TITLE INSURANCE – CANADA

Title insurance is becoming more popular in Canada with many lenders demanding it and many lawyers advising real estate buyers purchase it. If you're unfamiliar with title insurance this article will break it down for ease of understanding. However, if you are thinking about buying real estate in Canada for investment purposes, as a retirement home or for vacations you should discuss your own personal need for title insurance with the lawyer you employ to look after your interests throughout the purchase process.

You may already be familiar with the term 'title deed' and understand that the holder of a title deed is the legal owner of the property the deed relates to. 'Title' is actually the legal term for property ownership. When you purchase a property in Canada searches and surveys are carried out on your behalf against the property and also the title of the home you're interested in. The searches look at whether the title is clean or whether the property to which it relates has outstanding debts or issues against it.

When you buy real estate in Canada you should employ an independent lawyer to undertake these searches for you, however when a sale is closed not all searches may necessarily have been completed, and the results of some searches may be contested at a later date. It is in circumstances like this that issues can arise. A purchaser may find out at a date after the sale has been closed that the property they thought had clean title actually has debts or outstanding legal claims against it. In its most basic form, title insurance protects the home owner and/or mortgage lender against such occurrences.

If the purchaser takes out title insurance they are usually covered for any 'loss or damage' sustained if a claim that is covered under the terms of the policy is made. The terms of the policy usually cover search and survey irregularities, claims which may lead to the removal of pre-existing structures such as outbuildings, extensions, garages etc., a claim that arises due to fraud, forgery or duress, problems relating to rights of-way, pedestrian or car access etc., etc. The insurance company covers pre-existing but undiscovered risks and as with all insurance policies there are certain exemptions and excesses that you will need to understand and be happy with before you take out the policy.

If a lender requires insurance be taken out it is usually only required for the duration of the loan. If the purchaser takes out title insurance they can have it for any term and even extend it so that the policy remains in place if the insured wills the property to children after his/her death or so that it covers the new owner if the property is transferred following a sale - this usually incurs a small extra fee however.

In Canada the premium for title insurance is usually calculated at the time of the sale of the house and it is payable once by the purchaser. Certain cases exist where the vendor pays for it, certain cases exist where both the lender and the purchaser are covered by the same policy.

If you're about to venture into the Canadian real estate market make sure you speak to a lawyer or trusted individual about your need to take out this type of insurance policy.