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## Lawyers play key role in buyer protection Paperwork is just small part of job

### ***Title insurance now standard***

Many Ontarians have jumped into the busy real estate market without fully appreciating the legal dimensions of homebuying or the critical role that a real estate lawyer plays in protecting them.

According to new research commissioned by TitlePLUS insurance, only 10 per cent of recent homebuyers saw their lawyer's role as an adviser on matters such as mortgage and title issues.

TitlePLUS is a leading provider of title insurance to homeowners.

It commissioned Decima Research to conduct the study at the end of May.

The research revealed that 98 per cent of recent Ontario homebuyers worked with a real estate lawyer, but most saw the lawyer's role as strictly transactional creating paper without giving advice.

Just half (51 per cent) recalled purchasing title insurance, even though statistics show it is now a standard part of most home purchases.

Only 1 per cent of respondents appreciated that a real estate lawyer can help a new homeowner save money at the time of closing and in the future. At the same time, 62 per cent stated that the most important reason for using a lawyer was that he or she takes care of all the complicated details.

Kathleen Waters is an experienced real estate lawyer and vice-president of TitlePLUS, the only Canadian-owned insurer.

In releasing the study results, Waters explained, "Homebuyers put a great deal of time and energy into finding their dream home. Real estate lawyers put the same careful attention into investigating the legal issues related to the property and closing the sale."

"That's where your real estate lawyer becomes an invaluable resource: He or she navigates you through the major legal implications of home purchase, and can help prevent a dream home from turning into a nightmare."

For most Canadians, a home is usually their single largest financial investment, and as a result, it represents the greatest potential financial risk.

Although real estate lawyers manage the necessary paperwork, they also protect their clients' interests by anticipating potential hazards and arranging title insurance to protect them.

Homebuyers generally are not aware that the greatest risks in the transaction, and the most post-closing problems, often cluster around issues other than title.

In my experience, the most frequent problem issues in the purchase of a home are arrears in utilities or tax payments. Building code problems can be more serious but are not quite as common as unpaid taxes.

Typical building code issues that give rise to title insurance claims revolve around repairs, renovations or additions to the home that were completed without a permit and don't meet code or zoning bylaw requirements.

Less-common but more devastating problems include: finding that a building has been ruled unsafe by building inspectors, becoming involved in a boundary dispute with neighbours, or a title dispute with previous owners, or learning that the lot was illegally created and the owner's deed is void.

Other problems covered by title insurance include property features such as easements or rights-of-way that were not revealed at the time of purchase, and even mortgage and title fraud after the closing.

In the condominium field, title insurance can cover problems such as: receiving title to the wrong unit, closing without getting title to a locker or parking space, undisclosed special assessments, or errors in the building's status certificate.

Identity theft has also become a new source of title problems. Typically, a criminal masquerades as the owner and takes out a mortgage on a home using the real owner's name.

The criminal and the money disappear, leaving the real homeowner with the risk of being evicted and the headache of trying to remove the bogus mortgage from title.

Increasingly, title insurance companies are having to provide the financial resources to help sort out the mess.

I'm often asked to explain what title insurance is. I usually reply it is a homebuyer's security blanket, which provides financial protection against legal-related problems affecting a property and the types of risks just mentioned.

It also provides compensation for losses suffered from title issues related to the ownership status of the home.

Title insurance in Ontario can only be purchased through real estate lawyers.

The average home policy costs about \$200 in a one-time premium for as long as the owners and their heirs own the home.

The lawyer who arranges the policy is prohibited from receiving a commission.

There are no deductibles and no annual premiums, yet, according to the TitlePLUS study, 48 per cent of recent Ontario homebuyers could not recall buying the policy.

I can't think of any other type of insurance where the person arranging it receives no commission, there is one premium for lifetime, and there is no deductible on claims.

TitlePLUS has created a free Real Simple Real Estate Guide to educate homebuyers on the role of a real estate lawyer and the key issues around title.

It also includes financial calculators, a glossary of terms and a locate-a-lawyer feature.

The Guide is available at <http://www.titleplus.ca/RSREG/default.asp>.