

Real Estate Guide For Ontario



Courtesy of Clarity Law Group
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Sabha Sajjad Hazai is the founder of Clarity Law Group and a professional family law lawyer with extensive experience in handling complex family law matters. Her practice areas include divorce, child custody, spousal support, and estate litigation. Sabha is known for her compassionate approach, ensuring her clients receive personalized legal solutions and support throughout their legal journey.



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We look forward to assisting you with your legal needs.

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Introduction to Real Estate Law

Welcome to the Real Estate Law Guide for Ontario. This guide aims to provide an overview of the legal aspects of real estate transactions and ownership in Ontario, helping you navigate the process with confidence and understanding your rights and responsibilities under Ontario law.

Real estate law in Ontario encompasses various legal issues related to buying, selling, and owning property. Key legislation, such as the Real Estate and Business Brokers Act, the Land Titles Act, and the Condominium Act, govern this area of law, ensuring fair transactions and the protection of property rights.

One of the main objectives of real estate law is to facilitate smooth and transparent property transactions, reducing potential disputes and ensuring all parties' interests are protected. This is particularly important in complex transactions involving multiple stakeholders or unique property characteristics.

Understanding the legal aspects of real estate transactions and ownership in Ontario can help you navigate the process with confidence, knowing your rights and responsibilities under Ontario law.

This guide provides an overview of these crucial aspects of real estate law in Ontario, helping individuals understand their rights and obligations. For personalized advice and legal support, it is recommended that individuals consult with a qualified real estate lawyer and other professionals.

Buying a Property

The Purchase Agreement

The purchase agreement is a legally binding contract between the buyer and the seller. It outlines the terms and conditions of the sale, including:

Purchase Price: The amount agreed upon by the buyer and seller.

Closing Date: The date when the ownership of the property is transferred.

Conditions: Specific requirements that must be met for the sale to proceed, such as home inspections, financing approval, and sale of the buyer's current property.

Title Search and Insurance

A title search is conducted to verify the legal ownership of the property and to identify any liens, encumbrances, or easements that may affect the property. This process ensures that the seller has the right to sell the property and that there are no legal obstacles.

- **Title Insurance:** Provides protection against potential issues with the title, such as fraud, errors in public records, or undisclosed heirs. Title insurance is typically a one-time fee paid at closing and offers peace of mind to both buyers and lenders.

Financing

Securing financing is a crucial step in buying a property. Most buyers require a mortgage from a financial institution. Key considerations include:

Interest Rates: The cost of borrowing money, expressed as a percentage.

Payment Schedules: The frequency and amount of mortgage payments (e.g., monthly, bi-weekly).

Term and Amortization: The length of time over which the mortgage is paid (term) and the total time to repay the loan (amortization period).

Pre-Approval: Obtaining a mortgage pre-approval helps determine your budget and shows sellers that you are a serious buyer.

Selling a Property

Listing the Property

When selling a property, the first step is to list it on the market. This can be done through a real estate agent or privately. Key aspects of the listing process include:

Property Information: Detailed description of the property, including size, features, location, and condition.

Pricing Strategy: Setting a competitive asking price based on market conditions, recent sales of similar properties, and professional appraisals.

Marketing: Utilizing various marketing channels, such as online listings, open houses, and print advertisements, to attract potential buyers.

The Sale Agreement

The sale agreement outlines the terms and conditions of the sale. Important elements include:

Offer and Acceptance: The buyer's offer and the seller's acceptance or counteroffer.

Contingencies: Conditions that must be satisfied for the sale to proceed, such as financing, inspections, and appraisal.

Closing Costs: Expenses associated with the sale, including legal fees, real estate commissions, and transfer taxes.

Closing the Sale

The closing process involves several steps to finalize the transfer of ownership:

Final Walkthrough: The buyer's opportunity to inspect the property before closing to ensure it is in the agreed-upon condition.

Document Signing: Both parties sign the necessary legal documents, including the deed, mortgage, and closing statement.

Funds Transfer: The buyer provides the purchase funds, and the seller receives the proceeds, minus any outstanding mortgages or liens.

Recording: The transfer of ownership is recorded with the local land registry office, making the buyer the new legal owner.

Leasing Property

Residential Leases

Residential leases are governed by the Residential Tenancies Act. This law sets out the rights and responsibilities of landlords and tenants, including:

Lease Agreement: A written contract outlining the terms of the tenancy, such as rent amount, payment due dates, lease duration, and rules regarding pets, smoking, and property maintenance.

Rent Control: Limits on rent increases for most residential units, with annual guidelines set by the government.

Maintenance and Repairs: Landlords must maintain the property in a habitable condition, while tenants are responsible for routine upkeep and notifying the landlord of necessary repairs.

Security Deposits: Landlords can collect a rent deposit, typically equivalent to one month's rent, to cover potential damages or unpaid rent.

Commercial Leases

Commercial leases are more complex and are governed by the terms of the lease agreement. Important considerations include:

Lease Term: The duration of the lease, which can range from a few years to several decades.

Rent Structure: Details on base rent, additional costs (e.g., property taxes, insurance, maintenance), and rent escalation clauses.

Use of Premises: Specific uses allowed for the leased space, such as retail, office, or industrial purposes.

Improvements and Alterations: Guidelines for making changes to the property, including who is responsible for costs and approvals required.

Termination and Renewal: Conditions under which the lease can be terminated early and options for renewing the lease at the end of the term.

Landlord and Tenant Rights

Landlord Responsibilities

Landlords in Ontario are required to:

- Provide a safe and habitable living environment.
- Maintain the property in a good state of repair.
- Comply with health, safety, housing, and maintenance standards.
- Provide tenants with 24 hours written notice before entering the property, except in emergencies.

Tenant Responsibilities

Tenants in Ontario must:

- Pay rent on time.
- Keep the property clean and free of damage.
- Respect the rights of other tenants and neighbors.
- Notify the landlord of any repairs needed.

Rent Increases

Landlords can increase rent only once every 12 months and must provide tenants with 90 days' written notice. Rent increases are subject to government guidelines unless the unit is exempt.

Evictions

Landlords can evict tenants for various reasons, including non-payment of rent, damage to the property, or illegal activities. Proper notice must be given, and in some cases, a hearing before the Landlord and Tenant Board is required.

Real Estate Disputes

Common Types of Disputes

Breach of Contract: Disputes arising from failure to fulfill terms of a real estate contract.

Title Issues: Problems related to the ownership of the property.

Boundary Disputes: Conflicts over property lines and land use.

Property Damage: Disputes over responsibility for damage to the property.

Landlord-Tenant Disputes: Issues related to lease agreements, rent, maintenance, and eviction.

Resolution Methods

Negotiation: Informal discussions between parties to reach a mutually acceptable agreement.

Mediation: A neutral third party helps facilitate a resolution.

Arbitration: A binding decision is made by an arbitrator.

Litigation: Taking the dispute to court for a judicial decision.

Development and Zoning

Planning and Development

Property development in Ontario is regulated by the Planning Act, which governs land use planning and development processes. Developers must comply with provincial policies and municipal official plans.

Zoning Bylaws

Zoning bylaws control the use of land and buildings in a municipality. They dictate:

- Types of buildings allowed.
- Building heights and densities.
- Setbacks from property lines.
- Parking requirements.

Obtaining Permits

Before starting any development project, it is necessary to obtain various permits, such as:

Building Permits: Required for construction, demolition, or significant alterations to a building.

Zoning Permits: Ensure the proposed use complies with zoning bylaws.

Environmental Permits: Required for projects that may impact the environment, such as those near water bodies.

Compliance and Inspections

During and after construction, inspections are conducted to ensure compliance with building codes, safety standards, and permit conditions. Non-compliance can result in fines, work stoppages, or the need to make corrective changes.

Recent Changes in Real Estate Law as of 2024

Trust in Real Estate Services Act (TRESA) Phase 2: Effective December 1, 2023, this act introduced several changes:

Open Bidding Process: Sellers can now disclose competing bid prices to potential buyers.

Designated Representation: Buyers and sellers can choose designated agents even if both are from the same brokerage, reducing conflicts of interest.

Mandatory Disclosures: Agents must disclose all known material facts about a property.

Revised Code of Ethics: Emphasizes conflict of interest and confidentiality.

RECO Discipline Process: Greater authority to handle law breaches, including suspending or revoking registrations

More Homes Built Faster Act: Effective 2024, this act aims to expedite residential development:

Increased Density: Zoning changes allow up to three units on properties zoned for single-family homes.

Transit-Oriented Development: Encourages higher density near major transit stations.

Reduced Fees for Affordable Housing: Freezes or reduces fees for affordable and non-profit housing.

Streamlined Approvals: Removes site plan control requirements for smaller projects and expedites proceedings at the Ontario Land Tribunal.

Other Services

Additional Services at Clarity Law Group

Real Estate Law and Litigation

- Transactional real estate law
- Commercial and residential real estate

Breach of Contract

- Purchase agreements
- Lease agreements
- Construction contracts

Wills & Estates and Litigation

- Will disputes
- Elder law
- Estate litigation
- Guardianship
- Estate planning
- Administration

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