

Real Estate Agreements – The Legal Aspects w/ Peter Cass

Presented January 2011 Exclusively to the Members of REINTM

**Real Estate Agreements:
The Legal Aspects**



Peter Cass

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2 Types of Agreements	
Agreement of Purchase and Sale	Agreement for Sale
Title transfer and possession occur at the same time	Possession first, title transfer later
Vendor has no post-closing repair/maintenance obligations	<ul style="list-style-type: none">• Repairs are buyer's after possession. Vendor will want to monitor that.• Vendor may be responsible for major repairs.

Continued	
Agreement of Purchase and Sale	Agreement for Sale
Assignable automatically	Not assignable unless specific term is included
Default terms are standard	What is default and how it is handled are both fully negotiable

Conditions
<ul style="list-style-type: none">• Due diligence / feasibility covers:<ul style="list-style-type: none">– Inspection– Financing– Lease review– Environmental
<ul style="list-style-type: none">• Do you really need all these as separate conditions?

Representations & Warranties
<ul style="list-style-type: none">• Representation:<ul style="list-style-type: none">– lets the maker off the hook over not knowing
<ul style="list-style-type: none">• Warranty:<ul style="list-style-type: none">– much stronger, valid regardless of Vendor's knowledge

<ul style="list-style-type: none">• Nice to get:<ul style="list-style-type: none">– Information provided is accurate and complete– Vendor not aware of any structural, HVAC, electrical or roofing deficiencies
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Title Insurance

- Great but ... 
- You miss a chance to renegotiate if you don't do the searches anyway
 - E.g. Fire, work orders, zoning

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Peter Cass

Cass & Bishop
Professional Corporation
3455 Harvester Rd, Unit 31
Burlington ON L7N 3P2

Tel: 905-632-7744
www.cassbishop.ca
pcass@cassbishop.ca

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