



## **SELLER'S GUIDE**

### ***A Review of the Closing Costs And Adjustments for Selling Residential Property in Greater Vancouver and Issues for Non-Resident Sellers***

#### **INTRODUCTION**

This information brochure is intended to assist home owners to understand the legal costs and closing adjustments when selling their homes. It also addresses some unique issues related to Non-Resident sellers

#### **LEGAL COSTS**

Legal costs for a sale with one mortgage to be discharged usually range from \$600 - \$750 regardless of whether the seller retains the services of a Lawyer or Notary Public. It is important for the seller to understand what is or is not included in a quote and what might be added as additional charges. Costs that are usually included in a quote are professional fees, land title search and registration fees and miscellaneous office disbursements. HST is usually added to fees and disbursements as with other services and products.

#### **CLOSING ADJUSTMENTS**

Closing adjustments cover a number of items including municipal taxes, municipal water and sewer fees, strata maintenance fees, rent and security deposits.

In the case of strata title properties, strata fees are charged and paid monthly on the first day of each month. The monthly strata fees will be pro rated between the seller and the buyer, with the buyer reimbursing the seller for the prepaid monthly strata fees based on the number of days between the date of adjustments agreed to in the Contract of Sale and Sale and the last day of the month.

In the case of a continuing tenancy the buyer receives a credit for a portion of the rent and the security deposit with accrued interest as the buyer will be responsible for reimbursing the correct amount when the tenant vacates at a later date. These buyer's credits are debited from the seller's sale proceeds.

Municipal property taxes and water and sewer will also be adjusted. Municipal charges are based on a calendar year. Some municipalities such as Vancouver provide for an advance payment in February with the balance due and owing usually at the beginning of July. Other municipalities have a payment for water and sewer in February and taxes are paid in full usually at the end of June or the beginning of July.

The adjustment between seller and buyer will therefore vary depending on the time of year of closing of the transaction and the municipality in which the property is located. The tax and water and sewer adjustments are the most complicated adjustments to understand but they are based on the parties being responsible for any costs associated with the property only for the period of time in which they are in possession.

The adjustments between seller and buyer are set out in a document normally referred to as the Statement of Adjustments. The Statement of Adjustments sets out the sellers proceeds after deducting for commission and adjusting for taxes, water and sewer, strata maintenance fees, rent and security deposits and any other items to be adjusted between the parties. The Order to Pay then sets out the "net" proceeds after allowing for payout of any existing mortgages or other charges against title.

### **NON-RESIDENT SELLER ISSUES**

To avoid liability for non-resident sellers' unpaid taxes, purchasers must withhold a portion of the sale proceeds until a non-resident seller has provided a Clearance Certificate from the Canada Customs and Revenue Agency. The holdback is normally 25% but could be higher depending on the use of the property.

A non-resident seller should retain the services of a tax professional to assist in obtaining a Clearance Certificate. This should be done as soon as possible as the process can take six to eight weeks. Under circumstances where the holdback would not leave sufficient funds to payout an existing mortgage at time of closing of the sale, a seller can claim hardship to expedite the issuance of a Clearance Certificate. A Clearance Certificate will only be issued once the tax is paid. Canada Customs and Revenue Agency will review the particular sale transaction to determine whether or not capital gains tax is payable but will also require payment of any other taxes outstanding or payable by the seller.

The non-resident seller can claim certain expenses in determining the adjusted cost base including Property Transfer Tax, HST, legal fees on the original purchase, and any capital improvements made, including strata assessments. The commission, tax and legal fees on the sale are not deductible for purposes of calculating tax owing at the time of the sale. The seller can claim these expenses by filing a Canadian tax return subsequent to the sale.

**SEE FIRM PROFILE ON PAGE 3.**

## **FIRM PROFILE**

Bell Alliance is a Vancouver, British Columbia based law firm that uses innovative computer and communication technologies to support a focus on personal client service. The firm provides legal services in the areas of real estate, wills and estates, corporate and commercial law.

Bell Alliance is recognized for the extensive involvement of the lawyers in every file and the close advisory relationship they maintain with their clients and their clients' other professional advisors. For more information please visit our website at [www.bellalliance.ca](http://www.bellalliance.ca) or call us at **604 873 8723**. Bell Alliance is conveniently located at 201 – 1367 West Broadway, Vancouver, B.C. V6H 4A7.



**Richard Bell:** Richard was called to the Bar in 1982. He has practiced in the Lower Mainland in the areas of Real Estate and Mortgage Law for over 20 years with a brief hiatus of five years in Toronto where he worked with companies providing services to the financial services industry. Richard has been an active member of numerous community and professional groups and associations. He was founding Chairman of one of the largest mortgage broker companies in Canada.

Richard apparently plays a respectable game of squash and enjoys the occasional game of golf.



**Ron Usher:** Ron was called to the bar in 1980 and has practiced law in private practice in Vernon and Vancouver. In the mid-80's Ron provided management and technology consulting to a variety of law firms and law related organizations. Ron was the founder of a law firm that specialized in Wills and Estates. Prior to joining Bell Alliance Ron was with the Law Society of British Columbia for eight years as a staff lawyer in the policy department focusing on real estate and technology matters.

Ron is a bit of a musician and lends his guitar skills to a group of Ukulele players each month.



**Khushhal Bains:** Khushhal practices in the areas of Real Estate and Wills and Estates. Khushhal is from Toronto but moved to Vancouver due to a love of the mountains, ocean and his wife. He obtained his law degree from Osgoode Hall Law School, previously having completed a B.A. in Economics and Philosophy from the University of Toronto. Khushhal articulated with the Ministry of the Attorney General and most recently worked with Lerner LLP, one of Ontario's leading law firms.

In his spare time Khushhal enjoys volleyball, basketball and squash. He balances his competitive nature through yoga.