

You have
the right
to foresee.

Consult your notary!
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Buying a property

Do business with
your notary!

Steps

There are generally two steps
to buying a property:

→ THE OFFER TO PURCHASE (PROMISE TO PURCHASE)

You must present the vendor with an offer to purchase. It will contain your conditions for buying the property, the most obvious being the price. The vendor may accept or reject your offer, or make a new one (the “counter-offer”). If the vendor accepts the offer, the offer to purchase constitutes a contract for which the terms and conditions are difficult to amend or cancel.

→ SIGNING THE DEED OF SALE

To officially become the owner, you must sign the deed of sale. Signing generally takes place at the notary’s office. It is only then that the transfer of property takes place. Your notary will advise you on the conditions to include in the offer to purchase a house, a plot of land, a cottage, a duplex, a condominium or a multiplex. He will explain the conditions proposed by the vendor and will advise you during negotiations.

He will also prepare the documents required to transfer ownership and will make sure that your title of ownership is valid.

Buying a **condominium** or
a **new property** requires additional
documents and verifications so you
can avoid unpleasant surprises.
Ask your notary for more information.

Here are the 10 main points the notary will assess with you:

1 THE DATE OF SIGNING THE DEED OF SALE

The date of signing the notarized deed of sale is the date of the property transfer. You then officially become the owner.

The signing date may be negotiated according to your needs and to those of the vendor, among other things. For instance, if you already own a house, you will probably want the money from its sale before signing for a new property.

It is generally from this date that you become responsible for municipal taxes, school taxes and other costs relating to the property.

If the date of signing the deed of sale is not the same as the date you take possession of the property, your notary will advise you on protection measures to take in the meantime.

2 DEPOSIT ON THE SALE PRICE

The vendor will generally require a deposit on the sale price. To give the vendor and the buyer adequate protection, it is recommended that this deposit be paid into a notary’s trust account, rather than directly to the vendor.

If the sale does not go through, your deposit will be reimbursed to you or be used to compensate the vendor if stipulated in the offer to purchase.

3 LEGAL GUARANTEES

The vendor must guarantee his right of ownership by declaring the following:

- ➊ He is the rightful owner of the building and has the right and the capacity to sell it.
- ➋ No one else has any rights over his property, except those he has declared (such as a mortgage by the bank or a neighbour's right of way).
- ➌ The property does not encroach on any neighbour's land and vice-versa.
- ➍ The building complies with the laws and by-laws in effect, aside from the restrictions that he must declare in the offer to purchase (e.g. addition of a bachelor dwelling in the basement without a permit and in violation of the by-law, or the number of accessory buildings exceeds the limit allowed by municipal by-laws).

Your notary will analyze the vendor's representations on the basis of the location certificate and the titles of ownership (the property deeds).

Vendors must also provide a **guarantee against hidden defects** (such as cracks in the foundation that could make the building unstable).

This guarantee protects you against major defects that existed at the time of purchase but were unknown to you and could not be discovered even by someone acting prudently and diligently. Before waiving these guarantees, ask your notary about the consequences.

4 INSPECTING BEFORE BUYING

Having the property inspected by a certified inspector makes it possible to detect defects that could affect its value. It may also allow you to negotiate a price reduction—for example, if the inspector's report states that the roof has to be redone.

5 FINANCING THE PURCHASE

The notary will make sure he has received all the money needed to proceed with the transfer of ownership.

To do so, he will check the following:

- ➊ The purchase price
- ➋ The down payment
- ➌ The financing for the mortgage
- ➍ Any taxes to be reimbursed to the vendor
- ➎ The notary's fees

Be careful of an umbrella mortgage, which covers all current and future debts contracted with the lender, not only the borrowed amount for the purchase. As a result, the mortgage would be for an amount higher than the loan. The umbrella mortgage has many pros and cons. Learn more from your notary.

6 CHECKING THE LOCATION CERTIFICATE

The location certificate is prepared by a land surveyor and allows the notary to ensure the exact size of the land you wish to buy and the dimensions and location of the buildings on it. The location certificate also notes irregularities and non-compliances observed by the land surveyor when he visited the premises and conducted the checks.

7 MUNICIPAL BY-LAWS

Upon request, your notary can complete all the necessary checks with the municipality to see if your property conforms to all municipal by-laws, and if your project is feasible.

For example, he will see if municipal by-laws would allow you to operate a business on the property.

8 WHEN TWO OR MORE PEOPLE BUY TOGETHER

When two or more people buy a property together, your notary will counsel you on the advisability of signing a contract among yourselves.

This contract would put in writing:

- ➊ each person's financial contribution to the purchase;
- ➋ the terms and conditions for reimbursing the mortgage and other costs (such as taxes, maintenance and repairs) related to the property.

9 PRICE

The price is generally determined by several factors, including:

- ➊ Municipal assessment
- ➋ Market value
- ➌ Date of purchase
- ➍ Maintenance and repairs needed

10 OTHER POSSIBLE TERMS AND CONDITIONS

Because each case is unique, your notary will advise you according to your own situation.

Signing the deed of sale

The signing of the deed of sale generally takes place at the notary's office. This is when the right of ownership is transferred. Your notary will take care of all the verifications and procedures required to properly transfer ownership of the property.

Among other things, your notary will make sure that:

- ➊ **The sale conditions stated in the promise to purchase have been respected.**
- ➋ **The financing for your mortgage is transferred to him before the signing, and the financial institution's mortgage is properly registered on your property.**
- ➌ **The transfer of money between himself and all the parties involved is entirely safe.**
- ➍ **Every problem is resolved before the signing to protect your interests and those of your financial institution.**
- ➎ **The ownership transfer is smooth and the deeds are registered according to law.**

→ HOW TO PREPARE

Information to collect

- The full name and contact information of the purchasers and the vendors
- The address of the property or its lot number.
- Documents confirming the civil status of the purchaser and vendor (marriage certificate, marriage contract, judgment of divorce, etc.)
- The complete offer to purchase and the property documents (tax accounts, location certificate, etc.)
- Any other information requested by your notary

Food for thought

- Have you planned to meet with your notary before signing your offer to purchase?
- Have you told the notary of your plans for the new property—such as operating a business or building a garage?
- Have you read the location certificate for the property?
- If you are buying a property with other people, have you made plans for a notarized contract among the purchasers?
- Any other question raised by your notary.

Did you know?

→ If your notary uses the assets or money entrusted to him for purposes other than those agreed, you may submit a claim to the compensation fund of the **Chambre des notaires du Québec**.