached items that you wish to leave with the property that may become marketing features. Their inclusion or exclusion in a Purchase Contract can be negotiated.

You will also need to know if any goods are leased or under a long-term contractual arrangement (e.g. alarm systems). Ensure that the Purchase Contract reflects your intentions with such items. It is important to discuss with your industry member what you intend to include or exclude prior to selling your property.

Taxes

The purchase or sale of a residence may have tax implications. Unless otherwise agreed in writing, the purchase price will include any applicable GST. It is the responsibility of the seller to seek expert advice (e.g. an accountant) regarding the applicability of payment of GST on the sale of the property.

Capital gains tax is based on the increase or decrease in property value over a specified period of time. This does not normally apply to the sale of a primary residence. However, there are a number of situations that may trigger capital gains, such as the sale of a recreation or rental property. For further information on capital gains tax, consult a tax accountant, lawyer or Canada Revenue Agency.

Contact a Lawyer

You will need to involve a lawyer for such items as title transfer and mortgage discharge. Property title transfers between sellers and buyers must be recorded at Alberta Land Titles to protect the new owners. All documents will be signed in the lawyer's office before the possession date. Select a lawyer early in the selling process and consult him or her if you have any legal questions. For further information on real estate lawyers contact the Law Society of Alberta.

Dower Rights

In Alberta, spouses who are not on title have a right to make decisions about selling a property. These are called Dower Rights and are derived from the *Dower Act*. The untitled spouse must consent to the sale, in writing, in order for the sale to proceed. See your lawyer for further information if this applies to you.

Timing

Time is important. When an offer is made, the Purchase Contract will include a variety of deadlines, from how long the offer is open for your consideration to the number of days the buyer has to satisfy any conditions (e.g. home inspection, financing, etc.). These dates are important to monitor and your industry member can help you coordinate the multiple timelines.



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