



# Real Estate Bulletin

RIOPELLE GRIENER PROFESSIONAL CORPORATION

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## Buyers should beware of water-heater rental agreements registered on title

There are new water-heater rental companies in the marketplace with a different approach to the usual month-to-month rental to which homeowners are accustomed. Lack of awareness can cause some complications when selling a home.

We recently encountered a situation where the sellers of a residential home had replaced their water heater with a new rental unit.

What they didn't realize was they had signed a 10-year rental contract, and the company registered a Notice of Security Interest against the title to their home. This unusual situation was not discovered until the purchaser's lawyer performed a title search and found the lien on title. They, of course, requisitioned the removal of the lien because they had to put the new lender in first position.

When the sellers inquired with the rental company, they were told it would cost more than \$2,000 to cancel the rental agreement and purchase the hot water heater. Alternatively, it was suggested the purchasers assume the

rights and obligations under the contract and the contract be postponed in favour of the new lender.

Of course, the vendors were not interested in spending more than \$2,000 to purchase the tank, and were of the view the purchasers had agreed to take on a rental. The purchasers were of the view they did agree in the APS to take on a rental but they did not expect it to be so onerous.

The OREA agreement states: "*The following equipment is rented and not included in the Purchaser Price. The Buyer agrees to assume the rental contract(s), if assumable.*"

In this case, the contract was assumable, and that is what happened. The purchasers assumed the rental contract and the company postponed in favour of the new mortgage.

But this new breed of hot-water rental arrangement did and will continue to cause some anxiety. The buyers now find themselves bound to a rental contract over which they had no input relating to the terms, including the amount of the payments, the length or the maintenance and warranty.

It would be best if purchasers could find out if such a contract exists and deal with it at the outset, rather than waiting for it to be discovered the week of closing.

Regards,  
**Robert M. Riopelle**

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