

## **Realtor Fees Negotiated In Listing Contract December 1, 2013**

**Dear Dave:** We recently sold a house and, as usual, the number of people involved in the transaction (all getting a fee) is startling: agents, brokers, home inspectors, appraisers, surveyors, sewer and water inspectors, and homeowners associations for starters; then title companies, title insurance & mortgage lenders etc. Some of the charges you have got to really wonder about. There doesn't seem to be any competition involved, just one happy internal real estate family that makes money off each other. Don't you think we would be better off if the commission a real estate agent makes would be based on the sales price minus all the fees instead of just the sales price?

**Answer:** The fee paid to a Realtor is negotiated at the time of the listing, between the seller and the listing licensee. Half of this fee is typically shared with the selling-side real estate office. This business transaction of listing property for sale is conducted in a normal business manner and has nothing to do with fees that may be incurred at the signing of a contract for the actual sale.

All these fees you mention are open for discussion at the time an offer is received but most are non-negotiable in their amount, just negotiable as to who pays them. Whether they are fair is, like the price of a loaf of bread, always up for debate. Don't be whining about fees after you contract to pay them.

**Dear Dave:** I have a question about Title Insurance. Why is it that, when I sold my \$420,000 home this year, I had to pay \$1542 for title insurance while the buyers only paid \$538 title insurance to cover their lending institution?

**Answer:** It is true that the general rate for an "Owner's Policy" is usually more than double the "ALTA" rate, covering the Lender, when both policies are issued simultaneously.

Although likely claims from an owner, and the limits of coverage, are slightly different between owners and lenders, the fact is that the ALTA rate is lower because most of the overall premium for an ALTA policy has already been collected in the Owner's policy. In other words, the person paying for a simultaneously issued ALTA policy obtains a discount. When an ALTA policy is issued on its own to protect a Lender, say, when someone refinances, as opposed to the sale of the real estate, the ALTA premium is much higher.

One more thing:- you say you HAD to pay \$1542, but this was only because you AGREED to pay the Owner's Title Insurance in your contract. Title Insurance premiums are not mandated for either seller or buyer to pay. They are entirely a matter of negotiation between the parties.

**Dear Dave:** You recently answered a question about a 2009 tax credit and whether it would have to be repaid on the sale of a house. My situation is slightly different. I received a \$7,500 Federal "Interest Free" loan towards my purchase. My wife and I are paying it back, \$500 per year for 15 years, through our taxes. If we sell our home do we still have to pay it back?

**Answer:** Yes, there were two separate programs to stimulate the housing industry in 2008/2009. One was a tax credit of \$8,000, and yours was the interest free loan. Whilst the \$8,000 tax credit

simply disappears so long as you keep the home at least 3 years, the same is not true for the \$7,500 Federal Loan.

In this case, you are paying it back over 15 years at \$500 per year (married) through your taxes. If you sell the house before the 15 years are up, you will be immediately assessed for the balance you owe – but only up to the gain on the sale of the home. If your gain on the sale was \$3,500 and you owed \$5,500 on the loan, you would only have to pay back \$3,500 and the rest would be cancelled. If you made no profit, you would owe nothing at all.

**Dear Dave:** You wrote an answer in November to someone buying a business and how the purchase price is divided between different assets. Would you please clarify your comments about depreciation?

**Answer:** Let's say you buy the business for \$100,000 and the seller says that \$30,000 is for inventory, \$20,000 for a used delivery truck, \$25,000 for equipment and \$25,000 for goodwill.

The point is that this allocation affects your taxes. You cannot write off the inventory except as you use it. The delivery truck can be written off over 5 years, the equipment over 7 years, and the goodwill over 15 years. Obviously, if the goodwill figure of \$25,000 was reduced by \$10,000 and put onto the value of the truck, you would benefit in your taxes because you can write it off quicker.

The way the purchase price is divided must appear the same way on Buyer and Seller taxes, so you can't fool with it after the purchase. However, you can debate the allocation with the seller at the time the contract is negotiated. Consult a CPA, or Commercial Realtor, before you sign the Agreement to Purchase.

**Dear Dave:** I am planning to extend my Anchorage home next year. How close to the side and rear property lines can I build?

**Answer:** If your property is zoned R1 or R1A, you can build up to within 5 feet of the side and 10 feet of the rear property line. If you live on a rural lot over an acre (R5A), then you must set back 10 feet from the side and 20 feet from the rear. R6 lots, usually over 1.25 acres (or 54,450 sq. ft.), require a setback of 25 feet at the side and 50 feet from the rear.

You should also check your survey, because you cannot build over any utility easement. Just be sure to obtain a Building Permit and the Municipality will keep you on the right track.