

Home Inspection - Purchase

While prices vary, this cost can be estimated at between \$250 and \$300

Appraisal Fee

While some lenders will waive the appraisal fee or reimburse the fee on closing, it is important to advise the borrower of the typical charge which ranges from \$250 to \$400. Though the borrower may have to pay this fee before the transaction closes, it should be considered by the borrower since it may reduce the amount that he or she has for closing costs.

Legal Fees

Legal fees associated with closing will vary depending on whether the transaction is a purchase or a refinance or equity take-out. In April, 2007 the Working Group on Lawyers and Real Estate, comprised of the Ontario Bar Association, the County and District Law Presidents Association and the Ontario Real Estate Lawyers Association published a "Suggested Fee Schedule for Residential Real Estate Transactions" that suggests fees for transactions of average complexity. The following is an interpretation of those suggestions and may or may not accurately reflect the Working Group's current or future opinions.

The suggested fees are based on the following formulas:

Purchase of a Residential Property with One Mortgage

Purchase Price of the Property	Fees
On the first \$100,000	\$850
On the excess between \$100,000 - \$300,000	0.5% of the excess amount
On the excess over \$300,000	0.25% of the excess amount

These fees are based on completing the following tasks:

- Purchaser's Solicitor for reviewing executed agreement of purchase and sale (but not including negotiating or drafting agreement) and advising
- Investigating title and checking the description
- Making requisitions on title and on other matters recited in the agreement
- Searching the arrears of realty and all other taxes and rates constituting statutory liens
- Advising on the applicability of GST legislation
- Searching for executions
- Searching for work orders
- Discussing with the purchaser all matters relating to title, zoning and statement of adjustments
- Reviewing and executing mortgage instructions
- Advising the client concerning insurance requirements
- Advising the client with respect to Rule 2.02(10)-(13) of the Law Society of Upper Canada and options for assuring title, including Solicitor's Opinion Letter and title insurance where appropriate for rural properties

- Advising client with respect to road access, shore allowance, septic issues, water potability and well issues
- Where appropriate advising the purchaser regarding Tarion warranties and claim periods
- Attending on execution of documents
- Attending to the closing
- Giving opinion on title or securing Title Insurance policy
- Reporting within 30 days of closing and all other required services.

Purchase/Sale of a Residential Property with no mortgage

Sale Price of the Property	Fees (based on 66% of a Purchase transaction)
On the first \$100,000	\$560
On the excess between \$100,000 - \$300,000	0.33% of the excess amount
On the excess over \$300,000	0.165% of the excess amount

These fees are based on the completion of the following tasks:

- Vendor's Solicitor for reviewing executed agreement of purchase and sale (but not including negotiating or drafting agreement) and advising
- Preparing transfer, answering requisitions on title
- Preparing Statement of Adjustments and advising
- Advising on the applicability of GST legislation
- Advising on the applicability of any non-resident taxes
- Reviewing charge taken back (if any)
- Attending on execution of documentation
- Attending to the closing and completing the sale
- Reporting to client and all other required services.

In the case of a condominium unit, if required, supplying or arranging for copies of condominium status certificate and related documents, including the declaration, by-laws, management contract, insurance trust agreement, and up-to-date insurance certificate.

Registration of a Mortgage Only

The amount to register a mortgage is recommended to be \$650.00, subject to adjustment for the time spent, the complexity of the transaction, the amount involved, the result obtained, and the requirements of the lender and any title insurer involved. There are also several tasks that a lawyer may be requested to perform in addition to the average transactions as listed above. Additional tasks will likely result in additional fees.

Title Insurance

Title Insurance typically costs between \$200 and \$300 but can go significantly higher from there depending on the type of policy, the property type and the value of the property. This is a *one-time* premium. Try the title insurance calculator at <https://quote.fct.ca/> to estimate the cost.

Property Insurance

Depending on the type of coverage, this amount ranges. An average of \$50 per month is appropriate under most circumstances.

Interest Adjustment Amount

The interest adjustment amount is an amount payable to a lender for the period of time that mortgage proceeds are held by the borrower before the period covered by the first mortgage payment. This amount will vary based on the mortgage's interest rate and the number of days between the mortgage advance and the interest adjustment date.

New Home Warranty

Tarion, the new name for the Ontario New Home Warranty Program, regulates the home building industry in Ontario. Tarion steps in to protect consumers when builders fail to complete purchase agreements and construction contracts or fail to fulfill their mandatory warranty obligations in the *Ontario New Home Warranties Plan Act*. Tarion pays claims to consumers. The builder and/or vendor pays the warranty enrolment fee to Tarion before construction and will either include it in the purchase price of the home or show it as a separate item on the Statement of Adjustments. The fee ranges from \$325 to \$750 based on the sale price. (More information can be found by visiting www.tarion.com)

New Hydro Account

If the purchaser has not had hydro in his or her name before a deposit of \$200 will likely be required.

Status Certificate Fee – Condominiums only (previously referred to as an Estoppel certificate)

The common fee is \$100.

Closing Adjustment

An estimate should be made for closing adjustments for bills that the seller has prepaid such as property taxes, utility bills, and other charges. The borrower's lawyer will inform him or her of the exact amounts once the appropriate searches have been completed.

HST (formerly the GST)

On a *new* home, HST is charged; however, the builder may include it in the purchase price. If it is not included, it must be paid on closing. In addition, there is an HST rebate applicable to new homes, substantially renovated homes, and modular and mobile homes for which an application must be completed. More information on the HST rebate can be found at Canada Revenue Agency at www.cra.gc.ca.

PST on Default Insurance

In Ontario there is still 8% PST (not HST) payable on the premium. For example, a CMHC fee of \$10,000 would result in a tax of \$800.¹

The following is an example of the potential closing costs associated with a sample transaction.

¹ CMHC, How much does CMHC loan insurance cost? http://www.cmhc-schl.gc.ca/en/co/moloin/moloin_005.cfm

Example

Bob and Mary are purchasing a resale, single family detached home for \$420,000 in Barrie, Ontario and are putting \$37,800 (9%) down. The CMHC premium at 91% LTV is 4.% of the \$382,200 mortgage, or \$16,800. They are moving in 10 days before the end of the month. This means that there will be 10 days of interest, which is the interest adjustment, required on closing. The closing costs for this transaction may be approximately:

Item	Cost (all rounded)
Appraisal Fee – not required on this CMHC insured mortgage	\$0
Closing Adjustments (as per the lawyer)	\$350
HST – not applicable as this is not a new home	\$0
Status Certificate Fee – not a condominium	\$0
Home Inspection	\$300
Interest Adjustment (based on 10 days at J2=6%)	\$641
Land Transfer Tax – LTT only as not in the GTA	\$4,875
Legal Fees	\$2,150
New Home Warranty – this is a resale home	\$0
New Hydro Account	\$200
Property Insurance – first month's premium payment	\$50
PST on CMHC Premium @ 8%	\$1,344
Title Insurance	\$250
Total	\$10,160 or 2.42% of the purchase price

Success Tip – Closing Cost Worksheet

Provide your client with a **Closing Cost Worksheet** (Appendix 3) and prepare him or her at the initial consultation for the costs involved. It is best to know up front if your client is going to have troubles getting cash to pay the closing costs. This can assist you in determining the mortgage product that best suits your client's needs as well as helping the client make an informed decision on the house that he or she is about to purchase. The odds of losing a client at closing due to a lack of funds will be greatly reduced, which will help you close more business!

19.2 Electronic Land Registration

Electronic Land Registration (e-reg) is a system that has revolutionized the way documents are produced and registered in Ontario. The 200-year-old paper-based system was replaced by e-reg, a completely electronic, paperless system where documents are created, registered and warehoused in an electronic format. The system contains records for over 5.7 million parcels of land in Ontario.

Produced and modified online, these documents do not have to be printed on paper to be legal. Registration is completed electronically, eliminating the need for registering documents at a Land Registry Office.

The province of Ontario, through the Province of Ontario Land Registration Information System (POLARIS), in partnership with Teranet Land Information Services Inc., a private sector corporation created in 1991, has developed e-reg. 1994 saw the provincial legislature pass legislation creating the statutory framework for e-reg, and Teranet has developed the software, called Teraview, used to access and use the e-reg system. The first electronic land registration occurred on January 25, 1999 in London in the county of Middlesex.

Transfers, charges, discharges, and other conveyancing documents are prepared by the lawyer or a person authorized on his or her behalf, using a computer. These documents are completed and electronically signed by the lawyers involved in the transaction, not by the client. However, client authorization is required to allow this process to occur. This authorization is generated by the client signing an Acknowledgement and Direction document that the lawyer must keep on file.

In a purchase transaction, a Document Registration Agreement (DRA) is completed by both the vendor's lawyer and the purchaser's lawyer. This document allows the lawyers to handle the client's documents and funds and by signing this document, both lawyers agree to undertake their professional obligations as to the handling of these documents and funds.

Before the documents are registered, the lawyers involved in the transaction must show their approval of these documents by signing for completeness. In so doing, all lawyers agree that the documents meet their clients' requirements, are accurate and ready to be registered.

Through Teraview, the lawyer can complete the following pre-closing and closing procedures:

- Automated title searching
- Writ searching
- Subsearching
- Creation of drafts and documents ready to be registered
- Calculation and payment of land transfer taxes
- Electronic registration of documents, as well as other procedures.

As of 2012 there are approximately 2 million annual transactions done electronically, representing over 99% of registrations in Ontario. The result has been and continues to be a streamlined process that saves time and simplifies the process of land registration in Ontario.

19.3 The Closing Process

The following is a brief description of the process involved in closing a mortgage transaction and includes the steps involved in the purchase of a property with a mortgage. This process begins where an agent's involvement typically ends, although it is in the agent's best interests to be aware of how the process is progressing to ensure that the mortgage does in fact close. Once the agent has met all of the lender's conditions, the process is in the hands of the lender, the lawyer and the borrower.

1. The purchaser's lender is satisfied that all conditions have been met
2. Client or lender decides on which lawyer to use

This step may have been done earlier in the process. It is always best to have the lawyer chosen early in the process so that as soon as the lender is satisfied that all conditions have been met it can proceed to the next step.

Certain lenders will have a specific lawyer they wish to use to close the transaction, while others will allow the client to use his or her own lawyer. If the client uses his or her own lawyer it is important to note that this lawyer is working for the lender, and while the lawyer has a responsibility to provide disclosure to the client, his or her main responsibility is to the lender.

3. The lender sends the closing lawyer an “Instructions to Solicitor” package

This package commonly contains:

- A copy of the lender’s mortgage approval
- The lender’s disclosure statement
- Solicitor’s Final Report and Certificate of Title document for the lawyer to fill in
- Solicitor’s Interim Report and Requisition for Funds document for the lawyer to fill in
- Pre-authorized Debit Form
- Acknowledgement and Direction
- Instructions on the requirements for title-insured mortgages and non-title-insured mortgages
- Requirements regarding property insurance, surveys, condominium units, proof of identity, etc.

In addition, if the lender is prohibiting secondary financing such as a vendor take-back or a 2nd mortgage, the lawyer is required to inform the lender if he or she becomes aware of any secondary financing. This may cause the transaction to be cancelled.

4. Lawyer meets with the client

The lawyer performs due diligence such as obtaining proof of identity in the form of photo ID, and has the client sign the Acknowledgement and Direction (see the Appendix for a sample Acknowledgment and Direction). This document allows the lawyer to act on the client’s behalf, register documents electronically and includes authorization to use the Document Registration Agreement (DRA) (see the Appendix for a sample DRA). The DRA allows Solicitors to exchange documents, cheques, and keys before closing.

5. The purchaser’s lawyer prepares and sends documents

The purchaser’s lawyer prepares a draft e-reg deed, performs the required searches/subsearches in POLARIS, and sends a Requisition letter to the vendor’s lawyer.

Pause for clarification - Subsearch

A **subsearch** is an update of a previously completed full search, commonly performed on behalf of a purchaser by his or her lawyer immediately prior to registration of a transfer, and on behalf of mortgagees immediately prior to the registration of a mortgage.

A subsearch typically consists of performing searches on the title of the main property and adjoining properties for easements, restrictive covenants, etc., as well as execution searches, chattel searches and other land-related searches.

6. The vendor's lawyer receives documents
The vendor's lawyer receives the Requisition letter, reviews the e-reg deed, and confirms use of the DRA by responding to the purchaser's lawyer.
7. The purchaser's lawyer receives documents
The purchaser's lawyer receives a response to the Requisition letter, updates the e-reg deed if necessary, and finalizes the registration documents.
8. The vendor's lawyer sends the purchaser's lawyer the closing documents
9. The purchaser's lawyer requests funds from the purchaser's lender
10. The lender sends funds to or deposits funds into the purchasing lawyer's trust account
11. The purchaser's lawyer sends documents and closing funds to the vendor's lawyer
12. The vendor's lawyer receives all documents and monies
13. The purchaser's lawyer registers the discharge/cessation of mortgage, transfer/deed, charge/mortgage and advises the vendor's lawyer of registration
14. The vendor's lawyer releases funds and documents and sends money to the original lender to discharge the current mortgage (if applicable)
15. The purchaser obtains keys, garage door opener, security codes, etc.
16. The purchaser's lawyer advises the Tax and Assessment departments and condominium corporation (if applicable) of the change of ownership
17. The purchaser's lawyer reports to the title insurer and remits the premium (if applicable)
18. The purchaser's lawyer sends closing reports to the vendor's lawyer, the lender and the new homeowner
19. The lender remits insurance premium to the mortgage default insurer (if applicable)
20. The lender sends the mortgage brokerage its finder's fee (if applicable)
21. The mortgage brokerage pays the mortgage agent the contracted percentage of the finder's fee

19.4 The Interest Adjustment Date (IAD)

Mortgage payments are made in arrears, meaning that a monthly payment made on October 1st, for example, actually covers the payment due for the month of September. If a mortgage is funded exactly one month before the first payment, the first payment will cover the principal and interest due for that month exactly. However, if the mortgage is advanced on August 15th, for example, and the repayments are monthly on the first of every month, the first regularly scheduled monthly payment must begin on October 1st. Therefore, the first monthly payment