



Real Estate Bulletin

RIOPELLE GROUP PROFESSIONAL CORPORATION

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When do I need spousal consent?

Easy, at-a-glance flow chart eliminates the guesswork

The question of spousal consent must be asked for every residential real estate transaction, whether it be a purchase, sale, mortgage or transfer of title.

We often field the question from clients, realtors and mortgage agents asking, "When is spousal consent necessary?"

To help answer this question, we have created an easy, at-a-glance reference tool featuring a set of three short questions to determine whether an untitled spouse must consent to the transaction.

The chart is in a printable form on page 2 of this bulletin.

Firstly, we need to determine the spousal status of the person who is buying, selling or refinancing a property. A client who is currently single, widowed, common-law partner or a former common-law partner does not require spousal consent.

Secondly, we need to determine for those clients who are married, separated or divorced whether they are trying to sell, mortgage or buy, if applicable, a property that is or was ordinarily occupied as the matrimonial home.

If the target property is not or was never the matrimonial home, consent is not necessary. For those who are married only, if the property is the matrimonial home consent will always be required.

Lastly, for clients who are separated or divorced, we must determine whether the untitled spouse has released his or her interest in the property via a Separation Agreement or Court Order. If the answer is yes, consent will not be needed. However, if the answer is no, then spousal consent from the untitled spouse must be obtained.

Whatever the situation, realtors, mortgage agents, lawyers and clients must remain mindful of spousal rights and how they may affect the interest of each party when dealing with residential property.

It should be noted our chart does not necessarily apply to all transactions involving deceased persons. For information about transactions involving estate properties, look for next month's Real Estate Bulletin.

Best regards,
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