



RATCLIFF & COMPANY

BARRISTERS & SOLICITORS

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GENERAL INFORMATION FOR BUYERS OF WHISTLER REAL ESTATE

PROPERTY TRANSFER TAX (PTT)

This Provincial tax applies (with some exceptions) to all transfers of real estate and it is payable by the purchaser on the completion date. The tax is 1% on the first \$200,000.00 of the purchase price and 2% on the balance.

PROPERTY TAXES

Property taxes and municipal utilities (water, sewer, etc.) are due on or about July 1st each year. Confirm with your property manager whether they pay them on your behalf (usually they do not). The tax notice will be mailed to you in June at your address as it is shown on title to the property. If the taxes are not paid by the due date (usually not later than July 2nd) there will be an automatic 5% late payment penalty and an additional 5% penalty if it is not paid before November 1st. A discount is available (home owner grant) if the property is your principal residence. The Municipality will provide you the discount form with the tax notice.

Important: If you purchase the property in the spring the Municipality may send the tax notice to the previous owner. The Municipality will still charge you the penalty if taxes are not paid on time so it is important to contact the Municipality in June at (604) 932-5535 if you do not receive the tax notice.

LEGAL FEES AND DISBURSEMENTS

These are closing expenses paid to us for preparing, arranging for execution of, and registering transaction documents. Disbursements are charged for our out-of-pocket expenses such as agents' fees, document registration charges, property and tax information searches, courier costs, long-distance calls, PST and GST. The exact amount of these disbursements will vary depending on the transaction. We can provide you a quote as to fees and disbursements at the time you enter into a Contract of Purchase and Sale.

GOODS AND SERVICES TAX (GST)

GST is a 7% Federal sales tax which applies on the purchase of new construction and on the resale of property which has been rented out for short-term/nightly rentals. The payment of GST can be deferred if the buyer intends to rent the property out for short-term/nightly rentals and becomes a GST registrant. The property should be available for rental at least 50% of the time to defer some of the GST. To obtain a deferral of all of the GST the property should be available for rental at least 90% of the time. Once registered for GST, the buyer is entitled to claim credits for the GST paid, for example, on legal fees, property management fees,

hydro, cable, telephone, etc. The buyer is required to charge, collect and remit GST on the collected rent, which in some instances may be done through a property manager. The buyer is required to file a GST return periodically.

When you are purchasing new accommodations from a developer for short-term/nightly rental use, whether the developer will permit you to self-assess the GST depends on the nature of the development. In townhouse and single family purchases, the developer will usually only allow a corporation or a partnership to self-assess the GST. A partnership can be created by having more than one person on title. Even where an individual is purchasing the property and they intend to have it available for rental 90% of the time, the developer may require them to pay the GST. The individual then has to apply to CCRA to obtain a refund (a lengthy process).

SOCIAL SERVICE TAX (PST)

Provincial sales tax of 7.5% may apply to furniture purchased with the real estate. If furniture is separately listed and valued in the Contract of Purchase and Sale, the vendor may ask that PST be paid to the vendor for remittance to the Provincial Government.

TOURISM WHISTLER

Tourism Whistler charges quarterly fees based on the number of bed units in, and on the use of, the property (one bedroom equals two bed units). If the property is for personal use only and is not available for rent more than 14 days per year, you may file a Declaration with Tourism Whistler to pay a lower rate of fees. The lower rate of fees is not available to fractional (e.g. one-quarter) interest properties or properties that are subject to a "Phase One" Covenant in the town centre. For more detailed information or to arrange for automatic withdrawals of your fees contact Tourism Whistler at (604) 932-3928.

INSURANCE

Purchasers are required to arrange insurance on single-family residences. The strata corporation insures strata-titled properties. Strata lot purchasers should consider obtaining liability and contents insurance.

STRATA TITLED PROPERTIES (CONDOMINIUMS, TOWNHOMES, DUPLEXES, AND FRACTIONAL INTERESTS)

Purchasers of strata titled homes are responsible for paying monthly maintenance charges. The strata corporation is also entitled to levy special assessments for extraordinary expenses should there not be sufficient money in the contingency reserve fund. Prior to committing to your purchase, strata minutes should be reviewed carefully to determine whether the strata corporation anticipates any extraordinary expenditures. Purchasers should also determine from the strata plan what rights they have to use any common areas such as parking stalls and lockers.

"PHASE ONE" AND "PHASE TWO" COVENANTS

Properties covered by the "Phase One" Covenant must be available for rent through a bona fide property manager when not being utilized for personal use. The "Phase Two" Covenant restricts the owner's personal use of the property to 28 days in the summer and 28 days in the winter and defines how these periods may be booked. The property must be available for rent through a property manager for the remaining days of the year. Subject to availability, additional days may be available to the owner if not booked too far in advance.

TAKING TITLE IN THE NAME OF A COMPANY

If you are considering taking title to the property in the name of a company, you should obtain accounting advice.

There may be disadvantages to purchasing in the name of a company as follows:

- A corporation may pay tax on income earned from the property at significantly higher rates than an individual (depending on the individual's marginal tax rate);
- Losses from the property cannot be written off against your personal income tax;
- A corporation may pay higher capital gains tax than an individual;
- Should you incorporate a company in BC specifically for the purpose of acquiring real estate in BC:
 - you will have additional legal costs of incorporating the company (approximately \$1,200) plus additional costs associated with maintaining the company annually such as filing annual reports, registered and records office fees (approximately \$250) and accounting fees;
 - a majority of the directors of the company must be residents of Canada and at least one director must be a resident of BC;
- If the company is incorporated outside of BC:
 - a mortgage lender may require that the company be registered in BC (at a cost of approximately \$1,200);
 - personal guarantees of the principals of the company are usually required by the mortgage lender;
 - an opinion letter from a solicitor in the incorporating jurisdiction is required if the purchase is being financed with a mortgage;
 - a Certificate of Good Standing is required from the incorporating jurisdiction;
- It is necessary to maintain the company in the incorporating jurisdiction (BC or otherwise) for as long as the property is owned;

Advantages of having the property held by a company include the following:

- In the event of the death of the principals of the company there would be no change of ownership of the property in the BC Land Title system. If the shares are held outside of BC there would not be any probate fees payable in BC in relation to the change of ownership of the shares;
- If the property is the only asset of the company, it may be possible to sell the shares in the company instead of transferring title to the real estate. The purchaser then avoids paying Property Transfer Tax and GST. However, purchasers may be reluctant to buy shares as they risk inheriting liabilities of the company including any monies owing to CCRA.

TAKING TITLE WITH A LIMITED LIABILITY CORPORATION (LLC)

The Land Title Office treats LLCs differently from other corporations and in order to register a property in the name of an LLC without extra provincially registering the LLC, you must also provide the Land Title Office with a copy of the constating document that specifically empowers the LLC to hold real estate. If the constating document does not specifically empower the LLC to hold real estate it may be necessary to extra-provincially register the company. The cost of extra-provincially registering the LLC is approximately \$1,200 and annual filing fees of about \$250 are required to maintain the LLC with the BC Registrar of Companies.

TAKING TITLE IN THE NAME OF A TRUST

Individuals with family trusts have the option of purchasing their property in the name of their trust. This avoids probate or succession duties upon the death of the owners of the property (probate fees in BC are calculated at \$14 for every \$1,000 in property value).

The Land Title Office requires the entire original trust document to be filed. The document is then a document of public record. These documents usually list in detail the assets and beneficiaries of the trust.

If a mortgage is to be obtained the mortgagee may be reluctant to lend to the trust. There will be additional legal costs in conjunction with providing any necessary legal opinions to the mortgagee as to whether the trust has the legal capacity to enter into a mortgage.

Trusts are typically taxed at a higher rate than individuals or companies so it is recommended that purchasers obtain an accountant's advice before deciding to buy in the name of a trust.

An alternative to using a trust is to have the property held in joint tenancy by at least two individuals and the property will pass to the surviving joint tenant(s) without probate fees applying.

WITHHOLDING TAX ON RENTAL INCOME FOR NON-RESIDENTS

Non-residents are required to pay 25% of the gross rental income from the property to CCRA. You may obtain exemption from such withholding tax if you complete an NR6 return setting out that the projected income is less than the anticipated expenses associated with the property. Most property managers will assist in the completion of the NR6 return. Upon having filed an NR6 return, you are obliged to file an annual tax return with respect to the property. CCRA will only allow expenses to be claimed if the returns are filed and will disallow any expenses incurred more than two years prior to the time of filing. It is therefore important that the returns be filed each year to avoid expenses being disallowed.

MORTGAGES

Mortgages in BC can differ from those available in the United States in several significant ways, including the following:

- Many mortgages are for a fixed term, typically between six months and five years. At the end of the fixed term the interest rate is renegotiated.
- During the fixed term there are limited rights to repayment, typically ranging from 10% to 20% of the outstanding balance in any year.
- In the event that you wish to prepay more than the permitted amount, or in the event of a sale of the property, a penalty is usually charged and typically this will be the greater of three months interest or the interest rate differential.

EXECUTION OF MORTGAGE DOCUMENTS

Once the borrower has signed a commitment letter with the lender, the lender will instruct their lawyer to draft the mortgage security. These documents must then be signed by the borrower in the presence of a notary public. The Land Title Office does not accept faxed documents; therefore sufficient time must be allowed for the documents to be couriered, executed originally before a notary, couriered back and filed in the Land Title Office by the completion date.

METHODS OF PAYMENT

The balance of the purchase price must be paid by certified cheque or bank draft in Canadian funds. Exchange rates may fluctuate and lending institutions in Canada and the United States may give different rates of exchange or quote different rates of exchange for both buying and selling Canadian dollars. They may also offer different rates of exchange depending on the dollar amounts involved. This is an issue that should be addressed by buyers in advance of the completion date.

It is possible to wire funds directly to our trust account; however, because of the routing of wired funds, it can sometimes take several working days before the funds are actually received.

It is recommended that the purchaser open a bank account with a bank in Whistler or Vancouver to facilitate the payment in Canadian funds of ongoing expenses and the receipt of revenues from the property.

TIME IS OF THE ESSENCE

Completing transactions on the designated completion date is critical. Should the funds not be paid on the completion date the vendor has the option of canceling the Contract of Purchase and Sale and retaining the deposit. It is not uncommon for vendors who wish to continue with the transaction to demand interest or additional charges for extensions of the completion date.

CANADA CUSTOMS

Should you intend to furnish your property with personal effects from your home outside of Canada, you should contact Canada Customs to determine their requirements to avoid paying duty on the furnishings. Ordinarily you are permitted to transport one shipment of used personal effects to a recreational residence without duty. In order to do so you will have to provide proof at the border of your recent purchase of the property. The purchase document required is a copy of the registered Form A Transfer.

RETAIN RECEIPTS

If you are purchasing furnishings for your property and those furnishings may be subsequently sold with the property it is important that you retain receipts for the furnishings. This would include documentation from Canada Customs for items brought across the border or invoices from suppliers indicating that the furnishings were delivered to the property. Failure to retain such receipts may result in CCRA disallowing the cost, resulting in a larger capital gain on the disposition of the property.

We would be pleased to represent you in the purchase of your Whistler property. Please direct any questions you may have to us by phone or email.

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