

# BUYER'S GUIDE

A practical quick reference guide for  
the purchase of your property with a real  
estate broker

Published and produced by the Organisme d'autoréglementation du courtage immobilier du Québec (OACIQ)  
4905 Lapinière Boulevard, Suite 2200,  
Brossard (Québec) J4Z 0G2

© Organisme d'autoréglementation du courtage immobilier du Québec

All rights reserved.

Legal Deposit  
Bibliothèque et Archives nationales du Québec  
Bibliothèque et Archives Canada

ISBN: 978-2-921749-95-4  
March 2014 edition

## TABLE OF CONTENTS

WHAT YOU SHOULD KNOW ABOUT BUYING A HOME .....	5
<b>1 A REAL ESTATE BROKER IS YOUR SECURITY GUARANTEE .....</b>	<b>6</b>
THE OACIQ'S MISSION .....	6
THE BROKER AND THE AGENCY PLAY LEADING ROLES .....	6
<i>Learn the difference between a real estate or mortgage agency and a broker, and find out about their duties and obligations.</i>	
STRONG SAFEGUARDS FOR THE PUBLIC .....	8
<i>Learn more about the various services the OACIQ has put in place to protect you when you carry out a real estate or mortgage transaction with the help of a broker.</i>	
<b>2 DETERMINE HOW MUCH YOU CAN AFFORD BEFORE CHOOSING A HOME .....</b>	<b>12</b>
HOW MUCH CAN YOU INVEST? .....	12
<i>Make a budget in order to estimate your borrowing capacity</i>	
HOW MUCH DO YOU NEED TO BORROW? .....	15
<i>Learn how to calculate the loan amount you need based on your downpayment, deposit and indirect costs.</i>	
THE MORTGAGE LOAN .....	18
<i>Familiarize yourself with interest, loan repayment, types of loans and the Home Buyer's Plan (HBP).</i>	
<b>3 THE BASICS OF WORRY-FREE TRANSACTION .....</b>	<b>20</b>
THINGS GO BETTER WITH A REAL ESTATE BROKER .....	20
<i>The main differences between purchasing on your own and retaining the services of a real estate broker</i>	

THE EXCLUSIVE BROKERAGE CONTRACT - PURCHASE .....	21
<i>See why it is advantageous to sign a brokerage contract with a broker for the purchase of your property.</i>	
HOW TO CHOOSE A HOME .....	22
<i>Learn how to define your needs, and then acquire tools to organize your search and your visits. See how your broker can help you estimate the market value of a property.</i>	
THE PROMISE TO PURCHASE .....	30
<i>Make sense of the content of the promise to purchase forms that are used when you do business with a broker, including the information to be included, the conditions to be defined, inclusions and exclusions, etc.</i>	
THE COUNTER-PROPOSAL .....	39
<i>See how your broker can help you navigate through conditions and deadlines when dealing with counter-proposals.</i>	
EXPERTS AT YOUR SERVICE .....	40
<i>Learn about the main experts you will deal with when purchasing a home: building inspector, notary, land surveyor, etc.</i>	
THE PROPERTY TRANSFER .....	41
<i>An overview of the final steps at the notary's, including title examination, deed of sale, and registration of ownership rights.</i>	
ARE YOU SATISFIED? .....	43
<i>Ask your broker any question you may have. You can also seek help from the OACIQ Info Center and the Assistance Department.</i>	
USEFUL LINKS .....	44
<i>The main resources to help you with your transaction: associations, government departments, consumer protection agencies, etc.</i>	



# WHAT YOU SHOULD KNOW ABOUT BUYING A HOME

The Organisme d'autoréglementation du courtage immobilier du Québec (OACIQ) has prepared this guide to assist you at every step of the process of purchasing a property.

In it you will find the main steps you need to follow before and during the purchase of your home as well as many useful tips to help you complete your real estate transaction in a satisfactory manner. For the steps of a sale, check the *Seller's Guide*.

This guide is meant to serve as a quick reference guide, but it does not replace the advice of a real estate or mortgage broker or agency. Its content applies exclusively to the purchase of residential property. It includes some information about properties held in divided and undivided co-ownership, but this content is not comprehensive.

# 1 A REAL ESTATE BROKER IS YOUR SECURITY GUARANTEE

---

## THE OACIQ'S MISSION

The OACIQ ensures public protection by overseeing the profession adequately and providing quality real estate and mortgage brokerage in Québec.

### Our vision

As an essential reference in the real estate and mortgage brokerage field, the OACIQ helps promote brokers' professionalism and competence. The OACIQ is characterized by its organizational effectiveness, its interventions and its leadership in regards to brokerage development.

## THE BROKER AND THE AGENCY PLAY LEADING ROLES

Buying or selling an immovable requires extensive technical skill and knowledge. This is why the OACIQ recommends that you use the services of a real estate brokerage professional. A broker will help you at every stage of the transaction and ensure that all the necessary steps are completed in accordance with the **Real Estate Brokerage Act** and its regulations.

- A real estate broker has all the necessary tools and expertise to:
- find the property that meets the needs of the buyer;
- properly represent the seller with any buyer;
- act as negotiator and facilitate communication between the parties;
- play an advisory role to help you define your needs and successfully complete your real estate transaction.

In addition, the broker has a duty to verify whether the immovable is subject to any restrictions of public law that are exceptions to the ordinary law of ownership under the **Act Respecting the Preservation of Agricultural Land and Agricultural Activities** or the **Environment Protection Act** and related regulations. For more details, see the form **Declarations by the seller of the immovable**.

## AGENCY AND BROKER: THERE IS A DIFFERENCE

When you do business with a brokerage professional for the sale or purchase of a property, you deal with either a broker representing an agency, or a broker acting on his own account.

**A real estate broker** is an actual person who carries out brokerage activities for the purchase, sale, lease or exchange of immovable property, either on his own account or on behalf of an agency.

**A mortgage broker** is the actual person who carries out brokerage activities restricted to loans secured by immovable hypothec (mortgage). A real estate broker with a full-service brokerage licence is also authorized to carry out mortgage-related activities.

**A real estate agency** is a legal person or firm that carries out brokerage activities through a real estate or mortgage broker.

**A mortgage agency** is a legal person or firm that carries out brokerage activities restricted to loans secured by immovable hypothec through a mortgage broker. Agencies, like brokers, are licensed by the OACIQ.

For more information on licence types, see the section entitled **Licence issuance**.

## DUTIES AND OBLIGATIONS

In order for you to be protected when buying or selling a property through a broker or an agency, the activity of real estate brokerage is regulated and controlled by the **Real Estate Brokerage Act**. The Act clearly defines the duties and obligations that the broker or agency has towards you.

### The obligation of loyalty

Real estate brokers are bound by a strict obligation of loyalty to their clients and must promote their interests and protect their rights.

Brokers must treat all other parties to a real estate transaction fairly and equitably.

Thus a broker who is representing a seller must protect and promote the interests of the seller. This means that the broker may not disclose confidential or strategic information concerning his client (such as the fact that a client is in the process of divorcing and must sell quickly for that reason) to a prospective buyer.

However, the same broker must also provide fair treatment to the buyer. This means that he has an obligation to inform and advise the buyer objectively of any information that is relevant to the transaction, including by recommending the inclusion of the usual clauses regarding inspection and financing in the buyer's promise to purchase.

### The obligation to disclose

Real estate brokers must disclose certain situations without delay and in writing to all the parties to a transaction, which include the buyer, the seller, their respective spouses, their representatives, as applicable, and their brokers.

For example, if a broker has a personal relationship with one of the parties to the transaction, or if he has an interest in the property concerned (including if the property being sold belongs to a member of his family whom he represents), he must disclose this fact.

If your broker refers you to a specific financial institution from which he receives compensation, he must inform you of this.

For more details, see the section of the *Real Estate Brokerage Act* on the **Professional Conduct** of brokers.

## Advising and informing objectively and accurately

Real estate brokers have a duty to advise and inform their clients and all the parties to a transaction objectively, and must provide them with all the explanations they need to fully understand and appreciate the services they are providing. This means your broker has a duty to explain to you all the clauses of the forms he is asking you to sign.

A broker has an obligation to inform all the parties to a transaction of any factor that could unfavourably affect the object of the transaction. For example, he must disclose if the property under consideration has ever been used to grow marijuana, even if it has been put right since then.

A real estate broker must also be able to demonstrate the accuracy of the information he is providing using proper documentation. This information verification principle must be upheld, as the broker and his real estate agency are responsible for the information they disseminate.

# STRONG SAFEGUARDS FOR THE PUBLIC

## PROFESSIONAL DEVELOPMENT

In Québec, real estate and mortgage agencies and brokers must be licensed to practise by the OACIQ. To be issued this licence, candidates must successfully complete a **basic training program recognized by the OACIQ**.

## ENTRANCE EXAMINATIONS

Passing an examination on the skills that a broker must have is another condition to be issued a licence. Each field of practice has its own **entrance exam**. These examinations ensure that real estate and mortgage agencies and brokers have the knowledge and competence required to carry out all the steps of a real estate transaction.

## MANDATORY LICENCE TO PRACTICE

If you carry out a real estate transaction through an individual or firm that does not hold a valid licence issued by the OACIQ, you will not have the benefit of a real estate or mortgage broker's advice and knowledge, nor will you be eligible for the protection mechanisms provided under the **Real Estate Brokerage Act**, as these apply only to the professional actions of duly licensed real estate or mortgage agencies and brokers.

Before taking any step, make sure that the person whose services you wish to retain to act in a broker capacity is the **holder of a valid licence to practice**. To do so, simply check the OACIQ's **Register of licence holders**. If the person's name does not appear in the Register, notify the **OACIQ Assistance Department**. For more information on illegal practice, see page 11.



## LICENCE ISSUANCE

Each real estate or mortgage broker practising in Québec must hold a licence to practice issued by the OACIQ. Various licence types are issued by the Organization, in accordance with the *Real Estate Brokerage Act*:

- A real estate broker can hold a licence restricted to residential or commercial brokerage or both;
- A real estate broker with a full-service licence can work in residential, commercial and mortgage brokerage;
- A mortgage broker can work in mortgage brokerage only.

A broker's licence can be marked "agr   DA" which means that the licence holder has the necessary management skills to act as agency executive officer, in addition to meeting the requirements of the *Real Estate Brokerage Act* to maintain this certification (for example by having successfully completed the mandatory continuing education activity offered by the OACIQ).

A broker's licence can be simply marked "agr  ", which means that the holder has the necessary management skills to act as agency executive officer but has not maintained his certification to act as such.

A new broker must work for a real estate or mortgage agency for the first three years after obtaining his licence, after which he may start working on his own account if he so wishes, and become agency executive officer by fulfilling the requirements outlined in the *Real Estate Brokerage Act*. Agencies have an obligation to supervise and oversee the work of new brokers.

## THE LICENCE ISSUE AND MAINTENANCE COMMITTEE

In certain cases, the OACIQ may, through its Licence Issue and Maintenance Committee, refuse to issue, suspend, revoke or impose certain restrictions or conditions on a licence, for instance when an applicant has pleaded guilty to or been found guilty by a court of a violation or a criminal act which, in the opinion of the OACIQ, has a link with the activity of broker or agency.

## OACIQ INFO CENTER

The **OACIQ Info Center** is the Organization's information centre. It is there to provide information to consumers and to licence holders on:

- the *Real Estate Brokerage Act*;
- the brokerage contract, the promise to purchase and other real estate brokerage forms published by the OACIQ;
- the activities, products and services offered by the OACIQ;
- any other question relating to a real estate transaction in which a broker acts as intermediary.

Each year, the agents of the OACIQ Info Center respond to tens of thousands of requests for information.

Do not hesitate to contact them!

## THE ASSISTANCE DEPARTMENT

The **Assistance Department** is the gateway to soliciting help from the Organization, reporting violations or filing complaints relating to ethical breaches. Whether submitted by a consumer or by a licence holder, all requests are transmitted to an Assistance Department analyst, who can provide information to the claimant about the recourses available; the analyst can also intervene with the broker or the agency executive officer to help find a solution to the problem.

In certain cases, the Assistance Department may, upon request by the parties, act as mediator or conciliator to try and settle a dispute between a broker or agency and a client. If necessary, the request for assistance may also be referred to another OACIQ department (Indemnity Fund, Legal Affairs, Syndic, Arbitration Committee or Licence Issue and Maintenance Committee).

## THE INSPECTION COMMITTEE

The work methods of real estate and mortgage agencies and brokers must be in accordance with the rules of the profession. To ensure this, the Inspection Committee verifies their records, accounts, books and registers and makes appropriate recommendations.

The Inspection Committee can also require a broker or an agency executive officer to successfully complete a course or to attend any other relevant training activity.

If the Committee notes a violation to the ***Real Estate Brokerage Act***, it notifies the Syndic.

## THE SYNDIC

Any person who believes he has been wronged must first file a request with the Assistance Department, which will determine if the Syndic's intervention is needed.

The **role of the Syndic** is to investigate any actions by a broker or an agency, including its executive officer or one of its directors, if he has reason to believe that these go against the ***Real Estate Brokerage Act***. If so, the Syndic files a complaint with the Discipline Committee.

## THE SYNDIC DECISION REVIEW COMMITTEE

If the Syndic decides not to file a complaint with the Discipline Committee, the person who requested the investigation may, within 30 days following the decision, request an opinion from the Syndic Decision Review Committee, which will review the whole case.

## THE DISCIPLINE COMMITTEE

Completely autonomous and independent from the OACIQ Board of Directors and staff, the **Discipline Committee** hears the complaints referred by the Syndic following his investigations. These are complaints brought against brokers or agencies, including their directors and executive officers, for violations to the ***Real Estate Brokerage Act***.

Among other powers, this Committee may:

- ⦿ impose fines;
- ⦿ suspend or cancel a broker's or agency's licence (including those of its directors or executive officers);
- ⦿ order a broker or agency to pay a sum of money to a person or firm to whom it is owed.

The Discipline Committee cannot, however, compensate victims the way civil courts can in a damage suit.

## PREVENTION AND RECOURSES AGAINST ILLEGAL PRACTICE

When an individual acts or leads others to believe that he is authorized to act as a real estate broker, mortgage broker or agency without being duly licensed by the OACIQ, this individual is engaging in illegal practice. Such cases may be reported to the OACIQ Assistance Department using a **Request for assistance** form.

The information provided is then reviewed by an investigator. If the allegations prove to be founded, the Organization may initiate criminal proceedings before the Court of Québec. Only the person who signed the Request for assistance form will be informed in writing of the results of the investigation and the OACIQ's decision of whether or not to file a complaint with the courts.

In such a case, the person who has submitted the request for assistance could be subpoenaed to appear as a witness.

An individual found guilty can be ordered to pay a fine ranging from \$1,500 to \$20,000. For a firm, the fine can range from \$3,000 to \$40,000.

## THE REAL ESTATE INDEMNITY FUND (FICI)

The **FICI** was created under the *Real Estate Brokerage Act* and is funded in part by contributions paid by all real estate agencies and brokers in Québec.

The FICI compensates victims of fraud, dishonest tactics or misappropriation of funds for which a broker or agency is responsible. Any claim must be filed using a request for assistance form. The maximum amount payable is \$35,000 per claim.

## FONDS D'ASSURANCE RESPONSABILITÉ PROFESSIONNELLE (FARCIQ)

Independent from the OACIQ, the **FARCIQ** insures Québec real estate and mortgage agencies and brokers against professional liability.

All brokers and agencies must pay a civil liability insurance premium to FARCIQ. This insurance offers financial protection to consumers in case of fault, error or omission committed by a broker or agency in the performance of their professional activities.

When a broker acting on behalf of an agency commits a fault in the performance of his duties, the agency and the broker share liability for the damage.

# 2 DETERMINE HOW MUCH YOU CAN AFFORD BEFORE CHOOSING A HOME

---

## HOW MUCH CAN YOU INVEST?

Before you start your search for a new home, there is one vital step you must complete, which is establishing a realistic budget that takes into account your lifestyle and your goals. The purpose of this exercise is to set a reasonable purchase price. It will help you narrow down your search and avoid being tempted by a property that is above your means.

The key element in this exercise is accuracy: a budget is only useful if it takes into account all your needs and your actual personal or family situation.

### YOUR MONTHLY HOUSING BUDGET

This budget is the amount you have to live in, finance and heat your future home, once you have fulfilled all your other obligations. Your broker will help you clearly set the limits of your mortgage loan.



*A mortgage broker or a real estate broker who is also qualified to work in mortgage brokerage can design an appropriate mortgage loan based on your overall financial situation. He will suggest mortgage products that match your needs and your criteria.*

For this exercise, you can use much of your current information that will not change when you acquire your new home:

- your net household income;
- your debts (student loan, car loan, etc.);
- your current expenses (food, clothing, insurance, miscellaneous expenses, etc.) See Table 1.

The difference between your net monthly household income and your total monthly expenses is your monthly housing budget. This amount must cover your mortgage payment (principal plus interest), property taxes and heating costs and, if applicable, 50% of your condo fees each month.

TABLE 1

## Calculating your monthly housing budget

Current

Groceries and outside meals (including alcohol)	\$
Clothing and personal expenses	\$
Pharmacy and medication	\$
Public transit	\$
<b>Car expenses</b>	
car loan	\$
gas	\$
maintenance and repairs	\$
insurance	\$
registration	\$
licence	\$
<b>Heating and electricity</b>	\$
<b>Water tax</b>	\$
<b>Telephone</b>	
Land line	\$
Cellular	\$
<b>Internet</b>	\$
<b>Cable</b>	\$
<b>Leisure (outings, movies, theatre, sports, etc.)</b>	\$
<b>Books, newspapers, magazines, CDs, DVDs</b>	\$
<b>Furniture and other consumer goods</b>	\$

## TABLEAU 1 – CONTINUED

### Calculating your monthly housing budget

Current

Savings (RRSP, etc.)		\$
Minimum credit card payment		\$
Home insurance		\$
Life insurance		\$
Other (daycare fees, etc.)		\$
<b>Total monthly expenses</b>		\$
<b>Summary of calculations</b>		
Net household income		\$
Monthly household expenses (above)	-	\$
<b>Monthly housing budget*</b>	<b>=</b>	\$

\* We recommend that you take the time to prepare a detailed budget.

## YOUR BORROWING CAPACITY

Now that you know how much you need to live, with the help of your broker you can estimate the amount of the loan a mortgage lender may be prepared to give you.

You can also obtain a mortgage pre-approval: this consists in determining your borrowing capacity, without taking the purchase price of a future acquisition into account. Although the mortgage pre-approval is optional, it helps you determine your buying power, guarantee a rate and show your legitimacy as a potential buyer. A mortgage broker (or a real estate broker authorized to work in this field of practice) can help you navigate through this process. It is important to note that you will still need to obtain a final mortgage approval based on the terms of your promise to purchase.

Most mortgage lenders use two ratios to establish the maximum loan that they can extend:

### GROSS DEBT SERVICE (GDS RATIO)

The GDS ratio normally sets the maximum amount that can be loaned at 32% of your gross income. This ratio can be higher for certain borrowers with an excellent credit rating.

**Example: TDS ratio** = (principal + interest + taxes + heating + 50% of annual condo fees if applicable + annual personal debt repayment) ÷ gross annual income

## TOTAL DEBT SERVICE (TDS RATIO)

The TDS ratio takes into account personal debt in addition to the rest. It normally sets the maximum amount that can be loaned at 40% of your gross income. This ratio can be higher for certain borrowers with an excellent credit rating.

**Exemple : TDS ratio** = (principal + interest + taxes + heating + 50% of annual condo fees if applicable + annual personal debt repayment) ÷ gross annual income

TABLE 2

Monthly payment per \$1,000 borrowed \*

Rate	Cost / \$1,000	Rate	Cost / \$1,000	Rate	Cost / \$1,000
3.0%	\$ 4.74	5.5%	\$ 6.11	8.0%	\$ 7.64
3.5%	\$ 5.01	6.0%	\$ 6.40	8.5%	\$ 7.95
4.0%	\$ 5.26	6.5%	\$ 6.70	9.0%	\$ 8.28
4.5%	\$ 5.54	7.0%	\$ 7.01	9.5%	\$ 8.62
5.0%	\$ 5.82	7.5%	\$ 7.32	10.0%	\$ 8.95

\* Calculation based on a 25-year amortization period.



*A mortgage broker (or a real estate broker authorized to work in this field of practice) will help you analyze your financial situation: credit rating, borrowing capacity, debt, downpayment, etc. He will answer all your questions and help you determine exactly how much you can invest in a new home.*

# HOW MUCH DO YOU NEED TO BORROW?

Now that you know your financial capacity, you can start looking for the house of your dreams! Once you find it, you will have to calculate the loan you need to be able to purchase it.

To do so, you need to know the purchase price and determine the amount of your downpayment:

➤ **Purchase price**

The remuneration you are required to pay to your broker under your brokerage contract - purchase, if applicable, can be calculated as part of the purchase price and included in the amount of the loan.

See the section on the Brokerage contract - purchase for more information on the broker's remuneration.

➤ **Downpayment**

The downpayment is the amount that you already have towards the purchase of your property: you can subtract it from the purchase price since it is not included in the amount of your loan.

Don't forget to consider the various cash expenses and indirect costs involved (see table 3 on page 16): unless you have an amount already set aside for these expenses, they could have an impact on the actual amount of your downpayment since they will need to be paid from your available cash.

## CALCULATING YOUR DOWNPAYMENT

The downpayment is definitely the biggest investment you will make at the time of purchase. The amount you have as a downpayment will have a direct impact on the amount you will need to borrow to purchase your new home. Remember that the higher your downpayment, the lower your loan payments will be.

If your downpayment is less than 20% of the purchase price, your mortgage loan will **have to be insured** by a company that provides this type of insurance, such as:

- ⊙ **Canadian Mortgage and Housing Corporation (CMHC);**
- ⊙ **Canada Guaranty;**
- ⊙ **Genworth Canada.**

If this is the case, you will have to take the insurance premium into account, based on a percentage of the loan granted. The premium will be added to the amount of the loan, plus provincial tax on the premium, payable at the time of signing before the notary.

### Deposit

To show your legitimacy as a buyer when you present your promise to purchase, you will probably make a deposit on the price of the property. This deposit will then be deducted from the downpayment you will have to pay at the signing of the deed of sale.

### Indirect costs

Several indirect costs must be taken into consideration when buying a home, including:

- ⊙ cost of building inspection and other expert reports;
- ⊙ notary fees;
- ⊙ property transfer tax (welcome tax);
- ⊙ moving costs.

You must make sure you have enough money to cover these expenses.



Use Table 3 to calculate your indirect costs and discuss them with your broker.

## TABLE 3

### Calculation of indirect costs

Building inspection and other expert reports	\$
Legal and notary fees	\$
GST/QST (new construction or other taxable properties)	\$
Property transfer tax (welcome tax)	\$
Adjustments and tax distribution	\$
Water quality and quantity certificate (artesian well)	\$
Tax on mortgage insurance premium	\$
Moving expenses	\$
Renovations and repairs	\$
Furniture, appliances, carpets, paint, etc.	\$
Utility hookup (new construction)	\$
Other	\$
<b>Total</b>	\$

## SUMMARY OF CALCULATIONS

Once you have reviewed all the costs related to the purchase of your property, you can make your final calculation:

- ① Enter the purchase price of the property;
- ② Subtract the amount of your downpayment (including your deposit).

The result of this calculation will be the amount of financing you need to purchase the property under consideration.

Now you are in a position to verify if the loan you need to purchase this property fits your budget.

Don't hesitate to make the necessary adjustments and change your objectives and your budget as necessary.

# THE MORTGAGE LOAN

Most people need to borrow to finance the purchase of their home. A mortgage loan is a method of financing in which the property is used as security for repayment of the loan.

There are many ways to go about getting a mortgage loan: you can contact a lender directly or go through a mortgage broker (or a real estate broker authorized to work in mortgage brokerage) to receive advice that is adapted to your situation at every step of your transaction. Moreover, as the mortgage broker is an OACIQ licence holder, you are assured that he is a competent professional and that you benefit from protections set out in the **Real Estate Brokerage Act**.



*Mortgage brokers have access to attractive rates thanks to their network of lenders and can quickly negotiate the terms of your loan. Your mortgage broker will help you choose the best combination: Fixed or variable rate mortgage? Weekly or monthly payment? Do you need your loan to be insured by the **CMHC**? The mortgage broker represents you and acts in your best interest, and his remuneration is generally paid by the lender.*

## INTEREST

The interest is calculated on the amount of your loan at current market rates. Interest rates are influenced by multiple economic factors and their behaviour is difficult to predict.

## LOAN REPAYMENT

The amortization period is the number of years required to repay the entire loan. It is usually between 10 and 25 years. The term of the loan is generally between six months and five years.

Monthly payments are established based on both the loan amortization period and the applicable interest rate.



*Your broker will recommend a loan based on recent interest rate activity on the market and on your ability to face potential rate increases.*

## TYPES OF LOANS

Different types of mortgage loans are available on the market: open, closed, variable, fixed... You will need to decide which one best fits your needs.



*Enlist the services of a broker qualified to work in the field of mortgage brokerage to help you in this process! He will carefully shop around for a loan and find the best possible terms for you.*

## HOME BUYERS' PLAN (HBP)

If you are buying your first home, or if you have not owned a principal residence in the last five years, the Home Buyers' Plan (HBP) may offer an interesting avenue for you. The Plan allows you to use funds from your Registered Retirement Savings Plan (RRSP) to purchase a home. Each buyer may withdraw up to \$25,000 from his RRSP without having to pay tax at the time of withdrawal.

The funds must be in the RRSP for at least 90 days prior to the withdrawal, and the amount of the withdrawal must be repaid into the RRSP over a maximum period of 15 years. For more details on the HBP and eligible properties, visit the [Canada Revenue Agency](#) website.

# 3 THE BASICS OF A WORRY-FREE REAL ESTATE TRANSACTION

---

## THINGS GO BETTER WITH A REAL ESTATE BROKER

You have determined your financial capacity and made a budget accordingly? Before you start looking for your future home, consider your options:

### PURCHASING ON YOUR OWN

If you purchase on your own, you will have to carry out the entire transaction yourself. For example, you will need to:

- ⦿ verify all the information provided by the seller (size of the property, restrictions of public law such as flood zones and other declarations by the seller);
- ⦿ draft the various clauses needed in the transaction documents, with the risks that this entails;
- ⦿ negotiate your terms yourself with the broker representing the interests of the seller or with the seller himself, if the seller has also chosen not to be represented.

### RETAINING THE SERVICES OF A REAL ESTATE BROKER

- ⦿ A real estate broker will guide you through the entire transaction process. He will manage all the steps of your purchase, from monitoring new properties coming on the market to the signing of the deed of sale at the notary's, so that you can continue going about your normal business without having to worry.
- ⦿ You are not required to sign a brokerage contract – purchase with the broker who represents you, but more and more buyers are choosing to do so.
- ⦿ If you buy a property listed by another broker, you will have no remuneration to pay as this will be covered by the seller, under the principle of collaboration, based on the sharing conditions specified in his brokerage contract – sale.



To choose a broker who's right for you, prepare a list of questions to ask regarding potential candidates:

- ⦿ Does the broker know the area and the neighbourhood where you wish to buy?
- ⦿ Does the broker understand your needs and your requirements?
- ⦿ Do you feel at ease with this broker? Do you trust him?

And remember to make sure the broker is properly licenced by checking the OACIQ's **Register of licence holders**.

# THE EXCLUSIVE BROKERAGE CONTRACT – PURCHASE

It is a good idea to enter into a brokerage contract - purchase, especially if the property you are considering is being sold directly by the owner, without the services of a broker. This way you will benefit from the advice and the verifications of your broker (ownership documents, factors that could have an unfavourable impact on you, etc.).

Another thing the broker with whom you sign a brokerage contract - purchase can do for you is solicit the owners of properties of interest to you that are not currently on the market.

If you choose to enter such a contract, your broker must use the mandatory form **Exclusive brokerage contract - Purchase** if the purchase concerns:

- ⦿ a residential immovable containing less than 5 dwellings; or
- ⦿ a divided co-ownership property; or
- ⦿ an undivided co-ownership property.

This form, created and published by the OACIQ, was designed to provide you with maximum protection while clearly establishing the terms under which the broker will act. It specifies, among other things:

- ⦿ the essential and additional features of the immovable;
- ⦿ the desired price and terms of purchase;

- ⦿ the respective obligations of the buyer and the broker, including as regards the remuneration of the buyer's broker (which can be paid directly by the buyer or added to the purchase price offered for the immovable and included in the mortgage loan).

Good to know: In accordance with clause 6.3 of the **Exclusive brokerage contract – Purchase**, the broker undertakes to collect any remuneration due by another agency or broker. The amount thus collected by your broker is then deducted from the remuneration payable under your brokerage contract – purchase. This means you may not be required to pay the remuneration provided for in your brokerage contract – purchase!

# HOW TO CHOOSE A HOME

## DETERMINE YOUR NEEDS

This exercise is very important as it will help you define your priorities and identify the features that your future home must have.



*Consider every aspect in order not to forget anything: doing business with a broker is the best way to achieve this, as he will be sure to show you properties that meet all your requirements.*

Use the following list to start the thinking process:

---

### What type of property would you like to buy?

- Single-family
  - Income property
  - Co-ownership property (Condo)
  - New
  - Used
- 

### In what kind of environment would you like to live?

- City
- Country
- Suburb
- New neighbourhood
- Older neighbourhood

**What services do you need nearby?**

- Schools
  - Public transit
  - Workplace
  - Hospital
  - Fire station
  - Police station
  - Shopping center
- 

**What are your needs in terms of space and comfort?**

- Total number of rooms
  - Number of bedrooms
  - Number of bathrooms
  - Integrated air conditioning
  - Heating: electricity, gas, oil?
  - Storage space
  - Brightness
- 

**What outdoor aspects are important to you?**

- Parking space(s)
  - Garage
  - Yard or patio
  - Balcony(ies)
  - Pool
  - Paved or grassy area(s)
- 

**Are you prepared to do renovations?**

- No, I want a turnkey home
  - Yes, and I have an amount of \$ \_\_\_\_\_ to put towards renovation work
-

## ORGANIZE YOUR SEARCH

The key to success in your choice of home is to know exactly what you are looking for. Organizing your search is not a mere step in the process: it is the most important and often the longest step in the process. It is recommended that you take all the time you need before you buy.



*Discuss your priorities with your broker. Try to identify the features that you want and those on which you might be ready to compromise. This way you will avoid wasting time looking at properties that are too expensive or too large, or that simply do not meet your requirements.*

### Define your search area

Visit those areas you like and that best suit your needs.



*Your broker can help you select a sampling of homes that meet your expectations. Because he has access to detailed information on the properties for sale in the areas of interest to you, he can save you valuable time. He will also be able to provide information on the characteristics or phenomena that are particular to a given area, and any specific problems with properties located in those areas.*

## MAKE THOROUGH VISITS

Make sure you visit any home you like at least twice:

- ⦿ once during the day and once at night;
- ⦿ once during the week and once on the weekend.

This is the best way to see the activity level in the neighbourhood during the hours when you will likely be at home. It will allow you to appreciate:

- ⦿ the amount of traffic;
- ⦿ ambient noise;
- ⦿ street lighting, etc.



## TOOLS TO JOG YOUR MEMORY

You may visit several properties in one day. When you think back on the properties you have seen to compare the various features that have drawn your attention, you may begin to have doubts: how was the first house oriented for sunlight? Was it the second one that had a fireplace or the little white one with the dormers?...

Here is a list of tools that will be very useful to note and compare the features of each of the properties you visit.

### Detailed description sheet

The detailed description sheet provided by your own broker or by the seller's broker will help you review the features of a property in which you are interested. It contains a detailed description of the property in its current state, with all the details that could have an impact on your decision.

### *Declarations by the seller of the immovable*

The OACIQ ***Declarations by the seller of the immovable*** form is available only if the seller is represented by a broker. If not, your broker can add as a condition to your promise to purchase that this form be completed by the seller. On this form the seller must provide, in good faith and to the best of his knowledge, comprehensive information on the condition of his property. With your broker, take the time to review this information as it will help you assess the quality of the property under consideration.

During your visits, review your list of priorities. Then take the time to reflect: buying a home that does not quite meet your needs or that has a major defect can have serious consequences.

### Fact sheet

This tool is designed for you to note the features of a property and any comments you have about it. It is a useful tool when you are hesitating between two properties and want to compare their features (see Table 4).

### Remember to check these items:

- ⦿ Check the general state of the exterior of the property: roof, gutters, siding, paint, etc.
- ⦿ Is the house energy-efficient? Is it well insulated? Are the heating costs high?
- ⦿ How is the air quality and circulation?
- ⦿ Does the house feel damp? Are there traces of mildew? If so, check for cracks or water infiltration.
- ⦿ Do you have reason to believe there are structural problems? Stuck windows or uneven floors point to this sort of problem.
- ⦿ Flush the toilets and turn on the faucets to check for sufficient water pressure.

Note that this information should also be covered in the *Declarations by the seller of the immovable* form.

**TABLE 4**

**Fact sheet**

<b>Address</b>
<b>Real estate agency</b>
Name of broker
Phone #/cell #
<b>Asking price</b>
<b>Date of occupancy</b>
<b>Type and year of construction</b>
<b>Rooms</b>
Total number of rooms
Number of bedrooms
Number of bathrooms
Number of entrances
<b>Area and size</b>
Land
Immovable
<b>Outdoor aspect (appearance and year of replacement, if known)</b>
Siding
Roof
Windows
Doors
Garage
Parking area
<b>Indoor aspect</b>
Walls
Floors
Light fixtures
Windows
Kitchen cabinets
Bathtubs
Showers
Storage space


## TABLE 4 – CONTINUED

### Fact sheet

<b>Neighbourhood</b>
Noise
Safety
Air and water quality
Traffic
Industries
Commercial activity
Railroads
Flood risk
<b>Annual expenses</b>
Property taxes
School taxes
Garbage removal (if not included in property taxes)
Water tax (if applicable)
Special tax (if applicable)
<b>Equipment (year of installation, if known)</b>
Heating
Electrical system
Plumbing
Air conditioning
Water supply system
Waste disposal system
Alarm system
<b>Inclusions</b>
Window coverings
Appliances
Garden shed
Pool
Hot tub
Other
<b>Exclusions</b>

## TABLE 4 – CONTINUED

### Fact sheet

<b>Outdoor features</b>	
	Orientation
	Landscaping
	Fence
	Patio or balcony
	Pool
	Walkways
<b>Indoor features</b>	
	Entrance
	Kitchen
	Living room
	Family room
	Bedrooms
	Bathrooms
	Basement
<b>Distances</b>	
	Work
	Grocery store
	Pharmacy
	Shops
	Schools
	Police station
	Hospital
	Medical clinic
	Dentist
	Public transit
	<b>Condo</b>
	Parking
	Storage space
	Recreational areas
	Shared spaces

## TABLE 4 – CONTINUED

### Fact sheet

Comments on documents provided to the buyer
<i>Declarations by the seller of the immovable (DS) form</i>
Others

## ESTIMATING THE FAIR MARKET VALUE OF A PROPERTY

Once you find a property you like, it is important to get an idea of its actual value on the market.

With the help of your broker, compare the house you like to other properties in the neighbourhood that have been sold during the same period. Identify the features that can increase or decrease the asking price:

- ⊙ location;
- ⊙ size;
- ⊙ year of construction;
- ⊙ state of preservation of the property;
- ⊙ number and layout of rooms;
- ⊙ materials used;
- ⊙ landscaping;
- ⊙ features specific to the area, etc.



*This is another situation where it is advantageous to do business with a broker: the broker has access to tools to help him identify comparable properties. In addition, thanks to his knowledge of the area and his talent for assessing the market value of an immovable, he can guide you on the best price you should offer to the seller.*

# THE PROMISE TO PURCHASE

You have finally found the ideal home! You are now ready to draft a promise to purchase. This is the document you present to the seller to indicate that you are interested in purchasing his property. By accepting your promise to purchase, the seller undertakes to sell it to you.



*Of course you are not alone to draft this contract document! Your broker will complete all the sections of the promise to purchase with you and explain each of the clauses. You will then review it together to make sure everything is correct before signing it and presenting it to the seller.*

The broker must use the following promise to purchase forms that are mandatory for the transactions they concern:

- ***Promise to purchase – Chiefly residential immovable containing less than five dwellings excluding co-ownership***
- ***Promise to purchase – Undivided co-ownership – Share of a chiefly residential immovable held in undivided co-ownership***
- ***Promise to purchase – Divided co-ownership – Fraction of a chiefly residential immovable held in divided co-ownership***

## CONTENT OF A PROMISE TO PURCHASE

The promise to purchase form is mandatory, and its content may not be systematically amended by the broker.



*Since the promise to purchase is a negotiation tool between the parties, there are instances where it can be amended by your broker, as long as such amendments respect the spirit of the promise to purchase form.*

## Identification of the parties

This section is used to identify you and the seller. It must contain your names, addresses, telephone numbers and email addresses (if available).

If a mandatory or any other representative is acting on your behalf or on behalf of the seller, the same information must be entered for them.

## Object of the promise to purchase

This is where you promise to purchase the property and where the broker acting as your intermediary is identified.

Your broker must also indicate whether he represents an agency and, if so, if he carries on his activities within a business corporation or is acting on his own account.

## Summary description of the immovable

The promise to purchase must contain a description of the immovable, including:

- ⦿ address;
- ⦿ cadastral description;
- ⦿ size and area of the lot.



### What if it's a condo?

If the property is held in **undivided co-ownership**, the promise to purchase must particularly specify:

- ⦿ the exclusive uses relating to the share being purchased;
- ⦿ the area of this share;
- ⦿ whether the area indicated on the certificate of location is "gross" or "net".

If the property is held in **divided co-ownership**, the promise to purchase must specify in particular the cadastral description of the private portion. If parking and storage spaces are also private portions, their cadastral descriptions must also be indicated since they are different.

In addition, the promise to purchase must indicate the share and cadastral descriptions of the common portions, and specify whether the parking and storage spaces are private portions, common portions for restricted use, or other.



*Your broker will verify the accuracy of this important information for you.*

## Price and deposit

This is the section of the form where you will enter the price you are offering to the seller for his property, price which you undertake to pay in full at the signing of the deed of sale.

This is also the clause that specifies whether or not the property is subject to GST and QST and, if so, in what proportion. This information will have been provided by the seller's broker. Generally, the sale of a residential property that is not a new construction and has not had major renovation work done to it is exempt from GST and QST.



*To show the seller that you are a serious buyer, you will give your broker a deposit on the purchase price. In accordance with his ethical obligations, your broker must recommend that you pay a reasonable deposit. There is a space to indicate this on the promise to purchase form.*

*If your promise to purchase is accepted, your deposit will be placed without delay in the trust account of:*

- your broker's agency; or*
- your broker, if acting on his own account; or*
- the seller's broker's agency; or*
- the seller's broker acting on his own account.*

*The broker or agency in trust will be identified in the promise to purchase. At your request your broker can amend the clause to delay the deposit until the conditions are fulfilled.*

## Method of payment

The promise to purchase specifies how the purchase price will be paid, including deposit, additional sum, and mortgage loan.

## New hypothecary loan

The terms of the mortgage loan which you undertake to obtain must be entered here. In addition to the amount required, the clause must specify the current interest rate that shall not be exceeded, the duration of the amortization plan and the minimum term you desire.

When insurance is required for your mortgage loan (e.g. by the CMHC), the insurance premium is taxable. This premium will be added to the amount of the mortgage loan, which will increase the amount you will have to repay to the lender.



If you do not provide proof of borrowing of the amount offered on the promise to purchase within the specified deadline, the seller may:

- ⦿ require that you file a new application for a mortgage loan conforming to the conditions set out in the promise to purchase, with a specific mortgage lender and within a given period of time; or
- ⦿ render your promise to purchase null and void.

If the seller does not avail himself of these options within the time period stipulated, your promise will become null and void.

## Declarations and obligations of the buyer

This clause specifies various elements, including:

- ⦿ when you visited the property;
- ⦿ that you are satisfied therewith;
- ⦿ that the notary's fees (cost of the deed of sale, its publication and any copies) are at your expense;
- ⦿ that you undertake to pay the transfer duties (commonly known as the "welcome tax"), a tax levied by all municipalities when transferring ownership of a property on their territory (see Table 5);
- ⦿ that you may not sell, assign or otherwise alienate your rights in the promise to purchase without the prior written consent of the seller.

Finally, in the event that no deed of sale is signed through your fault, you undertake to compensate the agency or the broker bound to the seller by brokerage contract, by paying damages equal to the remuneration that the seller would have had to pay.

## TABLE 5

### Example of transfer tax calculation

Sale price	\$0 to \$50,000		\$50,000 to \$250,000		\$250,000 and over		TOTAL	
	(0.5%)		(1%)		(1.5%)			
\$ 78,500	→	\$ 250	+	\$ 285	+	-	=	\$ 535
\$ 100,000	→	\$ 250	+	\$ 500	+	-	=	\$ 750
\$ 125,000	→	\$ 250	+	\$ 750	+	-	=	\$ 1,000
\$ 400,000	→	\$ 250	+	\$ 2,000	+	\$ 2,250	=	\$ 4,500

City of Montréal: ➤ plus 2% on the portion exceeding \$500,000  
 ➤ plus 2.5% on the portion exceeding \$1,000,000

PLEASE NOTE: The information in this table is subject to change. With the help of your broker, always consult the municipality where the property is located for up-to-date taxation rates.

## Inspection by a person chosen by the buyer

This is where you indicate if your promise to purchase is conditional upon an inspection by a building inspector or a professional. If so, you must also specify the time period in which this inspection must be completed.



For a property held in **divided co-ownership**, you can limit the inspection to the private portion.



*You may also waive this right by checking the box to this effect on the promise to purchase, but you should know that your broker has an obligation to recommend a thorough inspection. He may provide you with a list (containing more than one name) of professionals or building inspectors who meet the requirements specified in the Act.*

## Review of documents by the buyer

In this clause you can enter the documents that you would like to review. You will also specify the time period (maximum number of days) which the seller has to provide you with these documents. Thus your promise to purchase will be conditional upon a review and verification of these documents to your satisfaction.



In the forms concerning **divided co-ownership**, certain documents are automatically listed, including the declaration of co-ownership, the by-law of the immovable and the minutes of meetings of the co-owners.

If you do not obtain these documents within the specified time period, or if you are not satisfied following your review and verification, you will have the right to cancel your promise to purchase. In this case, you must notify the seller in writing within seven days following the expiry of the period in which the seller had to produce the documents.

## Declarations and obligations of the seller

This is the clause where the seller declares that he is the owner of the immovable or is duly authorized to sign the promise to purchase.

The declarations concerning the immovable are covered in the form ***Declarations by the seller of the immovable.***

## Delivery of the immovable

In the promise to purchase, the seller undertakes to deliver the immovable in the condition in which it was when you visited it.

## Ownership documents

The promise to purchase specifies the seller's obligations regarding ownership titles. The seller must provide you with a valid title of ownership attesting that the immovable is being sold free of any real right and other charges, other than the usual and apparent servitudes of public utility.

The seller must also provide you with his title of acquisition and the certificate of location describing the current state of the immovable and reflecting any cadastral renovation, if any. In this context, the phrase "Current state" refers to both the physical and legal state of the immovable; therefore, a change in zoning by-laws (e.g.: flood, erosion or ground movement zones) would require a new certificate of location.



### Certificate of location

**If the immovable is held in divided co-ownership**, the seller must provide you with a certificate of location describing the current state of the **entire** co-ownership, which includes the private portion or, failing this, with a certificate of location pertaining to the private portion only.

If the certificate of location provided covers the entire immovable held in co-ownership, it must include a description of the private portion (the lot or door numbers of the private portions without any description is not sufficient). When the entire certificate does not include a description of the private portion, a certificate pertaining to the private portion must be obtained. The same applies if modifications have been made to the private portion.

## Costs relating to repayment and cancellation

This clause indicates that the costs related to the seller's mortgage loan (repayment, cancellation, etc.) are to be borne by the seller.

## Defect or irregularity

The promise to purchase provides a mechanism in case, after signing, you discover a defect or irregularity that affects the declarations and obligations of the seller.

For example, if you learn of the existence of defects pertaining to the fireplace prior to the signing of the deed of sale and this defect was not disclosed on the **Declarations by the seller of the immovable** form annexed to your promise to purchase, you would not be obliged to buy the property with this defect if the seller does not correct it. You could request in writing that the defect or irregularity be remedied and, in case of refusal, cancel your promise to purchase. Should such a situation occur, your broker will guide through the steps of this process.

## Intervention of spouse

The promise to purchase also includes a clause stipulating that the seller must provide proof of the spouse's consent:

- Ⓒ if the immovable or a portion of it constitutes the seller's family residence; or
- Ⓒ if rendered necessary by the seller's matrimonial regime.

## Damages

According to this clause, in the event that no deed of sale is signed through the seller's fault, the seller undertakes to compensate the agency or the broker bound to you by a brokerage contract, by paying damages equal to the remuneration which you would otherwise have had to pay.

## Declarations and obligations common to both parties

The promise to purchase includes declarations and obligations that are common to both parties:

- ⦿ The date of the signing of the deed of sale at the notary's;
- ⦿ The date and time of occupancy of the premises;
- ⦿ The date when the adjustments will be made for taxes (real estate, general and special), condo fees, fuel reserves and income and expenses relating to the immovable;
- ⦿ If necessary, the amount of compensation that will be paid by the seller if he occupies the premises after the signing of the deed of sale;
- ⦿ The instructions to the notary regarding the payment of remuneration;
- ⦿ The items included in and excluded from the sale;
- ⦿ Any leased equipment or goods covered by a service or leasing contract (or any other contract which must be assumed by you).



*Your broker will consult and advise you regarding the date of signing of the deed of sale and the occupancy date. In certain cases, a longer time period will be required (for example when two or more transactions are interrelated, such as when you have to sell your current home before purchasing the new one).*

## Reference to annexes

The promise to purchase can refer to annexes; these documents form an integral part of the promise to purchase.

Your broker will help you navigate through these annexes and understand their clauses. Here are a few examples:

- ⦿ **Declarations by the seller of the immovable** form;
- ⦿ **Annex F - Financing**, which contains the clauses relating to the taking over the existing hypothecary obligations and the balance of sale price required for the purchase of your home;
- ⦿ **Annex R - Residential immovable**, which contains other clauses concerning the transaction, such as the condition of selling your current property;
- ⦿ **Annex - Expert report**, which includes clauses allowing you to make your promise to purchase conditional upon the performance of certain tests, analyses or studies (including on soil quality);
- ⦿ **Annex - Drinking water and septic system**, which includes clauses allowing you to make your promise to purchase conditional upon the performance of certain tests, analyses or studies regarding the drinking water and the septic system.

As mentioned previously, in the event that the ***Declarations by the seller of the immovable*** form is not available at the time of signing of your promise to purchase, your broker must make obtaining this form a condition of your promise to purchase.

## Conditions of acceptance

This clause sets the deadline (date and time) by which the seller must signify his acceptance of your promise to purchase. This deadline is important, because if it is not respected, the promise to purchase becomes null and void.

If you change your mind during this period, you cannot withdraw your promise to purchase. However, the Civil Code of Québec allows you a short period in which you can cancel your offer, which is the period between the time when you sign the promise to purchase and the time when it is presented to the seller. A cancellation that reaches the seller before the presentation of the promise to purchase renders the promise null and void.

## Signatures

The promise to purchase must be signed by all buyers and all sellers and, if applicable, the sellers' spouses. The signature of a witness is recommended but not essential to the validity of the contract.

### REMEMBER!

Make sure you read and clearly understand the promise to purchase before you sign it. Ask your broker any questions you may have so that no doubt remains in your mind. You may also contact the OACIQ Info Center with any additional questions.

### CONDITIONS

Make sure that all your conditions appear in your promise to purchase:

- Obtainment of a mortgage financing;
- Building inspection;
- Sale of your current home; etc.

If the property you are considering is located in a rural area, your broker will surely recommend a water test (quality and quantity) and a verification of the sewage treatment system.

If you wish to add conditions to your promise to purchase in addition to those already included in the form, your broker can draft a clause in a clear and precise manner so as to avoid misinterpretation, which could become a source of dispute between the parties.

## CONDITIONS – SUITE

Your broker will make sure each clause includes a deadline, the consequence if it is not fulfilled, and the need to issue a notice, whether or not the condition is fulfilled.



*Drafting a contract is never simple. Your broker is a real estate professional who will draft clauses that are specific to your situation. When the parties disagree on the meaning of a clause, they can end up in court. By doing business with a broker, you can avoid all kinds of legal tangles!*

## ITEMS INCLUDED IN THE SALE

If you wish to include certain items in the sale (appliances, chandeliers, garden shed, pool, etc.), you must list them separately in the promise to purchase, as they cannot be requested after the promise to purchase is signed, unless the seller agrees.

It is prudent to specify on the promise to purchase the serial or registration number and the brand of the included items, if possible. The promise to purchase form also specifies that the movable items included in the sale are included without legal warranty of quality, at the buyer's risk.



*If you wish the items to include the legal warranty of quality, you must discuss this with your broker and have him amend the contract accordingly. This change must be initialed by you, then by the seller when accepting the promise to purchase.*

## CHECKING THE DATES

Make sure you check the dates entered for occupancy, adjustments (including the date at which you become responsible for property taxes and utilities), and the signing of the deed of sale.

To avoid any misunderstanding, the phrase "To be determined" should never be entered in lieu of a date on the promise to purchase.

## DEPOSIT IN TRUST

When signing your promise to purchase, it is recommended to pay a deposit that will be applied to your downpayment.

Once the promise to purchase is accepted, the broker will place the deposit in a trust account without delay.

If the transaction does not go through, your deposit will be refunded.

# THE COUNTER-PROPOSAL

The seller of the property may accept or refuse any promise to purchase presented to him. He can also issue a **counter-proposal**. The first purpose of the counter-proposal is to signify to you that your offer has been rejected. The counter-proposal also allows the seller to accompany his refusal by a new proposal that would be acceptable to him:

- ⦿ by including or excluding certain items (or by making minor clarifications);
- ⦿ by changing the selling price or deadlines such as the occupancy date;
- ⦿ by making any other change to the proposal.

In turn, you may use a counter-proposal form to respond to the seller's counter-proposal, and so on.

A counter-proposal has the effect of cancelling all previous counter-proposals made by either the buyer or the seller.

The last counter-proposal must include all inclusions and exclusions that are not mentioned in the initial promise to purchase (without regard to any previous counter-proposals).

The agreement that will bind you to the seller consists in the promise to purchase as amended by the last counter-proposal, without regard to any previous counter-proposals.



*Your broker will manage all these document exchanges, making sure nothing gets dropped from one version to the next.*

## CONDITIONS OF ACCEPTANCE

Like in the promise to purchase, this clause specifies the deadlines (date and time) by which the respondent must accept the counter-proposal.

During this period, the counter-proposer cannot withdraw his counter-proposal. This deadline is important, because if it is not respected, the counter-proposal becomes null and void.

Like in for the promise to purchase, you may withdraw your counter-proposal between the time when you sign it and the time when it reaches the seller. A cancellation that reaches the seller before the counter-proposal renders the counter-proposal null and void.

## EXPERTS AT YOUR SERVICE

Dealing with properly qualified individuals whose services are covered by a professional liability insurance plan helps protect your interests in the course of your transaction.



*One of the many skills your real estate broker has is the ability to draw on a network of seasoned professionals. Don't hesitate to ask him for a list of experts in your area!*

## THE MAIN EXPERTS INVOLVED IN THE PURCHASE OF YOUR HOME

### **The building inspector**

A building inspection is an important step in a real estate transaction: it is a key element of your protection. Therefore it is highly recommended to have the property under consideration thoroughly inspected by a professional or a building inspector.



Under the regulations, real estate agencies and brokers must make sure that the building inspectors they recommend:

- ⦿ are covered by professional liability insurance;
- ⦿ use a recognized inspection service agreement;
- ⦿ perform their inspections according to recognized building inspection standards;
- ⦿ submit a written report to the party that requested their services.



*The broker has an obligation to recommend a thorough inspection by a recognized expert. He may provide you with a list of professionals or building inspectors who meet the requirements outlined in the regulations.*

### The land surveyor

The land surveyor will study the boundaries of the property. Using a certificate of location, he will express his opinion on the location and the condition of the immovable compared to the titles, cadastres, as well as any easements, laws or regulations governing the immovable.

### The mortgage broker

A mortgage broker can help you identify the most advantageous loans on the market based on your needs and the type of loan you want. He must be licensed to practice by the OACIQ, and is therefore governed by the **Real Estate Brokerage Act**. Note that a real estate broker who holds a valid unrestricted licence is also qualified to provide this service.

### The notary

The notary plays an important role in the successful conclusion of a real estate transaction, including when it comes to title examination. One of the notary's main responsibilities is to draw up the deed of sale and the deed of loan.

# THE PROPERTY TRANSFER

Once the promise to purchase or the counter-proposal has been accepted and all the conditions have been fulfilled, the next step is to make the transaction official. The two main components at this stage are the title examination and the deed of sale. The property transfer requires the services of a notary.



*Your real estate broker continues to play a pivotal role at this stage of the transaction, making sure that all documents required are available and otherwise assisting in the process.*

## TITLE EXAMINATION

The notary will do the necessary research in order to verify:

- ⦿ that the seller is indeed the owner of the immovable;
- ⦿ whether the seller has the right and the ability to sell;
- ⦿ whether the seller's spouse or other persons must consent to the sale, etc.

Using the certificate of location, the notary will verify:

- ⦿ whether the lot measurements are accurate;
- ⦿ whether the immovable is actually erected on the lot sold;
- ⦿ whether the house was built in accordance with municipal by-laws and zoning laws;
- ⦿ whether the neighbour's property encroaches on the lot;
- ⦿ whether there are rights of passage, etc.

Through the title examination, the notary will be able to detect the charges or real rights likely to affect or limit the right of ownership: for example, an easement (right of passage on your lot) to the benefit of the neighbour.

## THE DEED OF SALE

The final step of the transaction is the drafting and signing of the deed of sale, which officializes the purchase of the immovable. In it, the notary specifies the clauses and conditions that are essential to the protection of your rights.

## REGISTRATION OF RIGHTS OF OWNERSHIP

Once the deed of sale is final, the notary will register the transaction with the Bureau de la publicité des droits (land registry office). He must retain the funds until this step has been completed.

# ARE YOU SATISFIED?

## DON'T BE AFRAID TO ASK YOUR BROKER ANY QUESTION YOU MAY HAVE!

You are about to enter into a real estate transaction and you still have a thousand unanswered questions? Don't hesitate to ask your real estate broker!

If you are not entirely satisfied with your broker's response, contact the executive officer of the agency for which he works. The AEO will make sure you have the necessary information to be able to make an informed decision.

The **OACIQ Info Center** is the Organization's information hub. It is there to provide information to consumers and licence holders on:

- the **Real Estate Brokerage Act** and the regulations thereunder;
- the brokerage contract, the promise to purchase and other real estate brokerage forms published by the OACIQ, as well as the activities, products and services offered by the OACIQ;
- any other question relating to a real estate transaction in which a broker or agency acts as intermediary.

Each year, the agents of the Info OACIQ Center respond to tens of thousands of requests for information.

Do not hesitate to contact them!

## OACIQ INFO CENTRE

450 462-9800 or 1 800 440-7170

[info@oaciq.com](mailto:info@oaciq.com)

## ASSISTANCE DEPARTMENT

The **Assistance Department** is the gateway to soliciting help from the Organization and reporting violations. Whether submitted by a consumer or by a licence holder, all requests are handled by an Assistance Department analyst, who can provide information to the claimant about the recourses available; the analyst can also intervene with the broker or the agency executive officer to help find a solution to the problem.

In certain cases, the Assistance Department may, upon request by the parties, act as mediator or conciliator to try and settle a dispute between a broker or agency and a client. If necessary, the request for assistance may also be referred to another OACIQ department (Syndic, Indemnity Fund, Legal Affairs, Arbitration Committee or Licence Issue and Maintenance Committee).

# USEFUL LINKS

## Real estate associations

The Canadian Real Estate Association  
[crea.ca](http://crea.ca)

Association provinciale des constructeurs d'habitations du Québec (APCHQ)  
[apchq.com](http://apchq.com)

Québec Federation of Real Estate Boards  
[fcq.ca](http://fcq.ca)

Regroupement des gestionnaires et copropriétaires du Québec  
[rgcq.org](http://rgcq.org)

## Consumer protection organizations

Éducaloi  
[educaloi.qc.ca](http://educaloi.qc.ca)

Option consommateurs  
[option-consommateurs.org](http://option-consommateurs.org)  
[info@option-consommateurs.org](mailto:info@option-consommateurs.org)

Protégez-Vous  
[protegez-vous.ca](http://protegez-vous.ca)  
[service@protegez-vous.ca](mailto:service@protegez-vous.ca)

Service de protection et d'information du consommateur (SPIC)  
[serviceconsommateur.org](http://serviceconsommateur.org)  
[info@serviceconsommateur.org](mailto:info@serviceconsommateur.org)

## Government organizations

Office de la protection du consommateur  
[opc.gouv.qc.ca](http://opc.gouv.qc.ca)

Insurance Bureau of Canada (IBC)  
[bac-quebec.qc.ca](http://bac-quebec.qc.ca)

Bureau de la publicité des droits  
[www.registrefoncier.gouv.qc.ca](http://www.registrefoncier.gouv.qc.ca)

Office of the Superintendent of Bankruptcy Canada  
[ic.gc.ca/eic/site/bsf-osb.nsf/eng/home](http://ic.gc.ca/eic/site/bsf-osb.nsf/eng/home)

Curateur public  
[www.curateur.gouv.qc.ca](http://www.curateur.gouv.qc.ca)

Régie du logement  
[www.rdl.gouv.qc.ca](http://www.rdl.gouv.qc.ca)

## Government organizations

Canada mortgage and housing corporation (CMHC)  
[cmhc-schl.gc.ca](http://cmhc-schl.gc.ca)

Société d'habitation du Québec  
[habitation.gouv.qc.ca](http://habitation.gouv.qc.ca)

## Other organizations

Association de la construction du Québec  
[acq.org](http://acq.org)

Quebec Association of Building Inspectors  
[aibq.qc.ca](http://aibq.qc.ca)

National Building Inspectors and Experts Association  
[anieb.com](http://anieb.com)

Association des syndicats de copropriété du Québec  
[ascq.qc.ca](http://ascq.qc.ca)

Autorité des marchés financiers (AMF)  
[lautorite.qc.ca](http://lautorite.qc.ca)

Corporation des propriétaires immobiliers du Québec (CORPIQ)  
[corpiq.com](http://corpiq.com)

Fonds d'assurance responsabilité professionnelle du courtage immobilier du Québec (FARCIQ)  
[farcicq.com](http://farcicq.com)

Chambre des notaires du Québec  
[cnq.org](http://cnq.org)

Ordre des arpenteurs-géomètres du Québec  
[oagq.qc.ca](http://oagq.qc.ca)  
[oagq@oagq.qc.ca](mailto:oagq@oagq.qc.ca)

Ordre des évaluateurs agréés du Québec  
[www.oeaq.qc.ca](http://www.oeaq.qc.ca)

Ordre des ingénieurs du Québec  
[www.oiq.qc.ca](http://www.oiq.qc.ca)

Ordre des technologues professionnels du Québec  
[otpq.qc.ca](http://otpq.qc.ca)

## Real estate search sites

Centris  
[centris.ca](http://centris.ca)

Realtor.ca  
[realtor.ca](http://realtor.ca)