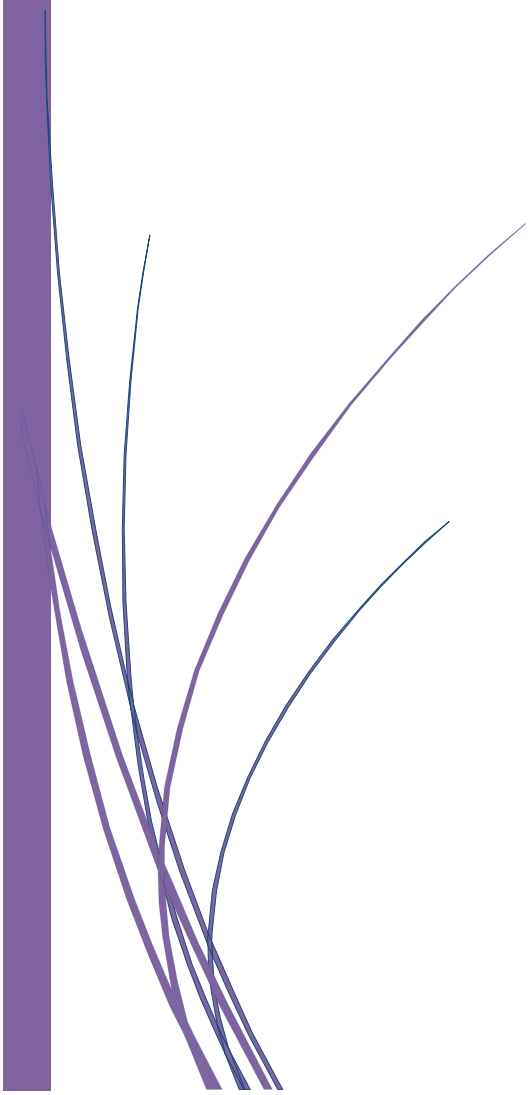
2026

Course 2

A Study Guide for Ontario Real Estate



Shiva Bakshi

WWW.SHIVAREALESTATECOACH.COM

Dear Student,

If you're reading this, I imagine you have passed your first course.

Well done – you're off to a great start.

This course happens to be the longest and often the most challenging. But understand that length does not mean difficult, it simply means more time and effort.

This is as doable as your first course, just a little longer.

Do your best to remain consistent with your studying and not let this course scare you. You are your best friend and worst enemy.

Master your study habits and this course will surrender to you.

With that said, please enjoy these free notes made to serve you and all other students looking to get licensed in Ontario; hopefully they make this journey a little easier.

These notes have been used by thousands of students before you, which have since been refined with their feedback.

You can find more free study tools, webinars, and checklists at **www.shivarealestatecoach.com**.

Thank you again for trusting me in your real estate journey. Be brave and trust the process.

With gratitude,
Shiva Bakshi

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Module 1

1.1 Agency Relationships Terminology

Real Estate Trading is any activity related to the acquisition or disposition of real property, such as sale, purchase, lease, rental, exchange, etc. Principal (Client) is an individual who authorizes an agent to act on his/her behalf. It is the party with whom the brokerage (as agent) has signed an agreement.

The Trust in Real Estate Services Act, 2002 (TRESA) is a special type of Agency Law. In real estate, the equivalent of an Agent is the real estate brokerage. Salespeople and brokers are considered employees of the brokerage for trading purposes.

- Agent: Authorized by a principal to represent the principal in business transactions with another party (brokerage).
- Principal: an individual who authorizes an agent to act on their behalf
- Fiduciary: a relationship of trust with one or more parties' legal obligation to act in the best interest
- Authority: legal power or right given by a principal, and accepted by the agent, to act on the principal's behalf in business transactions with a third person.
    - **Actual Authority:** A seller gives the brokerage authority to offer their property for sale
    - **Implied Authority:** The Brokerage will determine the best marketing methods to offer the property for Sale.
- Third Party: an individual who is not directly connected to the agency relationship but may be affected by it
- Agency Relationship: A legal relationship in which the agent represents the client for dealing with a third party. Under TRESA, it is known as Representation Relationship.
    - Single Agency: one agent (brokerage) representing one principal (seller or buyer) within a transaction with a third party
    - Dual Agency: When one agent is representing two or more principals
    - In TRESA, known as multiple representation. (Can also be referred to as concurrent representation)
- Sub Agency is authorization by one agent (brokerage) to another agent (brokerage) to assist the client in selling or purchasing real estate with the written consent of the client. The sub-agent has the same obligations to the client as the agent.

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- Agency Creation: Written, Verbal (tells the sales rep to start looking for places),
- Implied: unintentionally created based on the words and actions of a salesperson, seller or buyer. If a seller or buyer and the brokerage act in a manner that suggests an express agreement exists, an agency relationship is formed even though no formal understanding is reached between them
- Ratification: When the agent acts either without authority or in excess of authority granted, and the principal accepts the benefit of the agent's unauthorized act. For example, a salesperson shows a seller's property to a buyer without authority and brings an offer. The seller accepts the offer, and this ratifies the agency relationship.

Ex: A property was previously listed for sale by a salesperson, which did not sell. A few months later, this salesperson is approached by another salesperson asking if the seller would consider an offer from their buyer who viewed the property when it was listed. The salesperson obtains the offer and approaches the seller, who agrees to sell.

- Estoppel (Conduct): When the principal leads a third party to believe they are being represented by the agent, and the agent has the authority to act on behalf of the principal. There must be clear evidence that the seller or buyer has, by words or actions, indicated that the brokerage has the authority to act on their behalf.
- Operation of Law creates an agency relationship where a duty created by circumstance is imposed on an agent to act on behalf of the principal, where previously no agency relationship existed. The agency relationship would be based on established legal principles rather than on a formal agreement.
- Express Agreement: Which may be written, oral or implied. As per TRESA, the brokerage must have a written agreement as evidence to claim commission. For Example, a buyer signs a Buyer Representation Agreement with a brokerage.

Agency Termination

- By mutual agreement of the agent and the client.
- Expiry
- Completion or Performance: When the job is performed or completed (e.g. property is sold, and the title is transferred). -
- "Revocation": the principal has the power to revoke the authority of the agent to act on their behalf.
    - Lawful → brokerage fails to fulfill its duties under the representation agreement; revocation would be lawful.
    - Unlawful → if the brokerage has fulfilled its duties and the principal revokes their authority without justification.

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Termination by Operation of Law

- Impossibility of performance: subject matter of the agency ceases to exist.

  Ex. The sellers house has burned down.

- Illegality: the agency purpose of the agency relationship is unlawful. If the brokerage has its registration under TRESA terminated
- **Death,** mental incapacity, or bankruptcy
- Continuation of Rights and Obligations after termination
- Termination of an agency relationship does not affect the rights of either party or any associated obligations owed by one of the parties

1.2 Granting Authority by Principal

- Express (Actual): Authority granted by the principal (buyer or seller) intentionally to the agent and is outlined in terms of the representation agreement.
- Implied: Assumed, given the nature of the relationship, this allows the agent (brokerage) to complete the task property.
    - Grant the agent the ability to take actions and make decisions as an extension of the express authorities granted by the principal.

Limits on Authority of Brokerage

The authority given to a real estate brokerage is limited.

- The brokerage cannot sign contracts (offers) on behalf of the client. Brokerages can sign the contract only as witnesses. The agency relationship cannot be delegated to other brokerages without the express consent of the client.
- Delegation of duties → agency relationship is established between the principal and the agent. Delegation of duties by the listing brokerage to use other brokerages in the marketing process is neither presumed nor implied under agency law.
- Purchase Price → no implied authority to receive all or part of the purchase price, they can only receive a deposit relating to the purchase
- The brokerage cannot incur expenses on behalf of the client without express authority.

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Duties the principal owes to the Agent

- Indemnification → agent must act according to the lawful instructions of the principal, and in doing so, may not be held responsible for any liability, claim, loss, cost, damage, etc. The principal must compensate an agent for the loss or damage incurred.
- Brokerage may be indemnified.
    - Seller perspective: Should the seller breach any warranty or representation made by the seller.
    - Buyer Perspective: should any latent defect to the land or improvements not be identified by the brokerage, as the buyer will be required to make their own enquiries to confirm the condition of the property.
- May extend to reimbursement for expenses incurred. Right to reimbursement does not generally apply when brokerages receive a commission.
- The principal has no duty to indemnify an agent who acts unlawfully
- Remuneration**:** Principal, upon signing the agreement, is obligated to pay the brokerage for the services agreed to and provided as part of the agency relationship (typically commission). For the remuneration to apply → agent must be authorized to trade in real estate
- Other: strongly recommend any obligations be formally documented
    - Payment of taxes
    - Agreement to maintain insurance on the property
    - Referral of enquiries to the brokerage
    - Paying commission, if the sale does not close due to their neglect
    - The client has to pay commission if the sale does not close due to client's default.

Negligent Misrepresentation

This happens when a party seeks information from a registrant who is trusted for his/her skills. The registrant giving the advice knows that reliance is being placed on his/her advice. If the party subsequently suffers economic loss due to false information, the registrant can be sued for damages under negligent misrepresentation.

1.3 Client's Duties

- No customer relationships

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- Any buyer or seller receiving services under a brokerage agreement must be a client and receive representation.
- New term: "self-represented party"
- Client
    - Any buyer or seller receiving services under a representation agreement with the brokerage
    - Includes services and representation
- **Self-represented party (SRP)**
    - Not a client of the brokerage, not under any agreement, and not receiving services
    - The customer category is eliminated – all non-clients are now SRPs
    - Is a party in the trade, but not represented
    - *General tips*
        - You will only encounter a self-represented party when you are already representing a buyer or seller in the trade
        - Agents **cannot provide services, opinions, or advice** and should not encourage a self-represented party to rely on their knowledge
        - Agents can provide **assistance** to the self-represented party if it benefits the agent's client in the trade
            - You can provide assistance as long as it benefits your client & does not share opinion or advice to the self-represented party
- *** Customer service is now prohibited***

General Obligations

- Duty of Care: standard of care and skill provided by a salesperson (knowledgeable)
    - For client:
        - The duty to a client extends to *all* actions performed on their behalf — including providing advice, opinions, and services that promote and protect the client's best interests.
        - This includes full disclosure, confidentiality, obedience to lawful instructions, and promoting the client's position in a trade.
    - For self-represented party
        - Registrants owe no fiduciary duties and cannot provide services, opinions, or advice.

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        - However, they must still act honestly, fairly, and with integrity, and exercise reasonable care and skill in all interactions (for example, ensuring accuracy of factual information provided).
        - Any information shared must benefit the client, not the SRP.
    - Obligations owed to both Clients and SRPs:
        - Honesty and Integrity
        - Courtesy and Professionalism
        - Reasonable Care and Skill
        - Compliance with the Code of Ethics under TRESA

- Fiduciary Relationship: A fiduciary relationship can be created by words or actions … code requires a verbal representation agreement with the principal to be in writing ASAP, before an offer is made.
    - Based on three fundamental principles
        - Loyalty: clients' best interests are served
        - Best Interests: clients' informed consent must be obtained if such interests come into conflict with the client's interest
        - Trust and confidence

- Fiduciary Duties
    - Maintain utmost loyalty
    - Avoid conflicts of interest
    - Disclose conflicts
    - Do not make a secret profit
    - Do not misuse confidential information

Regulatory Obligations Owed Under TRESA

- Accounting and Record-Keeping:
    - Brokerages and registrants must account for, safeguard, and maintain proper records for all money, documents, and property entrusted to them.

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- All trust deposits must be handled in accordance with RECO's trust account requirements and deposited into a registered real estate trust account.
- A Real Estate Trust Ledger must accurately record every trust money transaction and balance.
- Registrants must maintain active registration with RECO and comply with all record-keeping and audit standards.

- Remuneration (Commission):
  - A client is obligated to pay remuneration (commission) to the brokerage in accordance with the signed representation agreement.
  - A Self-Represented Party (SRP) is not obligated to pay remuneration unless a separate Seller's Commission Agreement (Form 202) exists — this form only sets out the commission terms and does *not* create representation.
  - Registrants must not induce a breach of an existing agreement or make false or misleading promises about remuneration or outcomes.
- Delivery of Documents:
  - Registrants must deliver true and complete copies of all representation agreements, offers, amendments, and statements immediately after execution to the relevant parties.
  - This ensures transparency and compliance with RECO's record-keeping requirements.
- Indemnification:
  - A client may be required to indemnify (compensate) the brokerage for lawful actions performed within the scope of their authority.
  - This indemnity does not apply to damages or losses resulting from the brokerage's negligence, misconduct, or breach of duty.
  - In most cases, the brokerage's compensation is limited to remuneration (commission), not reimbursement of expenses.
- Holdover Period:
  - If a property was shown to a buyer during the agreement period and is later sold privately to that same buyer within the holdover period, the client remains obligated to pay commission.

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- The holdover period begins immediately after the expiry of the representation agreement and applies only if the transaction results from the brokerage's introduction of the buyer.

1.3 Brokerage Duties to Clients and SRPs

General Obligations: The agent must use Due Care & Skill in providing information. The agent must perform agreed functions and ensure privacy. The agent must be honest and should not mislead the client.

Duty of Care

- Clients: The Duty of Care includes everything done for the client.
- Self-Represented Party: The duty of care toward a self-represented party is limited to honesty, fairness, and the exercise of reasonable care and skill when providing factual information or performing agreed administrative functions..
- Standards: The standards for Duty of Care are objective (based on facts) and not subjective (no regard to personal interpretations).
- Limited Disclosures: Information related to the agency relationships and material facts about the property/trade must be disclosed to both clients and SRPs.

Fiduciary Duties

Fiduciary duties are based on trust and confidence, best interests and loyalty. A written agreement is not required for fiduciary obligations. These duties exist even if the brokerage is acting gratuitously (free).

- Loyalty: Agent must place the interests of the principal (client) above all (except law).
- Avoid Conflicts of Interest: Arising from representing two clients in a trade (multiple representation) or by having a direct/indirect interest in property.
- Disclose Conflicts: At the earliest practical opportunity, but before an offer is made.
- Disclose Referral Fees: The registrant must not make secret profits at the expense of the principal.
- Protect Confidential Information: Personal or motivational information of the client must be kept confidential and must not be misused to harm the principal.

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Regulatory Obligations Under TRESA

- Accountability: The agent must account for, and safeguard money, documents and property entrusted by the client. The obligation of a brokerage to maintain a Real Estate Trust Account is based on this duty.
- Commission: The commission charged may be a percentage of the sale price, a fixed amount (flat fee) or a combination of both. Several percentages may also be used, but the percentages must be in descending order as the sale price goes up. Promises: The brokerage must not induce anyone into signing a contract or make anyone breach their contract with another brokerage. If a promise is made to a party, it must be in writing and delivered to that party.
- Delivery of Documents: Documents related to trade, such as offers, representation agreements, notices, waivers, amendments, etc., must be delivered in a timely manner.
- Agency Relationships: Agreements must have a date of commencement and an expiry date. The forms used by the brokerage must be current.
- Disclosure of Representation: Brokerages must disclose agency relationships to all parties in a transaction before entering into any relationship. Written acknowledgement and consent must be obtained from the parties.

1.4 Types of Representation Terminology

- Single Representation: A relationship where the brokerage represents only one client (buyer or seller) in a transaction.
- Sequential Representation: This happens when the same client first sells a property through the brokerage and then buys another from the same brokerage.
- Concurrent Representation: This happens when the brokerage represents more than one client (buyer or seller) but not for the same trade. A conflict of interest may arise when the same brokerage represents more than one party with competing interests, but not for the same trade.
- Multiple representation: This happens when the same brokerage represents more than one client for the same transaction. It may also occur when more than one buyer is represented by the same brokerage for the same property.
- Disclosure requirements: Discuss how the services being provided would change

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- Written Disclosure: TRESA Code of Ethics requires that a written disclosure of representation capacity must be made, and Informed Written Consent of clients be obtained at the earliest practical opportunity, but before an offer is made.

Representation Types (Brokerages)

- Brokerages representation:
  - The brokerage and all its agents collectively represent the client and have access to confidential information
- Designated representation
  - Between the client and the brokerage (but only the designated representative represents the client)
  - Only a select number of agents are the **designated representatives**
  - The other agents must treat the client objectively and impartially
  - *The designated representatives must not share confidential client info with anyone else inside or outside the brokerage*
  - Brokerage decide which representation they prefer to engage in, one or both

- Multiple Representations
  - Under brokerage representation
    - When the brokerage represents both the seller and one or more buyers in the same trade
    - When the brokerage represents more than one competing buyer in the same trade
    - Occurs even when clients are represented by different agents in the brokerage
    - Must treat the client impartially, no advice
  - Under designated representation
    - Generally there is no multiple representation
    - Only arises when:
      - The same agent is the designated representative for a buyer and seller in the same trade
      - The same agent is the designated representative for more than one competing buyer in the same trade
  - If the brokerage uses both forms of representation agreements…
    - Defaults to brokerage representation
      - Meaning there will be multiple representation even if one agent represents a client under brokerage representation and the other agent represents a client under designated representation
    - Ex.

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- John represents a seller under designated representation
- Mary represents a buyer under brokerage representation
- Mary's buyer is interested in John's seller's property
- In this case, John is representing the seller (designated representation), but also the buyer (brokerage representation)
- Therefore, this is multiple representation
- This could have been avoided if the brokerage only offered designated representation

- Requirements:
  - Written disclosure
  - Written consent from clients
  - Must be disclosed ASAP
    - Disclosure and consent at the time of an offer is too late
  - Multiple Representation does not promote the client's best interest since they're left to their own for advice and we must be impartial
- Prospective Clients:
  - When taking a new client, the agent must first consult the initial client if multiple representation will ensue to ensure the client's best interests

1.5 Representation Agreements

Information Before a Representation Agreement (TRESA)

Under the **TRESA Code of Ethic**s, registrants must provide specific information to prospective parties at the earliest practical opportunity — but before a representation agreement is signed or an offer is made.
The brokerage must also obtain a signed written acknowledgment confirming that the information was received and explained.

- Required Disclosures Include:
  - The types of services and representation options available through the brokerage.
  - The nature of the relationship that would be created by each option.
  - Any potential for multiple representation and the brokerage's disclosure and consent requirements.
  - The duties and obligations owed to clients under a representation agreement.
  - The limited obligations owed to a Self-Represented Party (SRP) — namely, honesty, fairness, and reasonable care when providing factual information.

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Examples of Agreements Under TRESA

- Representation Agreement with a Seller (Listing Agreement):
  Used to outline the duration, scope of services, and commission payable to the brokerage for representing the seller.
- Seller's Commission Agreement (Form 202):
  Replaces the former *Customer Service Agreement*.
  Used when a seller is self-represented (selling privately), but a brokerage wishes to confirm commission payable if their buyer client purchases the property.
    - Confirms the seller is not represented by the brokerage.
    - Provides the brokerage authority to show the property and outlines commission terms.
    - May include authorization to apply a deposit toward commission.
    - Does not create a representation relationship.
- Representation Agreement with a Buyer (Buyer Representation Agreement):
  Creates an exclusive or non-exclusive relationship where the brokerage owes full fiduciary duties to the buyer client.
- Representation Agreements with Landlords or Tenants:
  Outlines the scope, services, and remuneration for representing either party in a lease transaction.

RECO Information Guide and Disclosure to SRPs (TRESA)

- Must use the '*Working with a real estate agent'* guide:
    - Must give a copy and explain it to a prospective client before working with them or to a self-represented party before providing assistance
    - Must explain the contents
        - Additionally for self-represented parties, they must also be given the '*Information and Disclosure to Self-represented Party'* Form
- 5 Sections
    - Working with a Real Estate Agent
    - Know the Risks of Representing Yourself
        - Explain that your client is benefitting from your services
        - The self-represented party should not share:
            - Their motivation to buy or sell
            - The price they can offer or accept
            - Their financial circumstances
            - *If they do share this info, you have to share it with your client

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- Signing a Contract with a Real Estate Brokerage
  - Prospective clients who want representation need to sign an agreement or risk implied representation
  - The agreement should list:
    - The scope
    - The services provided
    - The type of representation
    - The payment amount and terms
    - The expiry date
    - The termination date
    - Holdover clause
- Understanding Multiple Representation
  - Rarely in the best interests of the client
  - Content of offers
    - May share the content of competing offers
    - Brokerage must receive clear written direction from the seller before sharing offer content
      - If chosen, seller must share this with every buyer who made an offer and cannot disclose personal info
- How to Make a Complaint

- *'Information and Disclosure to Self-represented Party'* Form
  - So the buyer or seller can understand the risk of choosing to represent themselves in a real estate transaction
  - Any assistance they receive is intended to benefit another party in the trade
- When working with a self-represented party, an agent must:
  - Provide and explain the RECO Info Guide
  - Confirm whether the person wants to be self-represented or work with a real estate agent
  - If they want to be self-represented, provide and explain the '*Information and Disclosure to Self-represented Party'* form
    - Should explain the following:
      - You are representing your client and their best interests
      - You do not represent the self-represented party or their interests
      - You cannot provide the self-represented party with any services, opinions, or advice
      - Any info they share with you will be shared with your client

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Disclosures, Consents, and Acknowledgements (TRESA)

- Must be clear, concise, and presented simply
    - All disclosures must say 'Disclosure'
- Brokerage or designated representative cannot represent more than one client in the same trade, unless:
    - The required disclosure is made
    - The brokerage attempts to obtain an acknowledgment that the disclosure was received
    - Each of the clients in the trade agree to multiple rep with written consent
- If a brokerage has a seller and buyer client in the same trade:
    - They must disclose this to every other buyer who makes a written offer
    - They must attempt to receive acknowledgements of receiving the disclosure
- If a conflict arises, an agent must not provide any further services until:
    - The conflict is disclosed
    - The client has been advised to seek independent professional advice
    - The agent has checked to make sure the client understands the conflict
    - The client agrees to continue receiving services despite the conflict
    - The agent gets the client's consent
- Financial benefits
        - A realtor must
        - Disclose the financial benefit to their client
        - Attempt to get their clients acknowledgement
        - If the client makes the acknowledgement, provide them a copy
- Property interest
    - Agents must disclose the property interest
        - Must disclose to their client and all offer-makers
        - Attempt to get an acknowledgement
        - If acknowledged, provide them with a copy
- Personal Trade (an agent is involved in the deal as a buyer/seller)
    - The agent must:
        - Provide written notice to all parties in the agreement
        - Obtain an acknowledgement that the notice was received from all parties
- Material Facts
    - Disclose material facts to clients
    - Advise them on it
    - Attempt to obtain an acknowledgement
- Advertising
    - Must not include anything that could identify the client or the terms of the agreement, unless the parties has consented in writing

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- Info Statement on Sellers property
  - *'Seller Property Information Statement':*
    - Written by the seller to provide info to buyers or the co-op agent about the property
    - The agent must
      - Disclose the info exists to all interested buyers
      - Provide the statement upon request
- Unaccompanied access to Real Estate
  - Can only access a property with an agent, or alone with the seller's consent
- Remuneration
  - If remuneration would affect the seller's choice of offers, the agent must:
    - Disclose the terms to any interested buyer who makes an offer
    - Attempt to obtain an acknowledgement
    - Provide them with a copy of the acknowledgement upon request
- Third party services
  - An agent must not enter into an agreement with a third party unless:
    - The agent has disclosed in writing to their client
    - The client has consented
    - The agent has disclosed in writing to the third party the identity of the person responsible for payment
- Deposits
  - Brokerage must disclose:
    - The terms of the deposit
    - Whether the deposit is an interest-bearing account
    - The interest rate the brokerage receives on the money

Information to Be Provided Before Entering Any Agreement:

- **Service Alternatives:** Explain representation vs no representation (SRP).
- **Services Provided:** Detail what services the brokerage will perform under the agreement.
- **Multiple Representation:** Disclose that circumstances may arise where the brokerage represents more than one client in a trade.
- **Nature of Representation:** Explain what duties (e.g., loyalty, disclosure, confidentiality) are owed to clients if multiple representation occurs.
- **Service Limitations:** Clarify that SRPs do not receive representation, advice, or advocacy.
- **Written Acknowledgment:** Obtain a signed acknowledgment confirming the party has received and understood this disclosure before any offer or agreement is signed**.**

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1.6 Explaining Services

Due Diligence confirming the seller has made all necessary disclosures, disclosing relevant info and material facts, making appropriate disclosures, demonstrate competence skill and judgment, refer .

Pre-listing

- Conduct visual walkthrough
- Gather and verify key info about the property → review registry, tax , assessment records etc. Identify and disclose any material facts
- Explain marketing options, provide opinion on property value , explain selling costs, advise on property preparation

During Listing

  - Accurately list the property
  - Explain the process for showings
  - Implement the marketing plan
  - Qualify users based on sellers' directions (if there is a house for sale that is really pricey they want privacy)
  - Ensure all required disclosures are made by the seller

1.7 Communication

- Salesperson from a brokerage other than the listing brokerage must communicate with the seller through their brokerage unless written permission has been given to communicate directly with the buyer
- Violation to induce a seller or buyer to break an existing contract they have with another brokerage
- **Agreements in Writing**
  - All representation agreements and any other agreements related to trading in real estate must be in writing to be legally valid and enforceable.
  - The Real Estate Council of Ontario (RECO) administers and enforces TRESA but does not supply representation forms — these are produced by the Ontario Real Estate Association (OREA).

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- **Creation of Representation Relationships:**
    - A Seller Representation relationship is created when a Listing Agreement is signed.
    - A Buyer Representation relationship is created when a Buyer Representation Agreement is signed.
- **Minimum Content Requirements:**

  Each representation agreement must include:
    - The effective date (start date).
    - A definite expiry date.
    - The services to be provided.
    - The total remuneration (commission), including the portion offered to a co-operating brokerage and how the amount is to be calculated.
- **Agreements Longer Than Six Months:**
    - If the agreement term exceeds six months, the client must initial next to the term clause on the first page to show consent.
- **Delivery of Copies:**
    - A signed copy of every representation agreement must be delivered immediately to the client.
- **Multiple Representation**
    - Occurs when two or more clients are represented by the same brokerage in the same trade (e.g., both the buyer and seller have representation agreements with that brokerage).
    - The brokerage must act impartially and must obtain informed, written consent from all clients at the earliest practical opportunity – but before an offer is presented.
    - The potential for multiple representation must be disclosed upfront, before entering any representation agreement (listing or buyer).
- **Important Changes Under TRESA:**
    - The former ability to "avoid" multiple representation by providing customer service to one party is no longer permitted — customer relationships have been eliminated.
    - A brokerage cannot provide services or advice to any Self-Represented Party (SRP) but may provide factual information if it benefits their client.
    - Informed written consent must always be obtained; implied consent no longer applies.

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- **Imputed Knowledge:**
    - Under Brokerage Representation, confidential information obtained by one registrant is imputed (legally shared) with all other registrants within the same brokerage.
    - Under Designated Representation, only the designated representatives have access to client information; others in the brokerage must remain impartial.
- **Clarifying Misunderstandings:**
    - "Implied multiple representation" - such as when a buyer at an open house assumes an agent represents them — must be immediately clarified by the registrant. The agent must explain that no representation exists unless a written representation agreement is signed.

Competing Offers (TRESA)

- Seller must communicate the number of offers
- TRESA Change:
    - If the seller wants, they can share the content of competing offer, but they must share it with every person making an offer
    - Agent must receive clear written direction to share the content
    - Agents cannot share personal identifiable info (about who made the offer)
- An offer must be written
- Sellers can share offer info anytime, at any point, with no notice to the buyers
- If buyers don't want their offer content shared, they can opt for confidential or restricted offers

1.9 Acquisition/Disposition of Real Estate by Registrants

Disclosure of Interest

Under TRESA, registrants are required to disclose any existing or contemplated interest in a property. This rule applies whether the registrant is selling property they own, or purchasing property for themselves, a family member, or an associated entity.

- The disclosure must be in writing, and a signed acknowledgment must be obtained from the other party at the earliest practical opportunity, but before an offer is made or accepted.

The written disclosure must include:

- A statement that the party buying or selling is a registrant under the Trust in Real Estate Services Act (TRESA).
- The registrant's role and capacity — whether they are acting as a salesperson, broker, or brokerage.

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- Whether the registrant's interest in the property is direct (e.g., personal ownership) or indirect (e.g., through a corporation, trust, or relative).
- Any material facts known to the registrant that could affect the value or desirability of the property.
- Details of any agreement or arrangement related to the trade, including profit-sharing or assignment rights, that could create a conflict of interest.

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Module 2

2.1 Obligations of the Registrant, Seller, and Buyer

Information Before Agreement

Under Section 10 of the TRESA Code of Ethics, registrants must provide specific information to prospective sellers and buyers at the earliest practical opportunity — before any representation agreement is signed or an offer is made.

Information to Be Provided

Registrants must clearly explain:

- The nature of the services and duties provided by the brokerage under a representation agreement.
- The difference between a client and a Self-Represented Party (SRP) — noting that customer relationships are eliminated under TRESA.
- The possibility that the brokerage could represent more than one client in the same transaction (multiple representation) and the requirement for informed written consent from all parties before proceeding.
- That any interaction with a Self-Represented Party (SRP) will be limited to providing factual information only and that no advice or advocacy will be provided.
- That any representation agreement must be put in writing at the earliest practical opportunity and before an offer is made, with a signed copy delivered immediately to the client.

Documenting the Relationship

Contents of a Written Representation Agreement

A valid representation agreement must include:

- An Effective Date (start date) and one definite Expiry Date, both appearing on the first page.
- The method for calculating remuneration (commission) and how it will be paid to the brokerage.
- Any commission or remuneration payable to a co-operating brokerage, if applicable.
- The services to be provided by the brokerage to the client.

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- The client's informed written consent if the agreement term exceeds six months (must initial beside the expiry date).

Delivery of Agreements

- A signed copy of every representation agreement must be provided immediately to each person who signs it.
- All forms used must be current and compliant with TRESA and RECO requirements.
- If a verbal agreement is made initially, it must be reduced to writing as soon as possible.

Claim for Commission

- A registrant cannot claim commission unless there is a written and signed agreement with the party who will pay it.
  However, TRESA provides limited exceptions where commission may still be payable if:
- A salesperson conveys a written offer that is accepted by the seller.
- A salesperson shows a property to a buyer who later purchases it.
- A salesperson introduces a seller and buyer for the purpose of discussing a possible sale or purchase.

Commission Calculations

- Commission cannot be based on the difference between the list price and sale price.
- It may be calculated as:
  - A percentage of the sale price.
  - A fixed amount.
  - Or a combination of both.
- Percentages may be structured on a descending scale (e.g., 5% on the first $500,000 and 2.5% on the remainder).

Disclosure of Direct or Indirect Benefit

- If a registrant will receive any direct or indirect benefit, such as a referral fee, bonus, or gift, this must be disclosed in writing to the client at the earliest practical opportunity and before the benefit is accepted.

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  - Two Commissions from the Same Trade: A brokerage cannot claim commission from a seller and then claim another commission from the buyer under a different agreement for the same trade. However, the does not apply when a disclosure to this fact is made to both parties and written consent is obtained.
  - Fixed Commissions: The registrant cannot directly or indirectly convey to any party that commissions are fixed by their brokerage, the real estate board, or any regulatory authority.

- Showing Properties: The buyer must be shown all properties that match their search criteria. This must be done without any regard to the commission to the brokerage or the salesperson.
- Unexpired Agreement: No claim for commission can be made if the registrant knows that the seller has an unexpired agreement with another brokerage. The salesperson must make enquiries before entering into an agreement with the seller.
- Disclosure of Representation Relationship: A brokerage cannot enter into a relationship with more than one party to a transaction unless a disclosure to this effect is made and written consent is obtained from all parties. This applies to both concurrent representation as well as multiple representation situations.
- Inaccurate Representations: The registrant must not knowingly make any inaccurate representations about services provided either verbally or in any advertisement.

Insurance Requirements: All registrants must be insured under the RECO insurance program, and this fact must be disclosed in writing to potential buyers and sellers.

Seller's and Buyer's Legal Obligations

- Indemnification: To compensate the brokerage for loss or damage incurred when carrying out lawful duties under the agreement. The duty to pay the brokerage for expenses incurred during performance of duties does not apply because the brokerage is being paid remuneration. The seller also indemnifies the brokerage for the losses incurred during performance of duties. This does not apply when the loss to the seller is due to gross negligence of the brokerage.
- Remuneration: It is set out as the commission paid to the brokerage for securing a valid agreement to purchase the property.
- Seller's Obligations Under Representation Agreement: The seller agrees to pay commission if the agreement does not complete due to seller's default or neglect. The

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seller agrees to inform the brokerage immediately if they receive any direct inquiries or offers from any source during the term of the agreement.

Buyer's Obligations Under Representation Agreement: The buyer agrees to pay commission if the agreement does not complete due to buyer's default or neglect.

The buyer agrees to inform the brokerage if they come across any property of interest during the term of the agreement and agree to submit any offers through the brokerage.

2.2 Seller Representation Agreement (Listing Agreement)

Types of Listings

Exclusive Listing

- An Exclusive Listing is a written representation agreement in which the seller gives one brokerage the sole right to market and sell the property for a specified period (the listing period).
- Demonstrates the seller's confidence and commitment to the brokerage.
- Provides the brokerage with an assurance of commission if the property sells during the listing period, whether through the brokerage's efforts or another source.
- Only the brokerage named in the agreement is authorized to show or market the property.
- The property is not typically posted on a public multiple-listing database unless the agreement allows it.

MLS® (Multiple Listing Service) Listing

- An MLS® listing is a special form of Exclusive Listing that includes exposure through the REALTOR®/MLS® system, a cooperative database operated by real estate boards for member brokerages.
- Offers maximum market exposure to buyers and other brokerages.
- Allows co-operating brokerages to introduce their buyer clients to the listing and share in the commission as per the listing agreement.
- The listing brokerage represents the seller, while the co-operating brokerage typically represents the buyer.

Co-Listing (Shared Listing)

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- A Co-Listing occurs when two or more brokerages jointly represent the same seller under a single written listing agreement.
- All co-listing brokerages share the responsibilities, marketing efforts, and commission according to the terms set out in the agreement.
- Often used in unique circumstances such as complex properties, divorces, or when multiple specialists are needed (e.g., residential + commercial expertise).
- Each brokerage owes full fiduciary duties to the seller as a client.

Open Listing

- An Open Listing allows the seller to authorize multiple brokerages (or none) to market the property simultaneously, without exclusivity.
- The seller is only obligated to pay commission to the brokerage that successfully brings a buyer and completes the transaction.
- The seller retains the right to sell privately without owing commission.
- Properties under open listings are often advertised with phrases such as "Brokers Protected," indicating that the seller is willing to co-operate and compensate any brokerage that produces a successful sale.
- Since there is no exclusive representation, each brokerage must still ensure the seller receives all required disclosures and that any buyer introduced is properly treated as a client or self-represented party (SRP) under TRESA.

The Listing Agreement

The Seller Representation Agreement (Listing Agreement) is a written representation agreement between the seller and the brokerage, establishing a representation relationship under the Trust in Real Estate Services Act (TRESA).
It sets out the authority, obligations, and limitations of both parties during the listing period.

Under TRESA's **Code of Ethics**, this agreement must:

- Be reduced to writing and signed by the registrant and the seller before any offer is presented.
- Contain all mandatory disclosure information.
- Be delivered immediately to the seller once signed.

The agreement typically includes:

- The services the brokerage will provide.

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- The seller's obligations (e.g., remuneration, indemnification).
- The brokerage's duties and authority.
- Any limitations placed on that authority.

Terms and Parties to a Seller Representation Agreement

- Type of listing (Exclusive or MLS®).
- Brokerage details.
- Seller's legal name and contact information.
- Property address and legal description.
- Effective and expiry dates.
- Listing price.
- Seller's representation that the property is not currently listed with another brokerage and warranty of accuracy in information provided.
- Key Provisions in the Listing Agreement
  - Definitions and Interpretation
    - Defines terms such as Seller, Buyer, Brokerage, and Real Estate Board used throughout the agreement.
  - Commission Clause
    - Specifies the total commission payable as a percentage of the sale price or as a flat amount.
    - The seller agrees to pay commission if the sale fails to close due to the seller's default.
    - The brokerage has the right to apply the deposit toward the seller's commission obligation.
    - The seller must pay any remaining balance and applicable taxes on the commission.
    - If the sale fails to close due to the buyer's fault, the listing brokerage has no claim for commission.

Enquiries and Offers

- The seller must refer all enquiries received during the listing period to the listing brokerage.

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- The seller agrees to forward all offers to the brokerage, even if received directly from a buyer.

Contact After Expiry

This clause allows the seller to choose whether to be contacted by other brokerages once the listing expires and the property remains unsold.

- **Does:** Seller consents to be contacted after expiry.
- **Does Not:** Seller does not consent to be contacted after expiry.

Holdover Clause (Commission Clause)

The seller remains obligated to pay commission if:

- A buyer was introduced or shown the property during the listing period, and
- The property is sold privately to that same buyer during the holdover period (commonly 60–90 days).

If the property is re-listed with a new brokerage:

- The difference in commission is payable if the new rate is lower.
- No commission is payable if the new commission rate is higher.

Example: Seller Smart lists with Cram Realty Inc. (5% commission) from April 1–June 30 with a 90-day holdover.
Buyer Bright views the home on June 20 and buys privately on July 5.
Cram Realty Inc. may claim full commission.

Representation Clause / Finder's Fees

Any finder's fee, referral fee, or third-party benefit to be received by the brokerage must be disclosed in writing to the seller at the earliest practical opportunity and before acceptance.

Indemnification and Insurance

This clause confirms that:

- Registrants are insured under the RECO insurance program.
- The seller will not hold the brokerage liable for damage or loss to the property during the listing period unless due to gross negligence or willful misconduct.
- The seller warrants that the property is insured, including personal liability insurance covering bodily injury or property damage occurring on the premises.

Family Law Act and Spousal Consent

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If the property is a matrimonial home and only one spouse is on title, spousal consent must be obtained before listing.
If consent is not required, the seller must warrant this in writing under the Family Law Act clause.

Acknowledgment

The sellers sign to confirm they have read, understood, and received a copy of the agreement.

Successors and Assigns

- Once signed, the agreement binds heirs, estate trustees, or other legal successors.
- If a schedule or amendment conflicts with pre-printed wording, the added terms override the standard form.

Example: Seller requests no "For Sale" sign. A schedule stating this overrides the pre-printed sign permission.

Electronic Communication:

- Agreements transmitted electronically are deemed valid originals.
- Under the Code of Ethics, copies must still be delivered promptly to all parties.

Schedules:

Any additional terms should be placed in a schedule and must cross-reference the main agreement (property address, seller, brokerage name, etc.).

- Signing and Initialling Requirements
    - **Brokerage Signature:** Must be from an individual authorized to bind the brokerage.
    - **Seller Signature:** Standard legal signature with date and, if applicable, unit number or identifier.
        - For corporations, the signer must be authorized and may include the phrase: *"I have the authority to bind the corporation."*
    - **Spousal Signature:** Required for matrimonial property consent.
    - **Initials:** Used on pages without signatures and to confirm specific acknowledgments:
        - Agreement term exceeds six months.
        - Warranty statement (not under another listing).
        - Consent for other brokerages to contact the seller after expiry.

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- Declaration of Insurance: Confirms the registrant's coverage under RECO's insurance program.
- Final Acknowledgment: The seller acknowledges understanding of all terms and confirms receipt of a copy of the signed agreement.

2.3 Buyer Representation Agreement

Differences from the Seller Representation Agreement

- The Buyer Representation Agreement establishes a representation relationship between the buyer and the brokerage.
  It outlines the obligations of both parties and must be in writing, signed, and delivered to the buyer at the earliest opportunity, but before an offer is presented.

General Comparison

- Buyer Representation Agreements and Seller Representation Agreements share common clauses such as definitions, representation, finder's fees, conflict resolution, electronic communication, and signatures.
- Buyer-specific provisions address property type, geographic location, indemnification, consumer reports, and holdover obligations.

Property Type

- The buyer must describe, as specifically as possible, the type of property they are seeking (e.g., single-family residential, condo, multi-unit, commercial).
- This description helps determine the scope of the agreement and avoid overlap with other brokerages.

Warranty

- The buyer warrants that they are not currently a party to another Buyer Representation Agreement with any other brokerage for the same property type and geographic area.

Referral of Properties

- The buyer agrees to inform the brokerage of any properties they become aware of that meet the criteria outlined in the agreement.

Indemnification

- The buyer acknowledges that the brokerage and its representatives are not responsible for any defects, conditions, or issues in the properties viewed.

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- The buyer is encouraged to seek independent professional advice (e.g., home inspection, environmental testing) as needed.

Consumer Reports

- The buyer is notified that a consumer report, which may include personal or credit information, may be used or obtained during the transaction.
- This disclosure ensures compliance with the Consumer Reporting Act, which governs the collection and use of credit and personal data by reporting agencies.
- The report may be written, oral, or electronic in nature.

Schedules

- Schedules may include:
  - A list of properties excluded from the Buyer Representation Agreement (e.g., private sales or builder deals viewed previously).
  - Supporting documents, such as a mortgage pre-approval letter to assist the brokerage in assessing the buyer's qualifications.

Documenting Commission

- The buyer agrees that the brokerage is entitled to commission as set out in the agreement.
- The commission amount must be disclosed at the earliest opportunity.
- If the seller or listing brokerage does not pay commission, the buyer agrees to pay the full amount specified in the agreement.
- If the seller or listing brokerage pays less than the agreed commission, the buyer must pay the difference (deficiency) to the brokerage.
- If the brokerage receives more than the amount stated in the agreement, it is entitled to retain the excess funds.

Commission Details

- Commission is typically payable by the seller or listing brokerage, but the buyer remains responsible for any shortfall.
- The agreement must clearly state how commission is calculated (percentage, flat rate, or combination).

Holdover

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- The buyer may owe commission if they purchase a property that was shown or introduced by the brokerage during the agreement period, even if the purchase occurs after expiry.
- The holdover period is typically 60–90 days, as agreed upon by the parties.

Signing and Initialling

- TRESA does not require a buyer to sign a representation agreement to receive general information.
- However, the brokerage must present a written Buyer Representation Agreement for signature at the earliest practical opportunity and before an offer is made.

Creating the Representation Relationship

- The Buyer Representation Agreement creates a representation relationship (replacing the older concept of "agency") between the brokerage and the buyer.
- This relationship authorizes the brokerage to represent the buyer's interests, provide advice, and negotiate on their behalf.

Understanding Key Provisions

- Establishes an exclusive representation relationship between the buyer and the brokerage.
- States that the buyer may not be shown all available properties, depending on the brokerage's policies or market conditions.
- Allows the buyer to enter into separate agreements with other brokerages for different property types or geographic areas.
- Acknowledges that multiple representations may occur, in which case written informed consent must be obtained from all parties before any offer is presented.
- Includes a disclaimer stating that the brokerage is not responsible for environmental hazards or physical defects and that information from the seller is not warranted as accurate.
- Advises the buyer to seek independent expert advice (home inspector, lawyer, appraiser, etc.) before completing a transaction.
- Confirms that a credit report may be used in connection with the trade to comply with the Consumer Reporting Act.

Other Obligations of the Buyer

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- The buyer must submit all offers through the brokerage during the agreement period.
- The buyer is liable for commission if the sale fails to close due to the buyer's default.
- The brokerage may apply any deposit toward the buyer's commission obligation.
- The holdover clause remains enforceable after expiry.
- The buyer agrees to pay any deficiency if the commission paid by another brokerage is less than the amount specified in their agreement.
- The buyer must pay applicable taxes on any commission amount owed.
- The brokerage has the right to apply the deposit first to the commission.
- The commission obligation in the Holdover Period applies.
- The buyer agrees to pay the deficiency in commission if the commission received from the other brokerage is less than the commission specified in the agreement.
- The buyer agrees to pay the applicable taxes on commission.

2.4/2.5 Self-Represented Party Agreements

Self-Represented Parties

Under TRESA, the former *Customer Service Agreements* have been eliminated.
There are now only two categories of consumers in a trade:

1. **Clients** – who sign a written *representation agreement* and receive full fiduciary services.
2. **Self-Represented Parties (SRPs)** – who do not receive representation, advice, or services.

A brokerage may interact with an SRP only to provide factual information when doing so benefits the brokerage's client.

Seller's Commission Agreement (Form 202)

When a seller is not represented (for example, selling privately) but a brokerage wishes to confirm commission if its buyer client purchases that property, the parties may sign a Seller's Commission Agreement (Form 202).
This form replaces the old *Seller Customer Service Agreement*.

Key characteristics:

- Non-exclusive: the seller may sign similar agreements with more than one brokerage.

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- Confirms the seller is not a client and that the brokerage is not representing or advising the seller.
- Authorizes the brokerage to show the property to its buyer client and outlines commission terms if a sale results.
- Allows, where applicable, the deposit to be applied toward commission.
- Does not include a listing price or authorized pricing advice.
- Requires the seller to warrant insurance coverage on the property and indemnify the brokerage against third-party claims.
- May include additional instructions or commission schedules in an attached schedule (e.g., graduated commission or showing restrictions).

Holdover Provision
The seller remains responsible for commission if they accept an offer from a buyer introduced by that brokerage within the agreed holdover period after expiry.

Verification and Signs
The agreement may include the seller's initials indicating whether a "Sold" sign may be placed on the property.

Buyer as a Self-Represented Party

If the seller is the brokerage's client, but the buyer is not represented, the buyer is treated as a Self-Represented Party (SRP).
No *Buyer Customer Service Agreement* may be used.

Key points:

- The buyer must be clearly informed that they are not represented and will receive no advice or services from the brokerage.
- The brokerage's duties are limited to honesty, fairness, and reasonable care when providing factual information.
- The buyer may be asked to acknowledge in writing that they understand this limitation.
- The brokerage may still receive commission from the seller or listing brokerage, but the SRP has no obligation to pay remuneration.
- Any credit-report disclosure still applies if a consumer report is obtained under the Consumer Reporting Act.

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- The buyer is advised to make their own independent enquiries and inspections regarding the property's condition.

Key Differences Under TRESA

Aspect	Under REBBA (Old)	Under TRESA (2026)
Relationship type	Client / Customer	Client / Self-Represented Party
Agreement name	Customer Service Agreement	Seller's Commission Agreement (Form 202) or none
Brokerage duties	Limited advice & services	No advice, only factual information that benefits a client
Commission	May have been negotiated	Only payable if stated in Form 202
Representation mix	Brokerage could serve one client + one customer	Brokerage may serve one client + interact with an SRP (no services)

2.6 Altering the Representation Agreements

Amendments to the Seller Representation Agreement (Listing Agreement)

Used to make changes to any previously agreed term between the brokerage and the seller.

- Any amendment must be in writing and signed by all sellers, including any non-owner spouse whose consent appears on the original listing.
- The date of commencement and expiry date must appear on the amendment form.
- The most common amendments involve changes to the listing price or expiry date.
- If the new expiry date extends the total listing term to more than six months, the brokerage must obtain the seller's written initials next to the clause confirming consent.

Suspension of a Seller Representation Agreement

A suspension is used when marketing activities for a property need to be paused for a specific period of time.

- During suspension, advertising and showings must stop.

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- Notice of the suspension must be communicated to all brokerages and salespersons involved.
- The form must include the date of suspension, the resumption date, and required signatures.
- Typically, only a Broker of Record or Brokerage Manager may execute a suspension.
- Salespersons are not authorized to suspend a listing agreement.

Cancellation of a Seller Representation Agreement

Used when a seller and brokerage mutually agree to terminate the listing agreement.

- The holdover clause remains effective even after cancellation.
- The form must be signed by all sellers and approved by the Broker of Record or Brokerage Manager.
- Once signed, the brokerage is released from its obligations, but commission may still apply under holdover if the property sells to a buyer introduced during the listing period.

Assignment of a Seller Representation Agreement

With the seller's written consent, a listing brokerage may assign the Seller Representation Agreement to another brokerage.

- The assignment must be in writing and signed by the seller.
- Once assigned, the original brokerage is released from all obligations under the agreement.
- Only the Broker of Record or a Manager may authorize and sign an assignment.

Amendments to a Buyer Representation Agreement

Additional forms may be used to alter, suspend, or cancel a Buyer Representation Agreement.

- All amendments must be in writing and signed by both the buyer and an authorized representative of the brokerage.
- The effective and expiry dates must appear on each form.
- Used to modify the existing terms of the agreement.
- Changes may include property type, geographic area, commission structure, or expiry date.
- Signed by the buyer and typically by the salesperson or broker authorized by the brokerage.

Cancellation of a Buyer Representation Agreement

- Used to terminate a Buyer Representation Agreement.

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- Must be signed by the buyer(s) and the Broker of Record or Manager.
- Completion of this form releases the brokerage from its obligations, but the holdover clause continues to apply.

Assignment of a Buyer Representation Agreement

- Used when a salesperson transfers to a new brokerage and the buyer agrees to move the representation to that new brokerage.
- Must be in writing, signed by the buyer, and authorized by the Broker of Record or Manager.
- The form must be returned to the original brokerage before the assignment's effective date.
- Once complete, the original brokerage is released from obligations under the agreement.

Self-Represented Parties (Replaces Customer Service Agreements under TRESA)

Under TRESA, there are no longer Customer Service Agreements.
Brokerages cannot alter or extend any such agreements because they no longer exist.

When working with Self-Represented Parties (SRPs):

- Registrants may only provide factual information, not advice or services.
- If a seller is self-represented and the brokerage wishes to confirm commission, it must use a Seller's Commission Agreement (Form 202).
- If the terms of that form need to be altered, a new Form 202 must be completed — amendments are not made directly on the old Customer Service Agreement forms.

2.7 Salesperson's Obligations Regarding Services Provided

Maintain Business Records

- Brokerages must **retain all records, documents, and correspondence** created during the course of a trade for a **minimum of six (6) years** from the date of completion or termination of the trade.
- If files relate to a **contentious trade** (e.g., a dispute, complaint, or legal action), they should be **stored indefinitely** until the matter is fully resolved.
- Records must also be maintained for **other business activities**, including:
    - Trust money transactions and monthly trust account reconciliations.

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    - **RECO and FINTRAC compliance documentation**, such as client identification, verification, and suspicious transaction reports.

- Documents must be stored at the **appropriate location**:
    - If there is **no branch office**, all records must be kept at the **main brokerage office**.
- Salesperson obligations:
    - Salespersons must promptly submit all paperwork to the brokerage.
    - Files may include surveys, title documents, identification verification (FINTRAC), and disclosure statements from sellers regarding property conditions or defects.

Inducements

An **inducement** is anything of value offered or provided to influence a **buyer or seller** to enter a **trade in real estate**.
Inducements may be **monetary or non-monetary** but must always be **fully disclosed in writing**, including all **details and conditions**, **before the offer is accepted**.

- Examples of inducements:
    - Paying inspection, appraisal, or legal fees for a buyer or seller.
    - Offering to cover moving expenses or make repairs or upgrades.
    - Providing gifts, rebates, or discounts to encourage a trade.
    - Promising to buy, sell, or lease another property in exchange for the transaction.
- Under TRESA, a registrant must:
- Obtain **written approval from the brokerage** before making or accepting an inducement.
- Provide the other party with a **written disclosure** clearly outlining the nature and value of the inducement.
- Keep a **record of the inducement** in the brokerage's file.

Note: Inducements differ from referral fees.

- **Inducements** influence a client or party to enter a trade.
- **Referral fees** are payments made between registrants or professionals for referring business.

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Common Mistakes When Documenting Relationships

Documentation Errors

- Failing to obtain, read, or analyze original source documents.
- Incorrectly transposing information from source materials into representation agreements.
- Making errors in property details (legal description, size, or defects).
- Failing to ensure that **all individuals on the title** are identified and sign the agreement.

Incorrect Words, Statements, and Predictions

- Making subjective or exaggerated claims such as "best investment," "guaranteed return," or "highest price."
- Giving **absolute assurances** or predictions instead of factual information.
- Misusing **operative words** like "can," "must," or "will," which imply guarantees.

Misrepresentation and Lack of Diligence

- Failing to confirm that the client fully understands the services being provided.
- Not referring clients to other professionals (lawyers, inspectors, appraisers) when necessary.
- Acting beyond the authority granted by the client.
- Failing to properly address issues during negotiation.
- Not marketing a property diligently for a seller or failing to identify suitable properties for a buyer.

Breach of Duties, Obligations, and Disclosure Requirements

- Misrepresenting or failing to disclose material facts.
- Breaching duties outlined in the representation agreement.
- Failing to perform services in a conscientious, competent, and timely manner.
- Not reviewing and discussing agreements with clients as soon as possible.
- Providing incomplete or missing disclosures when required.
- Ignoring potential conflicts of interest, especially when buying or selling property for personal use.

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Module 3 - Residential Properties, Ownership, And Planning

An estate is an interest in land that includes various rights of ownership and tenancy.

Fee Simple Estate (Freehold): This is the highest form of an estate and is also known as Absolute Right. It provides maximum rights with minimum limitations (bundle of rights)

- Ownership for an indeterminate amount of time
- **S**ell: The right to sell their property for many reasons, such as for profit.
- **L**ease: the right to rent their property to a tenant
- **U**se: the right to use their property for many uses, such as living, renovating, and improving
- **Do** nothing: the right to buy a property and leave it dormant
- **G**ive away: the right to give the property away, often encountered in the settlement
- **E**nter: right to access

Leasehold Estate: occupancy rights, not ownership. Right can or last for a predetermined amount of time. Fewer rights than fee simple

3.1 Government Limitations

Right to Take (Expropriation): The right of the government to acquire private property for the public's best interest and to use fair compensation for the owner. It is carried out by the government using the Right of Eminent Domain. (might reduce the value of the property)

Right to Regulate (Police Power): The power of different levels of government to regulate the division, development and use of land using various laws and by-laws. Promotion of public safety, health, morals and general welfare.

The buyers should be informed about any regulations that may be considered a material fact from the buyer's perspective.

Right to Levy Taxes: The ownership of property may be subject to taxes, such as Land Transfer Tax, Property Tax, etc.

Salespersons should understand taxation issues and disclose current taxes on the property as they are considered material facts.

Escheat: reversion of property to the government or some kind of government agency if a property owner dies, leaving no will and having no legally qualified heir.

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Private Limitations

These private restrictions or Restrictive Covenants limit the use of property for a specific purpose and manner and are usually contained in the title/deed of property (Deed Restriction).

They run with the land, stay with the property even when it is sold, and are transferred to subsequent buyers. Usually, the buyer's lawyer will get information on restrictive covenants, and if the seller has complied with them, the buyer is not able to terminate the agreement.

Buyer's lawyer may conduct a Title Search before a binding agreement so that the buyer may terminate the agreement if the restriction is unacceptable.

Easement (example of restrictive covenant)

- An Easement is a right enjoyed by one landowner (Dominant Tenement) over the land of another (Servient Tenement).
- It runs with the land and is not terminated when the property is sold.
- Failure to disclose an easement, which is a material fact, may result in cancelled agreements or even possible legal actions.

3.2 Ownership Rights and Limitation Types of Estates

Concurrent ownership refers to simultaneous ownership of land/property by two or more persons. It is of two types: (i) Joint Tenancy, and (ii) Tenancy-in-Common.

Joint Tenancy: It is specifically created at the time of registration and must satisfy four unities (conditions):

  - **Time** – Each joint tenant gets ownership at the same time.
  - **Title** – Each joint tenant gets ownership by the same title (document such as deed or will).
  - **Interest** – Each joint tenant has an equal interest in the property, which must be identical in nature, extent, and duration.
  - **Possession** – Each joint tenant has undivided possession of the whole property.

- Joint Tenancy includes the Right of Survivorship, whereupon the death of one joint tenant, the entire interest transfers to the surviving joint tenant(s).

Spousal Interest: If the joint tenancy of a matrimonial home is with someone other than the owner spouse, and the married person passes away, the joint tenancy with the other person is immediately terminated and reverts to tenancy in common.

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Termination of Joint Tenancy: Termination of joint tenancy destroys the right of survivorship as the tenancy converts to tenancy in common.

There are three methods to terminate joint tenancy:

1. **Voluntarily**: When the joint tenants mutually agree to terminate the joint tenancy.
2. **Severance**: When one of the joint tenants severs the joint tenancy by selling his/her interest to a third party without the consent of the other joint tenants. In this case, other joint tenants remain joint tenants but become tenants in common with the third party. **may destroy the right of survivorship before their death without the consent of the other joint tenant**
3. **Partition:** When a court orders splitting the land held in joint tenancy.

Concurrent Ownership – Tenancy in Common

- Tenancy-in-Common has only one unity of Possession whereby everyone holds undivided possession of the property.
- Tenants-in-Common may have different interests and may acquire them at different times or in different ways.
- The Right of Survivorship does not exist in Tenancy-in-Common. After the death of a Tenant-in-Common, the interest of that person becomes an Estate of the Deceased.

3.3 Ownership Alternatives

Condominiums

- Freehold or Leasehold, depending on the land on which the building is built. Ownership in a condominium involves Fee Simple ownership of a unit and tenancy-in-common ownership of the common elements, such as hallways, elevators, playgrounds, etc. Some owners may have exclusive use rights for a part of the common elements, such as a balcony or a porch attached to the unit.
- Maintenance Fee (Common Expenses): maintenance and repair of all common elements is funded through maintenance fees. It is based on the proportionate share of the unit as given in the Declaration. The buyer will need to review the maintenance fee to see if it is within his/her budget. (The mortgage lender will also consider this fee for qualification)
- Board of Directors: Directors are elected by unit owners to make, amend, and repeal rules and bylaws of the condominium. Unit owners must be provided with a copy of the rules and bylaws. They can request a meeting within 30 days if they want to challenge any of the rules or bylaws.

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- Bylaws: Bylaws are standard procedures regarding internal operations and governance of the condominium corporation. They typically relate to the election of directors, maintenance of common elements, collection of maintenance fees, and borrowing money.
    - A copy of the bylaws must be provided to unit owners who can request a meeting to challenge any of the bylaws.
    - Bylaws are not effective until a majority of unit owners vote in favour.
    - A copy of the bylaws must be registered in the Land Registry Office.
- Rules: Rules are made by the board of directors for the safety, security, and welfare of the unit owners. The buyer must be provided with a copy of these rules so that he/she knows what is permitted or prohibited in the condominium.
- Common Element Condominium (CEC): This condominium consists only of common elements such as roads, parking lots, a golf course, a ski hill, etc. There are no units in a CEC, and each owner must hold a freehold interest in the land to which the common interest attaches. A Parcel of Tied Land (POTL) refers to the parcel of land upon which a house is constructed, and a common interest is attached to it.

Equity Co-operatives

- An Equity Co-operative is a form of joint ownership, managed by a board of directors, where members are shareholders having an occupancy agreement for a specific unit. Purchase of share capital**
- Form of housing involves buildings with several units
- Each buyer of a co-operative shares in the corporation as opposed to buying a specific unit, and does not own their unit, but is given the right to occupy it.
- Management: The Co-operative Corporations Act does not regulate the day-to-day operations or bylaws of the co-operative. The board of directors, elected by the members, sets the annual budget and rules or bylaws of the co-operative. Monthly Fees: Members pay a monthly housing charge that is similar to condo maintenance, which includes property taxes. If a member defaults in payment of these fees, other members become liable for the share of the defaulter member.
- Financing: Co-operatives were traditionally financed through a Blanket Mortgage, which may still be in place.
- In this case, the member would arrange his/her own secondary financing.
- Some lenders may be reluctant to provide such financing unless the buyer's down payment is significant.

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- Salespersons must advise the buyers about financing concerns, share certificates, occupancy agreements, and rules/bylaws.
- Buyers must be advised that no freehold ownership is involved in the purchase of shares in a cooperative, and approval of the board of directors may be required for the purchase of shares.

Co-ownership

- fractional interest held by two or more people who are registered on the title as owners.
- It is an alternative to Tenancy-in-Common ownership, wherein two or more individuals purchase a proportionate interest in a property as specified in the deed.
- The percentage interest may not be equally divided among co-owners.
- A co-owner in a multi-unit co-ownership building in an urban area receives ownership by way of an occupancy agreement in addition to the deed.

Condominium	Equity Co-operative	Co-ownership
• Purchase provides a fee simple interest in a unit • Co-ownership interest as a tenant in common relating to the common elements • Board of directors to oversee the corporation • Rules and bylaws applicable to all owners • Monthly maintenance fee based on proportionate share of ownership • Property taxes paid separately by the unit owner	• Property is owned by a corporation • Purchase provides a share certificate • Requires an occupancy agreement to specify the unit as the share identifies only the percentage of interest owned • Board of directors to oversee the day-to-day business • Rules and bylaws • Monthly fee to pay for the operating expenses, which includes property taxes • Must also pay towards any financing on the property, plus any secondary financing to purchase the share	• Tenant in common ownership with one or more other persons • May require an occupancy agreement to specify the unit as the purchase identifies only the fractional interest owned in the property • Co-ownership agreement to establish the foundational rules regarding the maintenance and management of the property • Jointly liable for any mortgage or other expense related to the property

- Salespersons must advise the buyers about the joint liability of the Blanket Mortgage on the co-ownership building and that other co-owners may have the Right of First Refusal in case of sale.

Life Lease

- The holder of a life lease, as a tenant, owns a leasehold interest in a property for his/her lifetime.
    - The appealing aspect of these communities is shared maintenance costs, which result in more affordability. Management: The buyer usually

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purchases the right to occupy a unit from a sponsor, which may be a non-profit or charitable housing provider.

- Monthly Fees: A lump sum deposit may be required in addition to the monthly maintenance fees for heating, electricity, snow removal, garbage, landscaping, building insurance, etc.
- Salespersons must make the buyers aware that no freehold ownership is involved in a life lease community.

Land Lease

- Involves leasing the land, which permits ownership of a home on the leased land without the added cost of purchasing land.
- The price of the leased parcel of land is based on location, lot size, and view (e.g. lake view).
- The land lease is typically for a period ranging from 20 to 99 years, and the structure may be a mobile home (in a mobile home park) or a manufactured home.
- Land Leases, which are occupied only seasonally or for vacationing, are not governed under the Residential Tenancies Act (RTA).
- Monthly Fees: Tenants pay a monthly fee in addition to the cost of the land lease. These fees are charged by the landlord for the maintenance of grounds, buildings, and equipment, which are for common use.
- Sellers: The owner of a dwelling unit has the right to sell or lease the structure without approval of the landlord.
    - However, they may be able to place the 'For Sale' sign only on their window.
- Buyers: Buyers must be aware that there is no standard lease agreement, and they should make their offer conditional upon review of the lease by their own lawyer. Furthermore, financing for the purchase may be difficult to obtain as there is no ownership of land.
- Landlord's Right of First Refusal: If the land lease agreement includes this provision, the seller must give the landlord 72 hours' notice when he/she receives an acceptable agreement.
- The owner may sell to the buyer only when the landlord refuses to buy on the same terms and conditions as in the agreement.

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3.4 Land Use Planning The Planning Act

- The provincial Planning Act provides a statutory framework for the orderly division, development and use of land.
- It authorizes and gives administrative control of land use planning to the Minister of Municipal Affairs and Housing, who issues the Provincial Policy Statements.
- The Minister, municipalities, local planning boards, and the Local Planning Appeal Tribunal must be consistent with the Provincial Interests when carrying out their responsibilities under the Act.
- The Provincial Policy Statements address planning matters **of public interest** such as municipal planning, housing, mineral aggregate, floodplains, and wetlands.
- The Planning Act enables municipalities to carry out planning programs for their respective needs and as per their responsibilities set out in the Municipal Act.
- *Real Estate Transactions*: Salespersons must be aware of how their trading activities may be affected by the Planning Act.
- They may be involved in transactions where the buyer needs land severance, subdivisions, or a land use application.
- Certain buyers may also need a change of zoning or a change in the Official Plan. -These buyers should be directed to land use planners for legally complex matters.

Municipalities

- Single Tier district, county, region, township, city or municipality): They assume all responsibilities under the Municipal Act.
- Upper Tier (Region, county or district): preparation, adoption, and revision of the Official Plan, and the process of dividing and developing land.
- Lower Tier (municipality): They prepare, adopt, and revise the Official Plan and the Zoning Bylaws.
- Some examples are the City of Toronto, Ottawa, and Sault Ste. Marie, Thunder Bay, Greater Sudbury, Timmins, Windsor, Lindon, Chatham-Kent, etc.
- Relationship: The lower and upper-tier municipalities usually coordinate with each other for matters such as water supply, sewage systems, roads, etc.
- Salesperson's Role: If a buyer needs certain approvals for development or a change in use, the salesperson should direct the buyer to the appropriate municipality.

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Impact on Listing and Selling:

- Placement of Signs: These regulations include the size of the sign, its location, and its distance from the curb, intersections, pedestrians, and cyclists. Salespersons must be aware of how long the sign can remain on the property after it is sold.
- Flood Control: Many municipalities designate areas that are prone to flooding as 'flood plains. They prohibit or restrict the placement of structures in these areas.
- Noise Standards: Some municipalities may have areas that are close to a source of noise, such as an airport, traffic, railways, commercial activities, etc.. clause should be inserted in the agreement to acknowledge that the buyer is aware of these disturbances.

Subdivision Control and Planning Act

- A person is not allowed to convey (sell) land or lease it to someone for more than 21 years unless
  - The person conveying does not retain ownership of any abutting land
  - The person conveying has received consent to divide
  - The land is within a registered plan of subdivisions

The Land Severance Process

1. Consult & Determine Authority: contact the local municipality to determine which authority grants authority -This also applies when a landowner wants to add a part of property to their existing lot. -The approval authority is the local Committee of Adjustment or the Land Division Committee.
2. Application: The consent application includes details such as a description of the property, a sketch showing dimensions of land being severed and retained, use of adjoining land, etc.
3. Application Review: The application must meet the criteria, such as conformity with the Official Plan, zoning bylaws, and several other factors.
4. Decision: The approval body has the authority to approve, refuse, or grant conditional approval
5. Appeal Process: Local Planning Appeal Tribunal
6. Issuing of Certificate:

Salesperson's Role: Salespersons should be aware that the Agreement of Purchase and Sale are automatically conditional upon compliance with the Planning Act

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However, a seller and a buyer can have an agreement conditional upon severance, which must be completed before the closing date.

Plan of Subdivision Process

1. Consult & Determine Authority: A two-stage Subdivision Plan registration is required when a landowner wants to divide land into several lots, usually more than two.
2. Prepare a Draft Plan: The developer prepares the draft plan in consultation with engineers, solicitors, surveyors, and planning.
3. Complete Application
4. Approval Authority ensures notices of application are sent to surrounding properties.

Part II

5. Decision and Notice of Decisions (draft Plan Approval)
6. Appeal Decision: If the application is refused, the developer may file an appeal with the Local Planning Appeals Tribunal (LPAT).
7. Final Approval & Registration: When all conditions are fulfilled, the approval authority issues the final plan approval, which is registered in the Land Registry Office.

- Salesperson's Role: Salespersons have little or no involvement in the subdivision process. - However, they should be aware of the subdivision process and direct their buyers to appropriate land planning consultants.
- Intensification: an alternative to land severance and subdivision. Involves expanding the use of existing land, buildings and services rather than increasing housing through urban sprawl.
- Occurs through adding additional dwelling units in existing homes

3.5 Official Plans and Zoning Official Plan

The Official Plan for a municipality addresses issues such as the location of housing, industry, offices, shopping centers, schools, roads, water/sewage systems, parks, and other amenities.

It is prepared for a long range of 5 to 10 years, is approved by the Ministry of Municipal Affairs and Housing and must be reviewed every 5 years.

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Zoning Bylaws

- enacted by municipalities to implement the Official Plan and control building structural standards such as permitted uses, lot sizes and dimensions, parking requirements, building heights, and minimum setbacks from the street (front, rear and side yards).
- Zones are divided into classifications such as residential, commercial, industrial, institutional, open space, agricultural, etc.
- Identifies many standards for land use and future development\
- Zone classifications may have subclassifications such as single-family, multi-family, etc. Some examples of zoning designations are
    - Residential Detached: R1 for single-family, with variations from R2 to R5 depending on urban densities.
    - Semi-detached: RS1 for residential single-family semi-detached dwelling.
    - Multiple Units: RM, with variations such as RM2 and RM3, depending on urban densities.
    - Rural Residential: RR1 for non-farm dwellings within rural areas and RR2 for non-farm dwellings outside rural areas.
- Zoning: Building Restrictions: Directly refer to the structures or indirectly limit them (various setback requirements, etc.)
- Zoning Amendment: Can only be considered if the new use is allowed by the official plan, if a municipality has passed a new comprehensive zoning bylaw within the past 2 years, a rezoning application may not be accepted.
- Minor Variance: Proposed change is still in keeping with the overall intent of the official plan. Address by the Committee of Adjustment (or land division committee at the upper tier)

Non-conforming Use

- In some cases, a particular use of a property may be permitted even though it does not comply with the current zoning bylaw. This usually happens when the municipalities review their zoning and change it according to changes in community needs.
- The owner may apply to the local Committee of Adjustment for approval of continuation of Non-conforming Use, and when approved, the use becomes a Legal Non-conforming Use.

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- Legal Non-Conforming Use: A specific use of a property, which existed before the passage of a zoning bylaw, is not in compliance with the new bylaw, but is permitted.
- Continuous Use: If there is an interruption in the non-conforming use, the right to continue the non-conforming use is lost, as the new use must conform to the current zoning bylaws.

Committee of Adjustment

- When certain use of property by the owner or a buyer is not permitted in the existing zoning bylaws, the owner/buyer may make an application to the local Committee of Adjustment or to the Land Division Committee for a change of use.
- The Committee of Adjustment is appointed by the lower-tier municipality, whereas the Land Division Committee is appointed by the upper-tier municipality.

3.6 Heritage Properties Heritage Designation

Municipalities, under the Ontario Heritage Act, may designate certain properties (residential or commercial) as Heritage Property due to their cultural heritage value. Designation of a property as Heritage Property may deprive the owners of their natural rights to the property.

Heritage Conservation District: If an area within a municipality is designated as a Heritage Conservation District, future changes to the area must follow certain guidelines to protect its heritage character.

- Municipality is required to adopt a district plan for every historical conservation district and consult their heritage committee.
- Municipalities may also place restrictions on land adjacent to properties designated as Heritage Property.

Heritage Designation Process

- Identifying, researching and evaluating a property: research on the history of the property and its place in the community
- Providing notice to the owner: Owner + Heritage trust is notified
    - *Ontario Heritage Trust*: An agency of the Ministry of Culture to protect and promote Ontario's heritage.
        - offers programs to aid in restoration and to protect properties
- Passing and registering a heritage designation bylaw: refer the objection to the conservation review board to conduct a hearing and make recommendations

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        - When the decision is to proceed with designation, a bylaw is passed and registered on the title of the property

- Municipal Heritage Committee: Potential properties are identified by the Municipal Heritage Committee by researching all relevant information.
- Conservation Review Board: This board conducts hearings regarding objections to heritage designation and makes recommendations regarding heritage matters.
- Each municipality maintains their own register of heritage properties. The municipal register lists all heritage properties designated by municipal bylaw on an individual basis. The municipality may also include non-designated properties in their heritage register, referred to as "listed property"
- The register will show you if the property is
    - Non-designated but listed in the municipal registry of heritage property,
    - Designated heritage property and /or
    - Part of a designated heritage conservation district

Considerations for Buyers

- Salespersons may request the local municipality for a list of designated heritage properties and Heritage Conservation Districts where properties may be designated in future. The Municipal Register of Heritage Properties may be consulted to verify if a property has been designated as a Heritage Property.
    - This designation may affect intended uses for the property, and the owner may not be able to make internal or external changes to the building without permission.
- *Impact on Value:* Some buyers may think that heritage designation has a negative or positive impact on value, which may not be true.
- *Insurance*: Due to the age of the heritage properties, some insurers may increase the insurance premiums on such properties.
    - The insurer may look for risk associated with dated electrical wiring, older heating systems, and general condition of the property.

Salesperson's Obligations

- An appropriate Disclosure clause must be inserted in the Agreement of Purchase and Sale.

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- Alterations: Property cannot be altered if the alteration is likely to affect the heritage designation. Written Consent: Alterations are only permitted if the owner gets approval from the municipality. Demolition: Demolition of a heritage property should also be approved in writing by the municipality.

Heritage Easements and Tax Relief

- Many municipalities have their own financial incentive programs to assist property owners with ongoing maintenance and conservation.
- Grand and loan programs are also available from the provincial and federal levels.
- Some financial assistance programs will require that a heritage easement be registered on the title.

Demolition of a building or structure

- Must obtain written consent from the council.
- An alternative to the demo might be agreed to:
    - Identify how the building or structure could contribute to the future use of the property,
    - Identify alternative uses for the building uses for the building or the property,
    - Potentially selling the heritage property to the municipality or a buyer who will conserve it,
    - Expropriate the property,
    - 60-day notice

Module 4

4.1 Negotiations In Residential Real Estate

- Demographics: Study of statistical information about a particular population using measurable data (income, educational background, language)
- Subscription-based databases (GeoWarehouse) and Canada Mortgage and Housing Corporation (CMHC)

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- New developments in the community, changes to the local Official Plan, construction of new schools, parks, or shopping centers may influence the seller's decision.
- Some sellers might want to wait if they are provided information about new developments that might affect the value of their property.

Material Facts for the Seller

- A material fact would be anything that may have happened or is happening in the property and the area, the intended use of the property, or anything that may affect the seller's decision to sell the property.
    - Material Fact Examples: Credit report, zoning designation, proximity to schools, dwelling measurements, easements, and new developments
- *Specific and Personal*: Material facts for a particular client are subjective and personal, and what was a material fact for a previous client may not be important for this client.
- *Disclosures* Salespersons have an obligation to take reasonable steps to determine and disclose material facts to both clients and SRPs, with a higher level of obligation owed to clients.
    - When the seller is a SRP, the salesperson must disclose any material facts that are 'known or ought to be known'. Not obligated to conduct any research to discover material facts
- The requirement of disclosing material facts supersedes seller-client instructions or directions of non-disclosure.

Due Diligence

- Seller's material facts should be determined based on their response to specific questions with respect to the transaction. The seller must be informed about the importance of disclosures regarding material facts related to the condition of the property.
- Certain material facts, such as a previous illegal activity on the property, a grow operation, a crime on the property, or a previous grow operation must be disclosed by the seller.
- If any issue creates a stigma, such as a haunted house, it must be disclosed to potential buyers.

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- Information provided by the seller such as property tax, lot size, square footage, etc. must be verified from original source documents such as a deed or a survey.
- Steps to verify title of property, survey, deed, tax build, documentation of permits etc.

Protecting Seller's Best Interests

- All information provided by the seller should be documented.
- The seller should be provided full explanation of forms and agreements, and copies of documents and agreements must be provided as per Regulations.
- The seller must be informed about his HST obligations regarding commission and other legal services.

Defects on the Property

- Patent Defect: readily visible upon reasonable inspection.
  - Examples: missing railing, cracks in foundation wall, evidence of mold, etc.
  - A disclosure is not required for patent defects.
- Latent Defect: not readily visible to an untrained eye upon reasonable inspection.
  - hidden flaws, weaknesses, or imperfections and advice from a third-party professional may be required.
  - Examples hidden water damage, encroachment, vermiculite insulation, minor flooding in basement, etc.
- Material Latent Defect: pose serious risks, which can render the property unsafe for habitation.
  - Examples include things that make the property dangerous for living (such as high levels of radon gas), unfit for habitation due to mold, or a previous grow operation that involves municipal authorities.
  - They are judged material to the enjoyment of the property, and the seller must disclose all such known material latent defects.
  - Seller is only obligated to disclose known latent defects

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4.2 Best Interests of Buyer Understanding Buyer Needs

Buyer must be qualified in terms of financing, their financing needs, and whether they are pre-approved by a lender or not. After qualification, the salesperson would locate those properties that meet buyer's search criteria.

- Buyers and Technology
    - Search on the internet has become popular with buyers using websites such as Realtor.ca®, Zillow.com, etc.
    - Buyers may be interested in using the brokerage's website or salesperson's personal website, and they may be informing the salesperson about the properties they would like to view. Salespersons and brokerages now use advanced technologies such as QR Codes to provide information on listed properties.

Demographics and the Buyer

Demographics impact, aging population, lifestyle choices, culture and ethnicity and social trends are impact .

- Material Facts for the Buyer
    - Salespersons must make reasonable efforts to determine materials facts that might affect the buyer's purchase decision. Information gathered from the seller or previous listings should be researched for verification before it is provided to the buyer.

If the buyer is a SRP, the information that is 'known or ought to be known' must be disclosed as soon as possible and they should be advised to obtain third-party advice.

- Material facts known to the salesperson must be disclosed whether the buyer is a client or an SRP.
    - But SRPs need to do their own research to determine if any material fact affects a property
- Due Diligence to Protect Buyer's Best Interests
    - Common Material Facts: Structural conditions and results, outdated materials, building dwellings or lot size, previous use of property → Zoning, government limitations, private limitations etc.
    - accurately prepare the offer including all necessary clauses and conditions
    - assist in the negotiation process

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- referred to third-party professionals such as a home inspector, an accountant, or a lawyer.
- The salesperson must assist the buyer in reviewing reports or other documentation received from the seller.

Tax Liabilities

- The buyer should be advised to consult a tax accountant for all taxation matters.
- HST: The buyer may be liable to pay HST if the subject property is commercial, a fully renovated home, or a new home.
- HST would also be payable on services such as legal fees and moving costs.
- Non-Residents: The buyer needs to be aware of Capital Gains Tax liability if the seller is a non- resident and leaves the country without paying tax.
- Usually, the buyer's lawyer would check this aspect of the transaction.
- In case the buyer is a non-resident and buys a property in Greater Golden Horseshoe area, the Foreign Buyers Tax would be payable.

4.3 Negotiation Strategies Sellers' Market

Factors Affecting Real Estate Market

- Demography: Immigration, migration, changes in family size, and unemployment rates may affect demography.
  - A family is a primary consumer of housing and creation of new families by way of growing and married children generates housing demand.
- Employment Conditions: When the overall economic conditions are not good, unemployment may rise, which leads to decrease in number of buyers and a drop in real estate prices.
- Interest Rates: High interest rates usually result in decrease in real estate activity whereas low interest rates increase the demand for real estate and push the prices upwards.
- Building Activity: Significant building activity is usually an indication of strong real estate market.
- However, if there is no corresponding increase in demand, this may also lead to decline in real estate prices.

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- Seller's market: Advising the seller
    - Seek large deposit
    - Hold out for an unconditional offer or a counter offer for terms in their favour
    - Negotiate for a higher selling price Seller's market: Advising the buyer
    - Offering the highest price within the buyer's means and or accompanying their offer by a larger deposit
    - Weighing the benefits and risks of submitting an offer without conditions Buyer's market: Advising the seller
    - Keep their home in good condition so that the property's potential is apparent
    - Make the property available for viewings
    - Expect to receive conditional offers but be aware of the risks of making counter offers
    - Expect that they will receive offers at a lower price Buyers market: advising the buyer
    - Make informed choices that focus on their priorities and consider making offers on the properties
    - Take their time in viewing properties and putting together an offer
    - Submit a conditional offer
    - Make an offer that allows room for negotiations Conditions and clauses: protecting interest of sellers and buyers
    - Financing
    - Having a home inspection
    - Arranging insurance
    - The seller making certain guarantees

4.4 Advice in Different Market Conditions Seller's Market:

- Balanced Market
    - In a balanced market, the buyers and sellers should be advised that conditional offers may be made as no party is at a distinct advantage or disadvantage.

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- Buyers and sellers should be advised according to the existing balanced market conditions and make or accept reasonable offers.

- Conditions and Clauses
  - Protecting Best Interests: Salespersons should insert appropriate clauses in the agreement to protect the best interests of the buyer client or the seller client.
  - Most common conditions include arrangement of mortgage financing, satisfactory home inspection, and arranging insurance.
  - Additionally, there should be clauses related to guarantees from seller regarding condition of the property, chattels, fixtures, or major improvements.
  - Appropriate clauses should be inserted if the seller agrees to undertake repairs for damages and repainting, if necessary. Competing Offers
  - Salespersons must ensure that proper records are maintained, such as evidence of number of offers, in case any of the buyers make a complaint to REC

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Module 5 - Third-Party Professionals

5.1 Selling and Buying Expenses Seller's Expenses

Seller Expenses

Third Party: home stager, lender, surveyor, lawyer

- HST and Capital Gains Tax: HST is applicable to various services such as lawyer's fees, brokerage commission, and moving costs.
    - Capital Gains Tax is payable if the property is not a principal residence or it is an investment property.
    - The seller pays this tax with his/her next income tax return. Further, the Capital Gains ---Tax is payable if the seller is a non-resident of Canada.
- Commission: Commission on sale is usually paid by the seller to both brokerages.
        - The deposit received from the buyer is first applied to reduce seller's commission obligations upon closing.
- Moving Expenses: In addition to the cost of moving the household stuff by a moving company, the other costs include change of address on utility accounts, driver's license, payments for rent-to- own equipment, etc.
- Closing Adjustments: Closing adjustments performed by lawyers include seller's portion of unpaid property tax, unmetered utility costs, etc. The details are given in the Statement of Adjustments provided by the seller's lawyer.

Buyer's Expenses

- Property Inspection, Appraiser, moving
- Surveyor: The buyer may need a survey report to identify any encroachments, improvements, and other issues that would not be covered by the Title Insurance. Additionally, if the buyer wants other improvements after closing that require a building permit, an up-to-date survey would be required by the municipality.
- Lawyer: review the Agreement of Purchase and Sale, to perform Title Search to ensure property is in marketable condition, obtain Title Insurance to protect against items discovered after closing, and register the title in the buyer's name on the closing date.
- Land Transfer Tax: The buyer is required to pay the provincial and municipal (if applicable) Land Transfer Tax.

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- The amount depends on the purchase price (Value of Consideration) of the property.
- A sliding scale is used to calculate the amount of tax payable.
- Commission: Although commission for most transactions is usually paid by the seller, the buyer may be liable for commission under certain circumstances according to the terms of the Buyer Representation Agreement.
- Closing Adjustments: The buyer's lawyer will provide a Statement of Adjustments with details of these expenses.
    - Most common adjustments are buyer's portion of property tax that seller has already paid and the cost of full tank of heating oil or propane gas.
- Provincial Land Transfer Tax Credit
    - First-time buyers of new and resale homes may receive partial refund of provincial Land Transfer Tax.
    - The maximum amount of this refund is $4,000.
    - Qualifying Criteria for Credit:
        - Canadian citizen or permanent resident and over 18 years of age.
        - principal residence and occupy it within 9 months of purchase.
        - The buyer or buyer's spouse should not have previously owned a home anywhere in the world.

5.2 Mortgage Financing Mortgage Terminology

- Mortgage: The term mortgage refers to a claim or encumbrance on a property given by a borrower to a lender. The terms and conditions of the mortgage are given in a document called Mortgage Document. A copy of this document must be provided to the borrower with 30 days of signing.
- Mortgagor: The party that gives the mortgage and gets the mortgage loan, i.e. the debtor or the borrower.
- Mortgagee: The party to whom an interest in property is transferred as security of the mortgage loan, i.e. the creditor or lender.

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- Legal Mortgage (First Mortgage): Historically, a Legal Mortgage used to directly transfer the estate or interest in land to the mortgagee to ensure repayment of loan. Under the current Land Titles Act, the actual transfer of title does not take place.
- Equitable Mortgage (Second, Third, etc.): This historic term differentiates a mortgage against equity from the legal mortgage. These mortgages are used when a mortgagor requires additional funding but does not want to disturb the existing legal (first) mortgage.
- A secondary lender may assume the risk of financing. (often higher interest)
- Amortization: Amortization refers to retirement of the mortgage debt by means of periodic payments of principal and interest. The entire loan is paid off at the end of the amortization period.
- Fully Amortized Mortgage: the loan is fully paid off during the term. In other words, the amortization and term are of equal time period. Schedule payments that include principal and interest. Amortization periods typically range from 5-30 years
- Partially Amortized Mortgage: The mortgage loan is not paid off when the term comes to an end and there is a balance remaining, and the final payment at its maturity date would be required to pay off the debit in full (balloon payment). The period of term is less than the amortization period. Often they remortgage the remainder for another term.
- Term: The length of time the borrower is committed to the lender. The mortgage has specified interest rate, payment schedule, and privileges during the term.
    - When the term ends, the mortgagor may renew with the same lender or with a different lender.
- Loan-to-Value (LTV) Ratio: This is the ratio of mortgage loan to the value of the property and is expressed as a percentage.
    - Amount of mortgage is divided by the value of the property to provide a ratio. Expressed as percentage
    - The higher the percentage, the more risk = loan amount is high
    - Additional security or collateral is usually sought in instances when the loan-to-value ratio is high
    - For example, if the mortgage is $300,000 and the value is $400,000, the LTV would be 75% (300,000 ÷ 400,000 X 100).

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Interest Rates

- Fixed Interest Rates: the interest rate does not change during the term.
    - In a blended payment, the amount of principal and interest may change with each payment, but the payment amount remains the same.
- Variable Interest Rate: In a variable-rate mortgage, the interest rate may fluctuate periodically as per market conditions and lender's prime rate.
    - Accordingly, adjustments are made to regular payments or the amortization period.

Repayment Options

- Interest Only: The borrower does not repay principal but only pays interest at regular intervals. -The entire principal is due at the end of term.
    - They are used for short-term mortgage loans or interim financing to avoid complex calculations. Interest Accruing: No payment of principal or interest is made during the term.
    - Both the principal and the interest are due at the end of the term.
    - This type of mortgage is rarely found in the mortgage market (high risk)
- Interest Plus Specified Principal: The borrower repays a fixed principal amount and interest at specified times during the term. At regular intervals, the borrower is also asked to pay interest on the outstanding balance (uncommon)
- Blended (Amortized): Equal Blended (principal and interest) payments are made at regular specified intervals.
    - Payment is based on the Amortization schedule and payment frequency (monthly, bi-weekly, etc.).
    - This product plan is most common and dominates the residential market.

Mortgage Covenants

- A mortgagor makes promises (covenants) to the mortgagee (lender) these are found in the mortgage charge and set out in provincial legislation under the *Mortgages Act*
    - Certain covenants that will apply to every mortgage registered → *implied covenants*
    - Three Implied Covenants (obligations) of the mortgagor apply under the Land Registration Reform Act when Standard Charge Terms are not registered on title
- First Implied Covenant:

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- The mortgagor will make payments of principal(including interest) and pay taxes (called personal covenant"
- The mortgagor will provide insurance on the buildings the mortgagor has the legal right to give mortgage, and there are no other encumbrances other than those registered.
- The mortgagor has no other encumbrances other than those registered on the property
- If the mortgagor is in default → the mortgagee will have the right to take possession and sell property to recover (power of sale)
    - There can be no interference from any other party (granted quiet possession)
    - Upon default, total monies owing shall become due and liable. If the borrower does not make scheduled payments they are in default . If that occurs, the lender informs the borrower that they will be required to pay the whole mortgage balance rather than just the outstanding
    - Interest in arrears may be collected

Second Implied Covenant (Usual Covenants): The mortgagor has Fee Simple Interest in the property.

Third Implied Covenant: It related to leased properties and the mortgagor covenants that the lease is up to date.

Mortgagee and Mortgagor Rights

Right to Assign the Mortgage

- The mortgagee has the right to sell, transfer, or assign the mortgage to another party without the mortgagor's consent.
- The mortgagor must be notified of such assignment.
- The assignee (new mortgagee) acquires all rights and powers of the original mortgagee.

Right to be Paid

- The mortgagee has the right to receive repayment of the principal sum and interest as outlined in the mortgage document.
- If the mortgagor fails to make payments or breaches any covenant, the mortgagee may exercise remedies such as power of sale or foreclosure.
- When all covenants are fulfilled and the loan is fully repaid, the mortgagee must provide a discharge of mortgage to release the property from the claim.

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Mortgagor's Rights

- Right to Quiet Possession
    - The mortgagor has the right to uninterrupted possession and enjoyment of the property as long as they are not in default.
    - The mortgagor may use the property freely and is not responsible for normal wear and tear but must exercise reasonable care and maintain the property in good condition.
- Right to Redeem the Property
    - The mortgagor has the right to repay the full amount owed and redeem the property free of the mortgage.
    - The mortgagor may also sell, mortgage, or otherwise deal with their interest in the property in the same manner as any other ownership right.
    - Any attempt to restrict the mortgagor's right of redemption is invalid and unenforceable.
- Right to Discharge the Mortgage
    - Once the mortgage is fully repaid, the mortgagor is entitled to a discharge of mortgage signed by the mortgagee.
    - The discharge fee is normally paid by the mortgagor.
    - If the mortgagee fails to provide a discharge, the mortgagor may apply to the court for an order based on supporting evidence.

Privileges

- Prepayment: Additional payments, other than scheduled regular payments, are not permitted unless there is such a clause in the mortgage terms.
    - These prepayments reduce the amortization period and the overall interest paid.
    - Renewal: some have a built-in renewal privilege (rare)
- Transfer of Mortgage (Mortgage Assumption): Three approaches exist in market
    - The mortgagor may be able to transfer without the consent of the mortgagee, but he/she may remain liable through the personal covenant.
    - The mortgagee may insert an approval clause requiring approval of any person who will be assuming the mortgage.
    - The mortgagee may prohibit any transfer of the mortgage.

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- Postponement: This privilege, given by second mortgagee, permits the mortgagor to renew or replace an existing first mortgage and retain its priority.
    - This typically happens when the first mortgage expires before the second mortgage.
    - The second mortgagee postpones its priority in favour of the first mortgagee.
- Discharge Penalty: As per the mortgage document, the mortgagor may have to pay the discharge penalty and other legal costs if he/she decides to pay off the loan before the end of the term.

Mortgage Default and Remedies

- Failure of the mortgagor to fulfil obligations under the mortgage terms
- It is most commonly associated with failure to make payments, but other reasons may exist for a mortgage default.
- The lender may first try to remedy the situation by non-legal methods such as correspondence and/or personal contact with the borrower.

Legal remedies for mortgage default

1. Foreclosure: This is a court action taken by a mortgagee. The mortgagor is given some specified time to pay the loan and redeem, failing which the mortgagee forecloses. The mortgagor forfeits any equity that he or she may have in the property. Mortgagee now the owner .
2. Judicial Sale: Sale of the property by court order. The proceeds of the sale are typically paid into the court with funds applied to amounts paid to encumbrancers according to priority. Any surplus would be awarded to the mortgagor. If not enough to cover the mortgage, they can obtain judgement against the mortgagor
3. Quit Claim Deed: The mortgagor agrees to release any right in the mortgaged property including the equity of redemption.
4. Payment: The mortgagee has the right to sue the mortgagor under the personal covenant for payment of unpaid loan.
5. Possession by Mortgagee: In case of Power of Sale or Foreclosure, the mortgagee may take possession of the mortgaged property.
    a. The mortgagee may remove the occupants of the property while still respecting the rights of tenants (if any).
6. Power of Sale: This is the legal right of the mortgagee to force the sale of property without involvement of a court.

Power of Sale is the most frequently used remedy by lenders when the mortgagor is in default.

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- When the property is sold, any excess monies after deduction of loan amount and the cost of sale is returned to the mortgagor.
- When marketing the property for sale, the mortgagor must ensure that it is exposed to public in open market and is sold for its fair market value.

Basics of Mortgage

Funding Lenders

- Financial institutions (banks)
- Trust & Loan Companies → able to act as trustees (able to manage a customer's individual wealth)
- Life insurance companies → regulated under Insurance Companies Act
- Pension funds
- credit unions, retirement funds, etc. are primary sources of mortgage financing.
- Alternate sources include Seller Take Back (seller financing the sale of his own property and taking back mortgage),
- private investors → not constrained by underwriter policies, not regulated

Lender Services

- Financing/Refinancing: altering the terms of the mortgage loan for taking out equity or for making additional loan payments from their savings.
- Purchase Plus Improvements: when purchasing a property, the buyer might want to cover closing costs + necessary improvements
- Construction Loans: This is a short-term loan with higher interest rate used to cover the cost of construction.
    - A builder may take this mortgage during construction and then the buyer arranges his/her own mortgage upon closing. Alternatively, a buyer may be arranging a loan during the construction phase.
- Lines of Credit: This line of credit is usually secured against the borrower's home.
    - No payments are required until the borrower takes out money out of the line of credit. You can use it at will

Mortgage Markets and Borrowers

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- Primary Market: New loans for property financing, new construction, renovations, etc.
    - Prime Borrowers: Those borrowers who have A or A Plus level credit (excellent credit rating). Lenders have lower risk with these borrowers.
    - Sub-prime Borrowers: Those borrowers who have B and C level credit. Lenders have higher risk with these borrowers.
- Secondary Market: Trading of existing mortgages. Sell mortgage portfolios to investment companies or pension funds in the market

Interest Rates

- Interest rates are largely determined by supply and demand forces in the mortgage market.
- when the demand for a mortgage loan increase, and supply remains constant, rates will increase
- Abundant supply of funds in the mortgage market usually lowers interest rates.
- When other options appear more appealing to investors, they make take out their money from mortgage market, which results in increase in interest rates.
- The government also exerts tremendous pressure on interest rates by setting the monetary policies. Factors that impact mortgage rates
    - Mortgage market versus other investment options
    - Risks associated with a specific mortgage
    - Government monetary policies

5.3 Mortgage Qualification (GDS/TDS) Conventional and High Ratio Mortgages

- Conventional Mortgage: borrower has a down payment of at least 20% of the appraised lending value. When the LTV (loan to value) is 80% or more. This provides high equity protection for the mortgagor.
- However, lenders may set more restrictive limits, e.g. 50% or 60% based on individual property and associated risk. High Ratio Mortgage: borrower has a down payment of less than 20%
- Will require mortgage default insurance

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- This is a mortgage loan that exceeds 80% of LTV or the normal limit for a conventional first mortgage.
    - Banks , trust companies, credit unions and mortgage loan companies are not permitted to lend money when it exceeds 80%

- Loan to Value Ratio (LTV): percentage of the value of the properties that is being mortgaged LTV ratios vary by lender and type of property.
    - Institutional lenders (financial institutions) can use a maximum of 75% LTV for financing commercial properties.
    - High LTV → high risk
- Mortgage Default Insurance
    - provides protection to lenders in case of default by the borrower.
    - The borrower is required to pay the one time premium at the time of closing if their down payment is less than 20%.
    - In other words, lenders require default insurance when the LTV is more than 80%.
    - The amount of premium depends on the actual LTV of the borrower.
- Canada Mortgage and Housing Corporation (CMHC) is the government insurance provider.
    - it encourages new builds + construction
- Genworth financial Canada & Canada Guarantee
    - Private mortgage insurer → provides mortgage default insurance
- Mortgage Default Insurance Calculations
- Mortgage insurance premium → charged on the amount of borrowed funds, one time payment, which is paid when it is approved or can be added to the principal amount of the mortgage

The following explains how mortgage insurance premium is calculated.

Loan to Value Ratio (LTV) = Loan ÷ Value of house X 100 %

- Mortgage Approval Qualification

1. Application: Most applications assess the financial capability of the borrower; the value of the property being financed, and its marketability.

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2. Appraisal and Credit Check: The lender assesses the risk, repayment capability of the borrower, his/her credit history, and hires an appraiser to ensure that the property meets lender's criteria for financing.
3. Mortgage Commitment: a letter from the lender to commitment of loan by lender after the buyer has made an offer.
    - The commitment is subject to certain terms and conditions, which typically include evidence of fire insurance, payment of property taxes, satisfactory clean title, survey of the property, etc.

- Pre-Qualifying first step in the process → how much a buyer can afford to spend
- Pre-Approval: more value and significant milestone. Pre-approval letter, borrowers' income, down payment etc.
    - A pre-approved buyer is also called a Cash Buyer. The term cash does not refer to any cash payment by the buyer.
    - Pre-approval is a confirmation document setting out the maximum amount that can be borrowed, the interest rate (guaranteed for a specific time) and monthly payments. The confirmation is subject to an appraisal and verification of information provided by the borrower.
    - Pre-approval letter → lenders commitment to loan the buyer money, and often guarantees a certain interest rate for a specific time (not necessarily a guarantee for loan as circumstances change)

Gross Debt Service and Total Debt Service

- A lender determines borrowers affordability based on the total debt service (TDS) and Gross Debt Service (GDS) GDS ratio is a comprehensive measure of a borrowers monthly housing expense
- Gross Debt Service (GDS) ratio
- GDS Ratio is the maximum percentage of borrower's annual income that should be allocated to principal, interest, and property tax payments.
    - Total monthly expenses are divided by total monthly income = GDS ratio
    - Most lenders keep this ratio between 27% and 32%. GDS Formula
    - GDS (excluding heating costs)
    - GDS Ratio = (Principal & Interest + property Tax) ÷ Gross annual Income x 100 %

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- Note: If given, add the annual heating cost.

Example: Ann has an annual income of $72,000 and is looking for a mortgage loan. The estimated monthly principal and interest (P & I) payment would be $1,327.50. The annual property tax is $3,400. What is her GDS ratio?

Solution:

Annual P & I Payment = 1,327.50 x 12 = $15,930

GDS Ratio = (15,930 + 3,400) ÷ 72,000 x 100 = 26.85%

GDS condominiums

Lender will include part of the monthly maintenance fee in calculations

For a condominium unit, add 50% of annual condo fees. All numbers must be annual for this calculation.

GDS = (annual mortgage payment + annual property taxes + 50% of annual maintenance fee's) / gross annual income

Ex. Buyer Johnson has a gross annual income of $58,000, a $50,000 down payment and is considering a $170,000 condo purchase Taxes are $4120 per year and $325 per month maintenance fee's ($3,900). Johnson requires a $120,000 conventional mortgage , amortized over 25 years, with a 5-year term .

Current rates are %7.5 percent and monthly payment factor per $1000 is 7.315549

Monthly mortgage payment =
(120,000 / $1,000) x 7.315549 =
$877.87 Annual Mortgage Payment
= $877.87 x 12 = $10534.44

Annual mortgage payment, taxes and maintenance fee's = $10,534.44 +$4,120 + ($3900 x .5) = $16,604.44

Johnson GDS ratio is calculated as follows: GDS = (principal and Interest + taxes + maintenance (%50)) / Gross income

= $16,6044 / $58,000 = 28.63%

= Johnson's max 30% limit for this particular lender

Total Debt Service Ratio (TDS)

- includes everything in GDS calculation plus all other debt obligations

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- maximum percentage of borrower's annual income that should be allocated to principal, interest, property taxes, and other obligations such as car loan, credit card payments, etc.
- Most lenders keep this ratio between 37% and 40%. TDS Formula TDS% = (Principal & Interest + Property Tax + Loan) ÷ Income x 100
- Note: If given, add the annual heating cost. For a condominium unit, add 50% of annual condo fees. All numbers must be annual for this calculation.

Example: Buyer Sam has annual income of $64,000. His monthly mortgage payment is $1,276.30 for a property that has annual tax of

$3,240. In addition to this, he also pays $380.36 for a car loan. What is his TDS ratio?

Solution:

Annual P & I Payment = 1,276.30 X 12 = $15,315.60 Annual Loan Payment = 380.36 X 12 = $4,564.32

TDS Ratio = (15,315.60 + 3,240 + 4,564.32) ÷ 64,000 x 100 = 36.12%

5.4 Role of Lawyers & other Third Party

Seller's Lawyer	Both	Buyers Lawyer
Prepare a statement of Adjustments	Review an agreement of purchase of sale	Request and review title search
Prepare a deed of the property	Conduct closing of property	Request, arrange, and obtain title insurance
Review statements of adjustments again, if sent back by buyers' lawyer		Requests other searches, such as tax arrears and work orders
		Review statements of adjustment

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Module 6 - Residential Structural Components

6.1 Styles and Features of Lots Shapes of Residential Lots

- Rectangular: This is the most common lot shape, which has equal front and rear lines, and equal side lines. The frontage is usually less than the depth.
- Square: All four sides of the property lines are equal. This shape is uncommon in urban areas but may be available in rural areas.
- Wide-Shallow: In this type of lot, the frontage is more than the depth, which reduces the area for the back yard. The structure is built parallel to the road.
- Pie and Reverse Pie: A pie-shaped lot has smaller frontage as compared to rear, which results in large rear yard.
- The reverse pie-shaped lot has larger frontage as compared to rear, which allows for more living space.
- These lots are usually on the cul-de-sac to accommodate circular roads and may provide more privacy. Corner: Located at the intersection of two roads, these lots may have additional size and setback requirements.
- A drawback is that they have limited privacy and are exposed to traffic on two sides.

Residential Lot Considerations

- Additional Costs: There may be additional costs in providing services to an irregularly shaped lot, especially when the structure is located at a distance from the road.
- Property Direction: Buyer's preferences with respect to exposure may add to building costs.
    - Depending on the design, the buyer may want an exposure or view that allows for larger or lesser amount of sunlight.
- Property Features & Topography: A lot with trees or bush area, or a lot on hilly stretch may add to the cost of construction. Surrounding Properties: Proximity to nearby nuisances such as excessive noise, pollution, or heavy traffic could potentially decrease the value of the property.

Accuracy of Listing Data

- Listing Data: Salespersons must ensure that the listing data, such as the size of the lot, is accurate. it is a document containing factual information about a property

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    - They should rely on source documents such as the deed or survey of the property to verify lot measurements instead of relying on the information given by the seller.

- Information such as irregular lot, pie-shaped lot, corner lot, etc. should be included in listing.
    - Include overall size , provide additional information as required as to not mislead the buyer
    - If only one dimension is needed or used you use the frontage
- Source Documents to Verify Lot Size: The salesperson can verify the lot size from GeoWarehouse®, Municipal Property Assessment Corporation (MPAC), and other documents such as property tax statements, notice of assessment, etc.

Process of obtaining a survey

- Surveys: An up-to-date survey is essential for a real estate transaction. Additionally, lenders may also require a survey for approval of mortgage financing.
    - Once it is known that a survey is required, the salesperson should refer the seller/buyer to an Ontario Land Surveyor. The cost of a new survey depends on the type of survey.
    - When selling a property, the listing should indicate whether a survey is available and provide a copy of the survey when the property is being viewed. No Survey = the buyer should be aware of the impact when obtaining approvals
    - A seller is obligated to provide only the survey they have
    - If a survey does not exist, the seller and buyer could negotiate who will pay
- Obtaining a survey: one need is established, a leading practice for the salesperson is to provide the names of at least 3 professional land surveyors to the party paying for the survey
    - Association of Ontario Land Surveyors (AOLS) is responsible for the licensing and governance of professional land surveyors

Receiving survey documentation

- Require a site visit and depending on the location and schedule could take up to several weeks. The land surveyor will submit a true copy of the report to the client
    - Protected by copyright legislation
- Risk of Old Survey: An older survey obtained from the seller may not show changes to the property after the survey was prepared.

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- The current physical state of the property may not be the same as shown on the outdated survey.
    - Surveyor's Real Property Report: This survey consists of two parts – (i) The Plan of Survey, and (ii) The Written Report. The information obtained from this survey includes:
        - The legal description of the property.
        - Dimensions of all property boundaries as well as designation of adjacent properties.
        - The location and description of improvements on the property including setbacks.
        - The location of any easements or right of ways, such as hydro lines, telephone lines, etc.
        - Location of survey monuments and encroachments (if any) on the property.
        - Date the survey was created

Source documents to verify lot size

- GeoWarehouse: in depth reports of properties
- Provides → Land registry info, municipal property Assessment Corporation, Property ownership info, sales history, images of the property, Accurate lot dimensions
- Municipal Property Assessment Corporation
- Enhanced Residential Market Value Report → contains the information from all other MPAC reports and can provide details about a property that can allow it to be used as a source document when verifying lot sizes
- A property's frontage, depth, and site area are all included in this document Additional secondary Sources
- Municipal property tax statement and the notice of assessment

Converting Metric and Imperial Lot Measurements

Imperial to Metric Conversion: Feet to Meters: Multiply Feet by 0.3048 Square Feet to Square Meters: Multiply Square Feet by 0.0929

Acres to Hectares: Multiply Acres by 0.4047

Metric to Imperial Conversion: Meters to Feet: Multiply Meters by 3.281 Square Meters to Square Feet: Multiply Square Meters by 10.76

Hectares to Acres: Multiply Hectares by 2.471

The Part, Rate and Whole Concept

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The Whole (Big), Part (Small) and Rate (%) Concept:

Part = Whole x Rate % Whole = Part ÷ Rate % Rate = Part ÷ Whole x 100

6.2 Housing Types

Types of Residential Structures

- Attached: These houses are connected using one or more shared (party) walls. The end unit has only one side attached. These houses are less expensive to build than others.
- Detached: This house is a single structure, which is not connected to any other house and offers wide variety of architectural styles, privacy, and more living space.
- Semi-Detached: These side-by-side houses have one common party wall which is attached to the next house. Linked: Two or more houses are attached below grade by a concrete wall, or their garages may be attached.
    - When the structures are connected below grade and not visible, the house may appear to be detached.
- Townhouses: Three or more units are joined together by party walls. Every townhouse has a full basement, main living area and an upper level.
    - They are cost-effective for the developer who can create more houses in lesser area of land.
    - Townhouses can be freehold or can be a part of condominium complex.
- Multi-Unit Residential: There is more than one unit in a single building and are referred to as duplex, triplex, or fourplex.
    - The units may be joined horizontally or vertically.
    - The entrance may be separate for each unit or through a common vestibule.
- Structural Styles
    - Bungalow: The entire living space is on a single floor. They are commonly found in older neighborhoods. There are no stairs in the living area
    - Bi-level/Split Entrance: This design effectively uses the lower basement areas, and the front door foyer is located between upper and lower levels.

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        - The basement is raised above grade, which allows for larger windows and more sunlight.
    - Ranch Styles Bungalow: Like bungalow, it has a low pitch roofline, irregular U-or L-shape layout.
        - However, it offers more living space than bungalow and may have an attached garage.
    - Split Level: These 1970s and early 1980s designs offer minimum movements with lesser steps for each level.
        - The side-split design has a layout from left to right whereas the backsplit design has layout from front to rear. There may be three or more levels of the living area, up to a maximum of five levels.
    - One and Half Storey: This cost-effective design has about 60% of the total living area on the main floor and offers more square footage on similar lot area.
        - It has a high-pitched roof, with some designs offering dormers.
- Two-Storey: The two-storey design is highly popular, which offers large variety in terms of exterior shape, roof design, and floor layout.
    - The living area is equal on first and second floors.
    - Two-storey homes dominate the urban areas due to rising land costs.
- Two-and-Half Storey: It is similar to two-storey structure, but there is an additional half storey top floor with limited ceiling height.

Planning Factors Affecting Land Use and Structure Placement

- Zoning: Zoning bylaws, enacted by the municipality, dictate the use of land and restrictions.
    - There may be restrictions on placement of a structure on marshy, rocky, steep sloping, hazardous land or other related situations.
    - Homeowners may apply for minor variance to the local Committee of Adjustment when their proposed building plans do not conform to existing bylaws.
- Topography: Topography such as a sloping site or slope of the adjacent site may affect the placement of structure.
- Site Plan Control: These municipal controls typically apply to developers (development regulation)

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  - The factors include adequate landscaping and buffering from adjacent properties, grading of the lot, widening of roads, provision of curbs, signs, and walkways, and provision for storm, surface, and water runoff facilities.

- Soil Conditions: Soil conditions can affect placement of the building because foundations need stable and strong soil to retain structural integrity.
  - Soil should be stable through wetting and drying cycles, so that expanding soil does not crack foundations.

- Water Tables and Flooding: If the land is in a regulated flood plain, the owner may need approvals from the Conservation Authority for construction, fill placement, and watercourse alterations.
  - This is to ensure that there is no risk to life or the property due to high water table or floods.

- Lot Size: The size of the lot determines the maximum square footage of the house and any secondary structures. Available Services: The distance between the house and the road where services such as hydro and telephone are located is an important consideration.
  - Hydro company may install up to 25 meters of hydro lines free of charge, and beyond that, the owner will have to bear the expenses.

Factors Affecting the Style of Structure

- Topography: The size, shape, and characteristics of the building is affected by topography of land.
  - Wildlife, endangered species, vegetation, rivers, lakes, or streams can also have influence on the placement of structure.

- Budget: Buyer's budget may have overall effect on the type of structure that can be afforded.
  - Contractors may add a contingency amount to their estimate in case the cost increases.

- Personal Preferences: Buyer's personal preferences can affect the final design of the structure in terms of choice of materials used for construction.
  - Sustainability: Homes built for energy efficiency are relatively expensive and take more time to build.

- Lifestyle: Depending on the age and lifestyle of the owners, several interior or exterior designs changes may be required. Structural Conformity: Tract Housing is a development within a subdivision where several identical houses are built on a tract of subdivision.

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However, other subdivisions do not maintain identical design but keep unique design of different houses.

- Structural Age: The year in which the house was built dominates the style of the structure.
- Third party planning & Development Professionals: Architect, Structural engineer, municipality

6.3 Parking Options Residential Parking Types

- Garages: Residential garages can be attached, detached, or built in. The attached garage is most popular due to convenience and low cost.
- On-Street Parking: Some municipalities permit on-street parking with appropriate parking permits.
- Parking Pad: This is the most common type of parking option in urban areas. -The parking pad can be built on the front yard with appropriate permits and permitted materials such as concrete, asphalt, or brick interlocking.
- Shared/Mutual Driveway: This type of driveway is jointly used by owners of adjacent properties.
    - There is a right-of-way registered on the title of both properties, which passes on to the subsequent owners.
    - This type of driveway may have negative effect on the value of property.
    - A shred or mutual driveway is a material fact and must be disclosed to the buyer.
- Carport: A carport is not completely enclosed but may be an extension of the roof structure for covering the vehicle. Underground Parking: It is popular in dense areas such as townhouses and stacked townhouses, but they decrease the distance between the property and the parking area.
- Multi-Level Parking: This is an alternative to conventional surface parking in densely populated urban areas.

Building Code for Garages and Carports

- Municipalities require the owner to obtain a building permit under the Ontario Building Code for construction of a garage or carport.

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- The construction work must adhere to standards for fire and safety, means of exit, accessibility, service facilities, structural loads, foundations, design, and materials.
- Heating, ventilation, plumbing materials, and drainage requirements must be met. - Additionally, the construction work must meet the requirements under the Electrical Safety Code.

Driveway Finishes

- Poured Concrete: This is a common type of driveway, which can be built in sections to accommodate expansion or contraction. It is more expensive than other finishes. Need to be sealed with a chemical compound
- Asphalt Paved: It is most popular of all finishes, is easy to install, and less expensive. Cracking on the asphalt surface is a common problem.
- Stamped Concrete: Concrete is poured and is flattened with mould of brick pattern before drying to create a design. It is more expensive to install and needs annual sealing to maintain the appearance.
- Gravel: These driveways are popular in rural areas due to minimum maintenance. Gravel compacts over time to provide a firm surface. Beware of potholes
- Interlocking: Cement, concrete, or brick stones are interlocked using mortar. These driveways are expensive to install and maintain.
- Exposed Aggregate: This style of driveway is made from specialized concrete mix that combines with unique aggregates exposed on the surface.

Parking Problems and Restrictions

- Easements: could be easement for shared driveway → limits what you can do to it
- Parking Permits : used when you may not be able to park all your vehicles. Verify the permit is available , complete the application, submit application
- Restrictive Covenants: Restrictive covenants found in residential subdivisions may have limitations on overnight street parking.
- Availability: When the parking for neighborhood is limited, chances are that people who frequently visit the area may have to park on the street.
- Commercial Vehicles: In some municipalities, overnight parking of RV trailers, buses, boats, limousines, or any other commercial vehicles may be prohibited.

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- Continuous Vehicle Usage: This restriction may require that the parked vehicle must have a valid license plate, and the vehicle must be in use.
- Seasonal Parking: In winter months, municipalities may restrict on-street parking to prevent build-up of snow on the streets.

6.4 Building Components and Water/Moisture Control Foundations

- Foundation is the base on which the structure is built.
- Its function is to transmit the weight of the structure from the above grade walls to Footings located below the frost line.
- They resist the lateral pressure of the soil and act as a retaining wall.
    - carry the weight of the structure below the frost line, preventing frost heaving, or the upward swelling during freezing conditions
- Footings → widened section that helps support the foundation , so the structure does not settle
    - Made from concrete with rebar reinforcement

Materials Used for Foundations:

- Poured Concrete: Most common and less expensive than other materials.
- Concrete Block: Pre-built concrete blocks less commonly used due to its cost and maintenance issues
- Brick/Stone: They have longer life and are found in older houses. They are filled with mortar which may lead to moisture penetration and refilling may be needed.
- Insulated Concrete Forms (ICF): These foundations use polystyrene in which concrete is poured. This material is more expensive due to high labour costs. Easy to use, contributes to insulation, enhanced damp-proofing and reduce fire risk Damp Proofing: Foundations are damp proofed below grade with waterproof bitumen such as asphalt.

Potential Problems with residential foundations:

- Inward deflection may occur when there is insufficient lateral support. The reason may be - (i) mechanical forces exerted during backfilling, (ii) backfilling with frozen soil, (iii) unusual frost development in the soil outside the building, or (iv) when floor system does not provide enough support.

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- Cracks in foundation may be caused by concrete shrinking and may lead to water penetration or infestation of insects. Foundation moisture penetration: Moisture may cause serious damage and may cause Efflorescence to develop.
- Efflorescence, which is a coating of mineral salt, may appear on interior surface of foundation wall.
    - A weeping tile, made of porous pipe, is used for damp proofing of basement walls. It is buried along the foundation to avoid accumulation of water around the foundation. This keeps the basement areas dry.

Posts Columns

- They carry the weight of the beam vertically down to the footings. They are made of steel, brick or concrete.
- Problems include moisture, out of plumb (not at right angle), rust (due to moisture), sinking due to insufficient footing size, fire damage (wooden columns) or improperly fixed to the beam, undersized component (one that is too small or may have suffered mechanical damage)

Recommending Foundation Inspection

- Salespersons should inform the buyer/sellers if cracks are appearing in walls, around doors, windows, in corners, or if doors or windows appear to be misaligned.
- The soil around the foundation can cause shifting and cracking in the foundation walls.
- Poor grading may cause rainwater to run towards the foundation wall.
- The fireplace chimney may appear to be separating from the structure.

Framing and Floor Systems

- Walls (exterior or interior) carry the weight of the roof and the floor to the foundation. the rough timber works of a structure including studs, plates, lintels and rafters.
- Balloon Framing was used in older structures and consists of wall studs, which were built before the floor system, and were continuous up to the roof line. The floors were hung to the studs.
- Platform Framing is used in most modern structures and consists of separate wood floor joists and subfloors for each platform.

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- Problems with Framing: (i) Large openings may lead to sags, (ii) Insufficient nails, (iii) Condensation, and (iv) Poor quality lumber.

Wood frame wall problem areas

- Nailing's & Openings: improper placement of nails or using inadequate number of nails can lead to complications Condensation occurs when insulation is being replaced in older houses
    - If no plastic vapour barrier is installed over the warm side of the insulation = condensation
    - Low Quality Lumber: likely to warp , twist, or bow

Framing and Floor System Components

- Beam : Beams are made of wood or steel to carry the weight of floor or wall horizontally to the foundation.
    - Laminated beams consist of five or six boards nailed together.
    - Steel beams are better than wood beams because they are free from rot, termites and mechanical damage. However, they are heavy and susceptible to rust.
    - Wooden beams can be weakened by notching, cutting or drilling. Undersized or over- spanned beams may sag or crack resulting in failure of entire framing system. Over-spanned beams may be remedied by adding more posts.
    - Fire Concern: Fire is a serious concern for both wooden and steel beams. When a structure is on fire, wood actually burns but steel melts at high temperatures. Steel beams lose strength earlier than wooden beams
- Joists : series of horizontal components to support the floor, ceiling or the roof. They are made of wood, metal or wafer boards and rest on sills or beams and provide strength to the structure.
    - Bridging/Blocking in joists is done to restrain the joists from twisting. One set of
- either bridging or blocking is required for each joist span. It helps transmit the load of one Joist to the next Joist and reducing springiness of floor.
- Sill: provides a continuous pad between foundation top and bottom of framing. It is laid flat on top of concrete foundation wall.
    - Sills are anchored to the foundation using bolts and the floor joists are installed directly on the sill.

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- The location where the joists rests on the sill is called a point load. IF the joists are inadequate or too wide, the increased load will crush the sill, causing the floor to sag.
- Sub-floors Subfloors are attached on top of joists.
    - Subfloor transmits live loads of people and furnishings to the floor joists.
    - It is usually covered with a finish such as carpet, hardwood, or laminate.

Problems with Floor Systems

- Springy floors refer to a deflection of the floor. A certain amount is allowed and can be identified by a pliable feeling when pressures is applied
    - Caused when the subfloor is too thing, may lead to the subfloor failing under concentrated load
    - Solution is to add bridging or an additional layer of plywood
- Squeaky sounds are heard when the subfloor is not secured properly to floor joists. This problem may be remedied by using more nails to secure the subfloor properly to joists or another layer
- Water-Damaged Floors: Penetration of water may damage the wood, and nails may start coming out. Discoloration, change in texture
- Uneven floors can be identified by sections which are not at level with other sections of the floor. Existing plywood can be replaced to remedy this problem.

Bridging and Blocking

- Used to keep the joists from twisting, help transmit loads from one joist to adjacent joists
- Cross bridging two pieces of wood attached through the centre in between gaps in the joists
- *Blocking* uses wood with the same dimensions as the floor joists except for the length

Wood Frame Walls

- Wood frame walls carry the load of the roof and floor's structure down to the foundation.
- Studs provide the support for insulation and exterior finishes such as drywall or brick veneer.
- Load bearing studs have double top plate while the non-load bearing studs have single top plate. Wooden studs (2-by-six inches) are spaced 16 inches apart.

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Potential Problems

- Moisture: It can cause rotting, wood swelling, and infestation of termites.
- Termites and Shelter Tubes: Termites live is soil, close to moisture but below frosts line. They travel in wood or soil but do not expose themselves to open surface. Shelter Tubes are small tunnels of earth built by termites.
- Cracked Walls: This may be a sign of serious structural damage. Crack may be small hairline, horizontal crack or a large crack related to foundation.
- Wood Rot: Deterioration of wood due to the effect of moisture, temperature and oxygen.
- Visible Nails: Drywall screws and nails may begin to loosen over time, which causes drywall to bulge and move/push the nail or screw outward.

Internal and External Drainage Systems

- Drainage system is used for removal of water and consists of piping, conduits, ditches, swales, or other drainage devices to run off water away from the building.
- Basements require proper drainage due to prolonged exposure to moisture or stagnant water.
- Ontario Building Code specifies the types of granular material needed to drain the bottom of foundation and location of drainage disposal piping.

Causes of Water Penetration

- Improper Grading: When the slope of the grade around foundation wall is towards the foundation, water will not run- off away from the foundation.
- Defective eavestroughs and downspouts may result in water penetrating into the structure.
- Window wells (the rectangular hole in front of the basement windows) may not be properly drained and water may build- up around the base of the window or may leak inside.
- sump pump is installed inside the basement in a small pit to pump the water out of the house. If water is present under the basement floor, it enters the pit, as it is lower than the surface. When water reaches a certain height, the pump will start, and the water will be pumped to the outside of the house

Signs of Basement Leakage

- Repair patches on exterior or interior walls, cement parging, or use of water proofing materials are indications of repairs done by owners.

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- Floor tiles starting to peel off or excessive dampness under carpets.
- Leakage from below grade windows.
- Stains or discolouring of paneling, drywall or other interior finishes.
- Mould/mildew forming on walls due to high moisture and poor ventilation. Might need Professional
- Efflorescence is a whitish mineral deposit found on interior of foundation walls indicating that moisture was present at some point of time. However, it is not a sign of basement leakage.
- Rusting: can be corrected or eliminated by installing or improving the exterior grading and drainage components

6.5 Roofing Systems Roof Styles and Pitch

- Gable Roof: There are two sloped sides and a gable (enclosing portion at the end of any pitched roof) on either end. V Hip Roof: Also called cottage roofs and consist of slopes on all four sides, equal in length and join at the top to form the ridge
- Gambrel Roof: They are used for barn structures and are identified by two sides that slope more steeply halfway down the length of either side. (plenty of headspace)
- Mansard Roof: These roofs resemble gambrel roof but have slopes on all four sides. Mix of Gambrel roof and hip roof Flat Roof: They are commonly used for commercial/industrial buildings but are not really flat as there is a small slope to run off water.
- A-Frame Roof: They have steep triangular shape that runs directly to the ground level. They were used for one and half storey houses in mid-50s and 70s.

Describing Roof slopes

- Pitch or Slope of the roof is defined as Rise over Run. A "6 in 12" pitch indicates a vertical rise of 6 feet over horizontal distance of 12 feet.
- Conventional roof has a pitch greater than 4 in 12. Low slope roof has a pitch between 4 in 12 to 2 in 12. Flat roof has a pitch less than 2 in 12.

How roof style can affect Property Appeal

Roof Style	Benefit	Drawback

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Gable roof	Relatively easy and inexpensive to construct Allow for more ventilation → which could provide more space for an attic or ceiling	Not ideal for areas with frequent winds as this may cause the materials to peel away
Hip Roof	Recognised for their stability making them ideal for areas with high winds	Difficult and expensive to construct due to their complex truss and rafter system
Gambrel System	Structured in a way that can incorporate an attic it to the property which can serve as additional bedroom Cost effective simple design; require fewer resources making it cost-effective . Saves labour time Idea for sheds and outdoor storage buildings as the design provides for more storage space	Not ideal for high winds or snowfall More frequent maintenance than other roof styles Require proper roof vent system during installation to improve on better air circulation and ventilation
Mansard	Can allow space for dormer window giving more natural light Extra space Saves costs from building a separate room or attic in the usable space Cuds down on heating costs as the heat is more evenly distributed	More difficult , costly and time consuming to construct because of their complex design, additional materials and labour Protruding design of the dormer windows causes more exposure to the environment + maintenance Dormers are prone to develop structural problems or damages if neglected
A frame	High durable simple to construct Steepness of the slope allows for efficient	Due to smaller size of structure, the living space can be relatively limited As the roof is often used as a portion of the wall, this slope can be problematic for wall hangings

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Flat roof	Cheap to construct and lower maintenance More accessible for cleaning and inspection	Building of rain and snow can place additional weight on the roof

Components of Roof

- Flashing: Thin pieces of impervious material installed in joints or gaps to prevent water penetration. The purpose of flashings is to prevent water leakage. They are installed – where the roof changes direction, where a change in material occurs (dissimilar materials meet), and where there is a joint in materials.
- Roof sheathing: It supports the roof covering and transmits live loads due to snow, ice and wind to the roof rafters, trusses or roof joists. The material used is wood planks (older buildings) and wafer board panels (new buildings).
- *Problems:*
    - Condensation → loss of strength and render the nailing's of the sheathing ineffective, nails are pulled out of the rafters
    - Too thin → will deflect under load and result in sagging of the roof line
    - Edge support → unsupported edges of roof sheathing may lead to differential movement between two panels. Can lead to horizontal edges appearing
- Trusses: Trusses hold the sheathing and shingles and are mostly engineered systems and installed 24 inches apart.
    - *Fink Trusses:* They have web members shaped as 'W'.
    - *Howe Trusses:* They are considered more durable and stronger than Fink Trusses. They are identified by 'M' shape and a vertical member going to the peak.
    - Truss uplift → involves the bottom member (chords) of the truss deflecting upward in winter The result of truss uplift is the centre section of the centre section of the bottom chord moves upward and gaps are large as one-half inch appear at the top of the interior walls where they join the ceiling
    - *Problems*
        - *Cuts*→ individual chords or webs that are cut or damaged can be a serious problem
- Rafters: Roof rafters are used in sloped roofs to support the roof sheathing and transmit roof loads to bearing walls and beams.

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- *Problems:* rafter spread/over-spanned → rafters are pushed apart as a result of not being adequately secured to the walls at the bottom ledge. Roof will sag if rafters are over spanned or spaced too far apart

- Condensation → attics with good insulation but poor ventilation may be susceptible Will attack roof sheathing and rafters
- Collar Tie laterally placed wood members is used horizontally for each pair of opposing rafters. Halfway up the attic space
  - Prevent rafters from sagging
  - One collar tie should be placed for each pair of opposing rafters
  - If more than 8 feet long, a rat tail or other sort of bracing should be attached at the midpoint
    - *Problems:* buckling → inappropriate lumber size
- Missing → securing collar ties on every third rafter was common on older houses , proven inadequate particularly with the added weight of multiple layers of roof shingles
- Bracing → collar ties more than eight feet may buckle if they do not have a wooden bracing to support the span
- Wrong location → often collar ties are either too high or too low, which leads to rafters spreading apart, placement should be near midpoint
- Low slope roof →collar ties are only effective when the roof slope is four in twelve inches or greater. Larger rafters, or knee walls, are used on lower slopes
- Knee Wall is a small wall at a proper location in the attic area to support the roof and prevent sagging of roof.
  - *Problems:* rot, termites mechanical damage and fire damage . might not be effective in preventing rafter sag if not located at the mid span of the rafters

Other Roof Components

- Soffits: This covers the underside of the overhang of the roof to protect the trusses from weather conditions. Improperly installed soffits or eavestrough can cause soffits to sag.
- Problems: sagging or looseness(caused by clogged eavestroughs, water forced upward from ice damming etc.)
- Fascia: A flat piece of wooden board that covers rafters and holds the eavestroughs in place. Clogged eavestroughs can cause damage to fascia.

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- Problems: water gets behind the board. Solutions are to resecure the fascia with nails if the problem is loose Eavestroughs and Downspouts: They collect water from roof, protect the walls from water damage, and prevent local ground level erosion caused by heavy water runoff. The downspout discharge of water is into drains or onto ground about 6 feet away from the building. Holes and cracks, collection of debris, and faulty fasteners can damage the eavestroughs.
- Problems collection of debris, holes and cracks
- Attic Venting Systems: They provide air circulation in attic areas, which prevents formation of mould and wood rot. Condensation or moisture in attic can cause loss of strength in the sheathing and make the nailing of the sheathing ineffective, as nails are pulled out of the rafters, or through the sheathing.
- Problems improper fan venting, excessive insulation that results in locking the intake vents or an unbalanced ratio of intake and exhaust

Roofing Covering Materials

- Asphalt Shingles: These are most commonly used for residential buildings and are self-sealing. They are classified by weight. Most common type weighs 210 pounds per square (Square is the amount of shingles required to cover 100 square feet).
- Metal Shingles: These are good to withstand weather influences and high winds. Advantages include low maintenance, resistance to decay and long-lasting durability.
- Wood Shingles and Wood Shakes: Wood Shingles are machine cut while shakes are hand cut. Wood Shakes are thicker and have uneven surface. *Problem* : exposure to frequent sunlight can dehydrate them and make them riddle, and excessive shade or moisture can lead to rot and enable moss to grow
- Slate Roof: Made of slate or sedimentary rock. They are 3 to 5 times heavier than asphalt shingles and their life span is 60 to 100 years. Durable, waterproof and fireproof
- Concrete or Clay Tile: These are rarely found in Ontario. They are 4 to 5 times heavier than asphalt and have life span of 50 to 100 years. Heavy. Clay is brittle and subject to mechanical damage and prone to failure of fastening such as nailing's
- Corrugated Plastic Tile: This type of roof covering is generally used over patios and other light structures. Their life is 20 to 100 years, based on the grade. Considered low quality.

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6.6 Doors Components of Door

- Head (Top Rail): The horizontal portion of door frame located on top of the door. Jamb: The vertical left or right portion of the door frame which runs top to bottom.
- Sill (Threshold): The horizontal portion which is located at the bottom at the floor level. Raised slightly to prevent water from entering the house.
- Stop: The continuous projection attached to jambs to prevent the door from swinging past the frame. Buck (Casing): The subframe around the door made of wood or pressed metal.

Types of Exterior Doors

- Wood Doors: The most common type of door which may be hollow or solid. High end look and easy to repair. However, the downside is they absorb moisture, peel and bubble, twist and fade and can be expensive. They are the least energy efficient door and poor insulators of heat
- Panel Doors: They are interior doors usually made from engineered wood such as plywood, hard board or block board. Glass Doors: Glass panes are installed inside wooden frames.
- Sliding Doors: Used for entrance to backyard. Thermal glass is cased inside metal or wood frames.
- Steel Doors: These are exterior doors due to cost effectiveness and energy efficiency of steel. They require minimum maintenance.
- Fibreglass Doors: Fibre material is preferable due to light weight, durability, and low maintenance. Poor conductor of heat and electricity, provide high energy efficiency.

Problems with Residential Doors

Door won't remain closed	Sagging or misaligned door, or a latch that has become loose and doesn't align with the door. You need to realign the hinges of the door, or readjust the height of the latch
The door frame has become loose	Frequent slamming of the door. Installing new framework to the door
When opened the door will squeak	Door hinges rubbing against each other. Lubricate the hinges
When closed, there is a draft	Replaced the weather stripping around the perimeter

Energy Efficiency Doors

- Properly insulated doors keep the outdoor weather from entering the home and prevents loss of heat and air leakage.

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- Doors can be made energy efficient by:
    - Replacing old doors with newer properly insulated doors. Installing energy-efficient doors which act as a seal between the inside and outside temperature inside.
    - Installing storm doors to protect the home from exterior weather conditions.
    - Installing weather stripping around the door perimeter to avoid air and heat transfer.

6.7 Windows Styles of Windows

- Casement Window: This type of window is hinged at sides and opens inwards or outwards using a crank handle. The casement is made of wood, metal or vinyl.
- Single and Double Hung Window: A double-hung window has two moving parts – (i) outer part on top, and (ii) inner part on bottom half. Both parts can be moved up or down. In a single- hung window, only the bottom part moves.
- Awning (Transom) Window: There is a hinge at the top that allows the window to open outwards.
- Bay or Bow Window: Bay → Designed as three separate windows with the central part acting as a picture window. It stops a few feet above the floor level. If it is a bow window, its structure is curved which creates a round shape.
- Slider Window: This older and inexpensive style window is a single pane of glass which slides on wooden or vinyl track. Skylights: They are made of tempered glass or plastic which provides better resistance to breakage. However, they are prone to water leakage and condensation.

Window Components

- Panes or Lites The pieces of glass within the window itself.
- Muntins: When the window within the sash is divided into several small panes, the divided vertical bars between the panes of glass
- Sash: what the panes are held within so that they may move as the window is opened and closed. Stiles : both sides of the sash
- Rails: top and bottom components of the window
- Jambs: the sides of the window frame. The sill is located at the bottom of the frame and head is the top Casing or trim covers the frame edge to finish the windows edges in relation to wall finishes

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Problems with Windows

- Drafty Windows: When a large amount of air leaks through the windows resulting in increased heating and cooling costs. The problem is caused by broken seals, poor insulation, improper installation, and cracked or broken frames. Solution is to seal the sides, top and bottom of the window with weather stripping. Another solution is to reapply the caulking along the edges of the window.
- Condensation: This results in fog inside the window, which is an indication of condensation building-up. Moisture can freeze between glass panes in winter. → replace window
- Damaged Material: Window frames made of wood can warp, crack or rot due to temperature variations causing penetration of moisture. Vinyl windows can typically withstand temperature fluctuations and require much less maintenance than wood frames
- Inoperable Windows: This is caused by window frames that have warped or when the weather seal becomes jammed.

Residential Window Modifications

- Glazing: Glazing refers to the act of furnishing and/or fitting panes or sheets of glass. Glazing can be single, double or triple.
- Inert Gas Fill : argon and krypton, are used as fill between glazing given their ability to reduce window heat transfer and cold spots at the window base between the panes. Both are non-toxic and colourless Krypton is more expense Tempering: specialized glass that is significantly stronger than the conventional glass. Processed through controlled thermal or chemical treatments to increase strength.
- Scratch and damage resistant and provide better insulation
- Window films and tinting : UV ray protection, heat reduction, fade and glare protection
- Low conduction window spaces: the spacer of a window segments the two glass panes in a thermal window that is accompanied by a sealant
- Although lightweight, durable and inexpensive. This metal is very effective at conducting heat and is a significant source of heat loss
- Low conductivity spacers are made form insulating materials such as foam, butyl thermos plastic or thermally improved metals which conduct significantly less heat

CSA Standards for Windows

- CSA Standards for windows promotes efficient and effective standardization
- Criteria for Air Tightness, Criteria for Water Tightness, Criteria for Wind Resistance and forced entry

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- Window Efficiency Ratings (ER): Measures thermal performance and represents the heating required for a window during the heating season based on the combined analysis of solar heat gain, loss and leakage.
    - *A positive number* indicates that more solar heat is produced, and lesser heat is lost.
    - *A negative number* indicates that more heat is lost than heat gained. Value ranges are from low of -80 (very poor) to +12 (excellent)
    - -8 - +12 would correspond to an R Value of 5, and -15 - +5 would be R value of 4

Factors that influence Energy Efficiency for Residential windows

Low Emissivity (Low-E): Emissivity is the ability of the surface to reflect long-wave radiation. Low-e glass allows sunlight to pass into the structure. Contains a thin metallic layer that allows sunlight into the structure during winter months and reduces unwanted heat in summer

Heat Transfer Co-efficient (U-Value): It is a measure of heat flow through an object. It is used in calculating the Efficiency Rating of Windows. U-Value is reciprocal of R- Value.

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Module 7 - Mechanical Systems

7.1 Electrical Systems Basics Components

- Voltage: Potential energy of the electrical system is measured in Volts, which is typically 120 volts or 240 volts for residential properties.
- Resistance: Tendency of a material to resist the flow of electricity, measured in Ohms. Resistance is low in conductive materials.
- Current: The rate at which electricity flows. It is measured in Amperes or Amps. Power: It is measured in Watts and is calculated by multiplying voltage with current.
- Watts the power measured in watts is calculated by multiplying the voltage by the current
- Entrance Cable: Brings electrical service to the property from the street
    - Typically, a 240 volts service is connected to the house using an entrance cable (overhead or buried).
    - Older houses may have 60 amps service while newer houses have 100 amps or 200 amps service. Houses with 60 amps service may have difficulty in obtaining insurance due to insufficient power for modern appliances.
- Main Disconnect: This is the main switch, typically located inside the distribution panel, that turns off all power to the house.
    - It may have fuses or circuit breakers, depending on the age of the house. Serious problems with the electrical system, the fuses will blow, or the circuit breaker will trip
    - A 100 amps system using fuses needs two 100 amps fuses, one each for line and neutral wires.
- Distribution Panel: distributes power to various parts of the house with each circuit having one of more outlets, light fixtures, or other appliances connected to it. Many electrical codes require a minimum number of 120 volt and 240 volt circuits. Each circuit is connected to red or black busbar, and a white wire is connected to a neutral busbar.
    - Black wiring is known as hot wiring and never used for a ground or neutral wire and are meant to be used as a power feed for a switch or an outlet
    - Red wires are secondary live wires in 220 volt circuits, you can link two red wires together or you can link a red to a black wire
    - Since red wires conduct current → considered hot

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  - White and grey is neutral
  - Each household circuit fuse is directly connected to either the red or black busbar.
  - Many electrical codes now require a panel with room for 24 120volt circuits

- Wiring: distribute electricity to all outlets and fixture. The current standard is grounded copper wiring. Aluminum was used in houses built in 1960s and 1970s, which can lead to fire risk due to overheating. Knob and tube wiring has become obsolete now due to safety reasons. Insurance is either not available or difficult to obtain for houses with knob and tube wiring.
- Outlets: Electrical appliances are connected to outlets. *Ungrounded outlets* are older type and contain two slots of equal size and are not grounded; while grounded outlets are used in houses built after 1960s and have an extra wire to send current to each in the event of a power surge or fault
- Ground Fault Circuit Interrupter (GFCI): This special outlet shuts off power when a small amount of current, as little as
- 0.005 amp is leaking. These are used anywhere within three feet of water to avoid electrocution. They can be recognized by a reset button and a test button on them.

Key Considerations

- Circuit Breakers and Fuses: These are safety devices inside the distribution panel. Most of them are rated for 15 amps and will blow if the load on the circuit is more. Insurance companies prefer circuit breakers.
- Aluminum Wiring: This can be recognized by white silver wires inside the distribution panel.
  - Aluminum is softer than copper and may be damaged during installation.
  - Damaged wire can cause overheating or creeping when the wire creeps under the terminal screw where it is connected. When heated, aluminum expands more than copper, and it can become oxidized by air or get corroded when brass connectors are used.
  - Can be oxidized by air or corroded by contact with brass connectors, forms a white oxide which generates heat Underground Outlets: Often found in homes built before 1960s, these outlets have only two slots. They can pose problems such as electrical fire, risk of electrical shock, and damage to appliances.
- Knob and Tube Wiring: Problems associated with knob and tube wiring include inability to use 3-wire appliances, fire risk due to absence of ground wire, danger of electrical shock, and

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damaged insulation due to aging. This wiring can be recognized by an electrician in the unfinished portions of the house.

Indicators of Problems with Electrical Systems

- Blown fuses or tripped circuit breakers may indicate overloading, a short circuit, or a ground fault (occurs when the hot wire and ground wire come into contact, could be a result of one or both wires coming loose from a terminal) .
- Hot or charred outlets may be caused by a loose connection or an aluminum wire creeping out under the terminal screws. Flickering or dimming lights may be due to heavy load on the circuit indicates a serious problem. Wires may be creeping out from under the terminal screws resulting in a loose contact.
- Electrical shocks typically occur due to a faulty appliance or a faulty light fixture.
- Quickly burning out light bulbs may be caused by a light fixture which is unable to handle the power load. Too many extension cords indicate insufficient number of outlets to meet the household needs.
    - Several appliances on a single circuit increase the risk of electrical fire. Use is temporary

Solar Panels

- Solar panels, as a source of supplementary energy source, are usually installed on roof tops to absorb sun light and convert it into electrical power.
- Benefits: Renewable energy with minimum environmental impact, low maintenance, low utility costs, and useful in areas where there is no electrical grid.
- Financial Incentives: The Net Metering system helps owners produce their own renewable energy and excess energy may be supplied back to the grid for which they can get credit.
- Unsuitable Houses: Lots of shaded trees that block sunlight, insufficient roof space, roofs that do not face southwest, and roofs that need continuous repair.

7.2 Heating and Cooling Systems Capacity and Efficiency

- The capacity of the heating system refers to the amount of heat generated and depends on the size of the house. Primary requirements of any heating system are size, reliability, cost, equal heating distribution

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- Input Capacity: The amount of fuel energy consumed for every hour of operation. Measured in British Thermal Units per hour
- Output Capacity: Amount of usable heating or cooling provided to the home.
- Efficiency: Efficiency accounts for both input and output capacity and is expressed as a percentage. When input and output capacity is equal, the efficiency is 100%.
- Efficiency Ratings: Low Efficiency is 60% or less, mid-efficiency is 80%, and high efficiency is 95%.
- Builders, after December 31, 2009, are required to install high efficiency systems with over 90% rating for all new houses.

Types of Heating Systems

- Forced Air: These centralized heating systems rely on supply ducts and vents to distribute hot air. The return ducts bring the cool air back to the central air handler for reheating. A thermostat is used to control the temperature.
    - Advantage: Quick heating and combined duct work with air conditioning.
    - Disadvantages: Loss of heat in the ducts, more regular maintenance and problematic for people with allergies due to circulation of allergens and dust.
- Steam: A boiler heats the water using oil or gas burner and turns it into steam. Steam travels through pipes to radiators, which give up heat and the cold water returns to the water tank
    - Advantages: Quiet operation and consistent heat.
    - Disadvantages: Low energy efficiency, expensive installation, inability to add air conditioning, and components may have asbestos that cause health issues.
- Hot Water (Boilers): They heat water and distribute it using piping and cast-iron radiators. They use gravity (no forced air) to push hot air into the structure and bring cool air back to the system. The two types are one-pipe system and two- pipe system.
    - Advantages: They have quiet operation and do not circulate allergens.
    - Disadvantages: Expensive to install, less energy efficient, inability to add air conditioning, and they can be blocked due to rust and mineral deposits.
    - Often insulated with asbestos
- Electric: The two types are – (i) baseboard resistance heaters, and (ii) radiant heating cables. A thermostat is used to control temperature.
    - *Advantages:* Quiet operation, no furnace required, and more energy efficient.

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- *Disadvantages*: Difficult to access when installed under the floor, requirement of minimum floor height, dry heat and inability to add air conditioning.

- Radiant: These systems use infrared radiation to supply heat to the floors, walls or ceilings. Hot water is circulated in copper or polyethylene (PEX) pipes embedded in the floor.
    - *Advantages:* No allergies, constant temperature, and energy efficient.
    - *Disadvantages:* Slow heating, expensive, inability to add air conditioning, and limitations on carpet installation Ground Source Heat Pump (Geothermal): These underground systems take heat from soil or water in winter and work for removal of heat from the structure in summer.
    - A*dvantages:* Environmentally friendly, low maintenance, quiet, and no energy costs.
    - *Disadvantages:* Expensive and difficult to install.
- Air Source Heat Pump: These systems work similar to Ground Source Heat Pumps but take the heat from outside air instead of using soil or water. Advantages and disadvantages are also similar.
    - *Advantages:* Environmentally friendly, low maintenance once installed, can save on heating bills
    - *Disadvantages:* Expensive and significant disruption during installation

Types of Furnaces

- Electric Furnaces Uses electricity without the need of a heat exchanger, burner, or chimney.
    - The blower simply forces air into the heating elements and hot air is distributed into the structure using the ductwork.
    - *Advantages:* They have low upfront cost, quiet, and need less Maintenance
    - *Disadvantages* more expensive to operate than gas or oil furnace, takes longer to heat
- Gas Furnace*:* It burns natural gas, which needs a heat exchanger and then into ductwork
    - The four levels of efficiency are conventional, mid-efficiency, high efficiency, and high efficiency plus.
    - As of 2010, all gas furnaces must be high efficiency. Propane is used in areas where natural gas is not available.
    - *Advantages* They have low operational costs and heat up the structure faster.
    - *Disadvantages:* they can be expensive to install, natural gas not available everywhere and need venting for carbon monoxide emissions.

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- Oil Furnace: Oil furnaces function in similar way as gas furnace, they have a burner and a combustion chamber and emit exhaust through a flue pipe in chimney. They need on-site oil storage tanks, which are regulated by the Technical Standards and Safety Authority (TSSA).
    - These tanks must be inspected annually, and above ground oil tanks must be replaced every 10 years.
    - Conventional furnaces have low efficiency rating of about 55% but newer oil furnaces can have efficiency of 80- 89%.
    - It's mandated that oi-fired residential furnaces must have min efficiency rating of 78%
    - *Advantages*: They last longer than gas furnaces and are not dependent on pipelines. Easy to service
    - *Disadvantages*: Necessity of on-site storage tank, low energy efficiency, more pollution, installation and replacement costs, and environmental problems if the tank is underground.
- Gravity Furnace (Octopus Furnace): The now obsolete gas or oil furnaces work similar to conventional furnace but use gravity to force hot air into the structure and bring cool air back to furnace.
    - *Advantages:* They require little maintenance and run for a long time
    - *Disadvantages:* have very low energy efficiency of about 55%, costly to run, take up space
- Boilers: These devices, powered by electricity, oil, or gas, do not actually boil water but heat it to about 71 degrees. Oil and gas boilers have a heat exchanger and a burner.
    - *Open Boilers* use an expansion tank located above the highest radiator in the structure. Allows for space for water to expand when heated and has an overflow pipe use gravity instead of a circulating pump. They are obsolete now.
    - *Closed Boilers* use water in the boiler, piping and radiators. The water is pressurized a few pounds higher than what is required to force it up the highest level within the structure. Typically have a circulating pump to force the water through the system

Types of Furnaces Central Air Conditioning

- The function if an air conditioner is to distribute cool air inside the structure using a compressed refrigerant. The compressed refrigerant becomes liquid, is cooled by a condenser, and then evaporated again.
- The process cools the air which is distributed inside the structure using the ductwork.

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- Ductless Air Conditioners: These units are placed inside the rooms. They are useful for homes that do not have central air conditioning.
    - *Advantages:* they are more energy efficient, produce low noise, and are less expensive. Can be placed anywhere, can set cooling levels from individual rooms, can be used with heat
    - *Disadvantag*e is that they require installation on the wall and restrict cooling to a specific room only.

Problems with Heating and Cooling Systems

- Clogged Filters: Filters are designed for intake of air from the house and should be replaced regularly. Dirty or clogged filters can restrict airflow and effectiveness of the system.
- Faulty Thermostat: A faulty thermostat may result in over heating or over cooling.
- Cracked Heat Exchanger: A faulty or broken air-exchanger can leak carbon monoxide, which can be fatal. Faulty Distribution Fan: A faulty fan results in poor or inefficient operation of the system (not large or powerful)
- Leaking Refrigerant: This results in warmer air returning to the house + elevated electricity bills due to the need to turn the air conditioning up higher
- Leaking Ducts: Holes or gaps in the ductwork may reduce the efficiency of the heating/cooling system and increase energy costs.
- Leaks in Walls, Windows, and Doors: The house must be properly sealed and free from drafts and leaks.

Gas and Propane Fireplaces

- These fireplaces use incombustible logs covering gas vents and the fire burns behind a glass window.
- They are energy-efficient and draw air from outside for combustion.
- The gas/propane fireplace must be vented outside.
- They require less maintenance because annual cleaning of chimney is not required.
- Since they do not burn wood, they do not pose any risk to forests.
- Gas and propane fireplaces are considered less risky by insurance companies as compared to wood fireplaces.

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Other Types of Fireplaces

- Wood Fireplace: These traditional fireplaces are made of masonry, but they lose more heat from the house than they produce. They are more recreational than functional.
- Zero Clearance Fireplace: These fireplaces do not need much clearance from walls or ceilings and can be used in tight spaces. They are more energy-efficient and cheaper to install than traditional fireplaces.
- Wood Stove: They can replace wood-burning fireplaces and consist of metal fire box with a glass window. Less prone to creosote buildup than wood fireplaces and more energy efficient. They produce lesser harmful emissions than wood fireplaces.
- Gas Stove: They are gas-fired, more energy-efficient, produce less harmful emissions, and pose lesser fire risk. Fireplace Insert: They use electricity, gas, propane, or wood pellets and can be inserted into existing masonry fireplaces. They are efficient and reduce harmful emissions.
- Pellet Stove: They use electricity to burn specially designed pellets made from sawdust or wood shavings. They burn hotter and cleaner than wood stoves. Pellets are less expensive and can be purchased in small quantities

Components of Fireplaces

- Chimney: The function of chimney is discharge of smoke from fireplaces or furnaces. They are usually made of steel or masonry. Operate based on that hot air is less dense than cold air and thus rises. Creates pressure difference known as a draft which pulls combustion gases of the building
- Chimney Cap: It is made of stone or metal and prevents water from penetrating inside the masonry chimney.
- Flue: It is a channel within the chimney. Certain appliances such as gas furnace and gas water heater may share the same flue.
- Smoke Shelf: Located behind the damper, it provides for deflection of downdrafts. Cool air goes down, strikes this shelf, mixes with warm air/smoke and returns to the chimney.
- Smoke Chamber: It is made of brick or concrete and lies above the damper to allow smooth movement of smoke, leading up to the flue and chimney. Used to compress the by-products of the combustion into smaller space, without causing back draft.
- Smoke Shelf: deflection of downdrafts and rain or snow, cool air travels down, strikes the smoke shelf, mixes with warm air, and returns up the chimney taking smoke with it
- Control Damper: To seal the fireplace when it is not in use to prevent leakage of heat. Also, allows oxygen to start fire when open

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WETT Inspections

- The Wood Energy Technology Transfer Inc. (WETT) is responsible for inspection of all wood burning equipment such as stoves and open fireplaces.
- Wood burning may be a risk to human health and the WETT inspection may be required for obtaining insurance.
- The WETT inspector checks for proper installation and working of woodstove and/or wood fireplace.
    - Chimney → cap, liner, flue tiles, smoke chamber, proper flue pipe installation and venting, overall condition
    - Fireplace → dampers, firebox and firebricks/linings, hearth and floor protection
    - Clearances → Mantle and clearances to combustible walls and ceilings, heat shield construction for reduced clearances, combustible exterior items
- The woodstove must have a minimum clearance of 152 cm from the ceiling and 123 cm from each side (91 cm if shield is installed).

Heating and Cooling Innovations

- New heating and cooling technologies are convenient, cost- effective and environmentally friendly.
- Zoned Heating Cooling Systems: These systems use a centralized furnace controller, and different temperatures can be set for different sections of the house.
- Motion Sensor Air Conditioning: These devices can turn on the equipment when the rooms are occupied.
- Smart Controllers: These devices allow the homeowner to control the heating/cooling equipment using their mobile phones with apps such as Google Home® or Amazon Alexa®.
- Smart Geofencing Thermostats: This technology is based on the distance of the owner from the house. The equipment turns on when the owner is coming closer to the house.

7.3 Plumbing Systems Basic Functions

- Water Supply: Water typically comes from municipal supply, which passes the shut-off valve on the lot line to the shut- off valve inside the structure. Water flows to cold water pipes, water heater, kitchen, bathrooms, appliances, and other outlets.

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- Water Disposal(Drainage): Drainage pipes bring waste water from fixtures in kitchens and bathrooms to sewers or septic tanks.
- Water Disposal (Venting): Venting allows wastewater to move forward in pipes Air in front of waste to be pushed out of the way, air to be re-introduced to the piping after the water has passed and allows sewer gases to escape the house.

Service Pipes

- Lead: Lead pipes, which were used until 1950s, could contaminate water and make it hazardous to health. Galvanized Steel: Was used for supply pipes until 1950s. Since steel is coated with zinc to prevent rusting
    - Water distribution: reduced water pressure is a sign the pipe has rusted + water will be brown
    - also prone to leaking at the joints where two pipes meet
    - Drainage and venting : only used for the purpose of venting → letting air and gases escape from the plumbing system
    - Hot and Cold Water can be used for both, hot water increases rate of corrosion
- Copper: It is most common for supply lines due to its longer life need to be replaced in harsh water or soil conditions
    - Water distribution does not degrade and is safe with drinking water, used in shorter lengths
    - Drainage and venting: rare as PVC is cheaper
    - Hot and cold can tolerate high temps
- Plastic (PEX or KITEC): more common as they are less expensive.
- KITEC: These pipes consist of a thin aluminum pipe with plastic coating inside and outside. Its custom brass fittings have high zinc content that can corrode and restrict water pressure.
    - These pipes can easily leak or even burst if water is too hot. Some insurers refuse to provide coverage if the house has PEX (KITEC) pipes.
- PEX: cross linked polyethylene piping that has many advantages , cheaper than copper and won't corrode, quick install, flexible and can be bent
- *Water distribution*: common + can tolerate high temperatures. But cannot directly to a boiler and needs a metre of copper pipe in between
    - *Drainage and venting*: cheaper than copper and used for both

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- *PVC* lightweight, low-cost, low maintenance (fittings can be pricey) most commonly used material for waste plumbing and venting
    - *Water distribution*: affordable and does not corrode, best for indoor, great for warm and cold water
    - *Hot water uses* no hot water or warping
- CPVC: These pipes are made from PVC with addition of chlorine to make them more durable. It is flexible, less noisy, and fire resistant. Same benefits of PVC plus more durability. Less noisy when water goes through. But more expensive
    - *Water distribution* same as PVC
    - *Hot water* can handle up to 93 and so can be used for hot water
    - *Common for waste plumbing*

Problems

- Leakage: Leaks in underground service pipes may not be detected, and water may accumulate in basement areas. Pressure: In a typical house, it should be around 50 psi. sometimes pressure can be as high as 80, when this happens a pressure regulator should be provided
- Low pressure may be caused by partially shut-off valves, too small diameter, and shared service pipes. Too small: too small to provide enough pressure and volume
- Shared: older semi-detached houses, single service pipe splits under lawn to serve both houses Freezing: Pipes that are outside the building should be buried below frost lines
- Drainage Problems: Problems with drainage pipes may result in backup and flooding. Common reasons include combined storm and sanitary sewers, damage to external sewer pipes by tree roots, and overloaded municipal drainage pipes.

Waste Systems

- Black water → from toilets (human waste)
- Grey water → water from washing dishes, showers, laundry etc.

Problems with waste piping

- Backup → when storm sewers and sanitary sewers are combined, a backup in the system may cause flooding that contains storm water and raw sewage
- Sewer line from house to street → vulnerable to collapse and obstruction by trees and soil Overloaded drain

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- Indications of Plumbing Problems: Some indications of plumbing problems nclude dripping faucets, leaky pipes, running toilets, low water pressure, slow drainage, excessive water bills, and unpleasant odours.

Water Efficiency

- Water efficiency can be achieved through better design and regular maintenance of water systems and appliances, plumbing, and fixtures.
- Water efficiency can be increased by reduction the buildup/corrosion, fixing water leaks, and installing efficient appliances and low-flow fixtures.
- Additionally, dual-flush toilets, grey water systems (that reuse household wastewater), installation of pressure control valves, and cisterns to collect rainwater for outdoor use can all improve water efficiency.

Water Heaters

- The efficiency of a water heater depends on its recovery rate, which means that high recovery rate results in more supply of hot water.
- Conventional water heater function
    - Cold water is pumped into a heater and heated and then leaves. Temp remains at 60 degrees. When hot water is removed, cold water is added
- *Recovery rate*: amount of hot water the water heater is capable of providing in a given period of time. Depends on size of burner or element. Oil provides fasted recovery rate, then gas, then electricity
- Water Heater Efficiency may be reduced due to malfunctioning burners or elements, leakage, accumulation of sludge at the bottom of tank, build-up of lime due to water hardness, etc.
- High-efficiency gas or propane heaters need venting through the wall, which should be located away from sleeping areas and at least 45 cm above floor. Electric water heaters don't need that
- Tankless Water Heaters: These water heaters are gas or propane-fired and heat water only when it is needed. They consist of a burner, heat exchanger, and venting systems but do not have a storage tank.
    - *Advantages:* They have low operating cost, can be mounted to wall, do not run out of water, and have longer life.
    - *Disadvantages:* Delay in getting hot water, limited flow, expensive than conventional heaters, and need for high- pressure gas for burner. Can take 6 to 12 years of use to cover the extra cost

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Renting a Water Heater

Advantages	Disadvantages
Buyer can cost up to 1000 plus installation	Buying an energy efficient heater may be more efficient in the long run
Renter doesn't pay for repairs and maintenance	Buying in the long run can be more cost effective
Some contracts can be rent to own	Returning a rented water heater and terminating the contract can be difficult and costly

- Indicators of Plumbing Problems: Dripping faucets, leaky pipes, running toilets, low water pressure, slow drainage, excessive water bills

7.4 Water Supply Water Wells

- The Ministry of Environment, Conservation, and Parks administer the Ontario Safe Drinking Water Act and the Ontario Water Resources Act.
- Installation of wells
    - Well contractors are licensed by the ministry for installation, inspection, and maintenance of water wells.
    - Three levels of licensing: Drilling, digging and boring, special. Only class 4 can install pumps Maintenance of wells
        - Homeowners are themselves responsible for maintenance of private water wells.
        - Wells are normally tested for water flow (quantity) and potability (quality) during buying and selling process.
        - Bacteriological testing (e coli) of water is done by local health authorities (Public Health) free of cost.

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- Decommissioning wells
    - Unused water wells must be decommissioned by licensed contractors as they pose a safety threat and can contaminate ground water (owner is responsible for decommissioning it)
    - A Well Record for an abandoned well must be sent to the ministry of environment, conservation and parks

Creating water wells

- Dug Wells: constructed by digging down to the water table and are usually no more than 10 feet deep and are lined with cement and capped in concrete to reduce potential contamination by surface water draining into the well (OLD).
- Drilled Wells: Drilled wells need casing and screen to ensure that do not collapse or collect sediment. The depth ranges from 100 to 500 feet. Usually sealed with grouting material
- Bored Wells: These wells are created using large diameter bore or drill and are much deeper than dug wells. They tend to be shallow making them subject to running dry when water drops below water table. Also, they don't have a casing
- Point (Driven) Wells: A sharp pipe is driven into shallow water- bearing sand or gravel. The depth is usually 30 to 50 feet. Water from these wells is susceptible to contamination from surface water or fertilizers.

Well type	Used in ground type	Considerations
Dug wells	Sandy and gravel areas	Shallow but can be made deeper than point wells. They need to be in areas with high yield of water as they run dry easily due to shallowness. They do not require special machinery
Dried Wells	Rock and hard soil areas	Drilled wells can go deeper than the other forms of well but are more $$. Small diameter means they don't store too much water
Bored Wells	Gravelly, sandy or silty areas	Made deeper than dug and can hold more water because of their large diameter, useful in low-yield areas. More $$
Point drive wells	Sandy and gravelly areas	Point wells are shallow and very simple and inexpensive to install. They are either driven or jetted . Well points are usually only installed where the aquifer has a shallow water table and contains few or no stones

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- Lake and River Water: Water from a lake or river can be brought to a cottage home using above or below ground pipes, which may be below frost lines or heated. However, even when the water looks and tastes clean, it can be easily contaminated. Water must be treated before it is used. Have it tested when selling or buying

Constructing wells

- Drilling: A permit from the Ministry of Environment, Conservation, and Parks is required for drilling a water well. Well, is constructed before the house and its location is determined by the material under the ground. Improper location may result in low water yield or a dry well.
- Minimum Distances: Provincial regulations require that water well must have minimum clearance from nearly buildings, public roads, septic tanks, and leaching beds so that water is not contaminated.

Components of Water Well

- Well Caps: The cap is fitted on top of the casing to keep out debris, surface water, insects, etc.
- Casing: It is cylindrical in shape and prevents outside contaminants from entering the well. They are made from PVC, carbon steel, stainless steel or fiberglass. Well casing must be visible and at least 40 cm above ground.
- Pump: Jet pumps are installed above ground for shallow wells for water suction. Submersible pumps are installed under water to push up water.
- Well Screen: It is installed at the bottom of well to filter out sediment from water as it enters the well.
    - Pipes with holes in them are screens that are not designed to filter sand and gravel as the holes are too large to filter them out.
    - Continuous slot screens made of rods wrapped in plastic or wire are well screens that allow max water intake due to large open are. (widely used)
    - Slotted pipe screens with slots cut in a steel or plastic casing are screens that take in less water due to less open areas
- Pitless Adapter: Connects well casing with water lines to discharge water from well into the house. It is installed below frost line to prevent freezing of water.

Inspecting, maintaining and monitoring wells

- Inspecting: New wells are inspected with a bailer or pump for one hour to measure the rate of water flow (quantity of water). Potability of water (quality) is tested by bacteriological tests by local health authorities.

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- Water Well Record: This document is with the Ministry and available through Service Ontario. Every well constructed in Ontario should have one. It shows the date of construction, location, results of pumping tests, and other information.
    - The well contractor must provide this document to the owner within 14 days of construction. This document may be required at the time of buying or selling the property.
    - Well record also shows if a well has been decommissioned.
- Monitoring and Maintaining wells: The owner is responsible for monitoring and maintaining the well once it has been constructed. They also must ensure the well and its aquifer do not become contaminated.
    - Responsible for keeping it clear of foreign materials and owner should not reduce the height of the well casing to less than 40cm above the ground.
- Maintaining wells

Prevent contamination	Homeowners should never do anything near a well that could contaminate it
Control surface drain	Be in an area where nothing can drain into them. The area around the well cap should be raised to allow water to run off.
Ensure well cap and seal are firm	Firm and watertight with no cracks or damage
Check vent pipes and connections	Vent pipes should be screened to prevent matter from entering them. Any connections to the well involving water, electrical and pumps should be well sealed
Check accessibility and visibility of well casing	Easy to find if repair work is needed. 40 cm above ground.
Call experts	Seek advice and don't try to fix problem

Well maintenance Agreements

- wells which are shared by neighbors & share the cost of maintenance and repair of the shared wells.
- It is an important document when selling/buying as well as for arranging mortgage.

Water Treatment

- Well water needs to be tested regularly and treated to remove impurities, especially for the purpose of drinking.

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- Some treatment systems remove bacteria in water whereas others are designed to remove heavy minerals.
- Water Softeners: These systems remove minerals such as magnesium, calcium, and iron in hard water. Water softeners extend the life span of plumbing fixtures. Heavy minerals can leave deposits on appliances and fixtures, also make water taste bad
- Reverse Osmosis: These 'point of use' water purification systems use tightly woven porous membranes to remove solids from water.
- Granulated Activated Carbon Filtration: Activated carbon is used to remove odours, bad tastes, and discolouration caused by lead, arsenic, and other dangerous chemicals in local water supply. Whole-home carbon systems can be installed Ultraviolet Systems: This most common water treatment system uses ultraviolet light to neutralize the bacteria in water. Iron Deionizers: This system is used to remove heavy iron content in water, which leads to orange/red staining on fixtures. Chlorine Injector Pumps: Chlorine is added to water to remove bacteria and bad odours to make it safe for drinking. They do not kill all of the bacteria or viruses but when combined with filtration they are effective
- Desalination: These systems remove salt from the water supply.

Water Quality

- Regular testing on wells
    - Water must be tested regularly as the quality of water changes over time.
    - Tests are performed at the time of installation and then at least once or twice every year.
    - For rural cottages, two or three samples are taken, per season, with first sample at the start of the season. Water testing is also an important part of the buying/selling process.
- Chemical Analysis: Chemical analysis of water is done to test for presence of metals, fluoride, hardness, and pesticides.
- Bacteriological Testing: Bacteriological analysis if water is done to test the presence of harmful bacteria such as:
    - Coliform Bacteria: These are present in the digestive tracts of animals and in plant and soil material. Presence of these bacteria may be an indication that other harmful bacteria may also be present.
    - Fecal Coliform Bacteria: These bacteria are found in digestive tracts of warm- blooded animals. Their presence immediately renders water unsafe for drinking.
    - Bacterial tests do not indicate anything about the chemical composition of the water, water could be completely free of bacteria but could still be contaminated with lead etc.

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- Well water Supply Tests: tested to ensure that they can provide a consistent, sufficient supply of water Capacity: The amount of water the well can contain. Standard is 10L per foot
- Flow Rate: The amount of water that can be extracted per minute (acceptable rates range from **20 - 50** litres per minute).
    - Average household needs 350 to 450 L per person per day
- Recovery Rate: The rate at which water runs into well from rock fissures when water is being pumped out of well without running dry.

Groundwater

- Protect groundwater as it is often distributed without treatment. Well owners should.
    - Test well water regularly and check colour taste and odour
    - Secure well cap and check well regularly for signs of rust, wear cracks, holes or gaps
    - Keep ponded water, vehicles pet waste, salt and fertilizer away from well
    - Make sure the ground around the well slopes away
    - Ensure accessible for repairs & 40 cm above the ground
    - Check pumps efficiency
    - Ensure septic tank operates efficiently and is pumped out regularly .

Municipal Sewer Systems

Combined sewers	Separate sewers
Older neighborhoods; storm and sanitary combined into 1	Modern areas. Sanitary sewers carry waste, storm handles rain
Surge in storm water can cause water and sewage to back up through the basement floor drains in the house	When storm sewers get backed up, the basement is less likely to get flooded
Insurance premiums are higher due to risk	Insurance risk is lower
	Floor drains should connect to the sanitary sewer while downspouts and eavestroughs go to storm sewers

- Backup Valves: Homeowners may install one-way backup valves in the floor drain to prevent the wastewater from coming back into the house.
- Sewage System Classes

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- Class 1: Include waterless toilets, pits, privy vaults, portable toilets, chemical, and composting toilets.
- Class 2: Grey water systems for non-human use of wastewater such as watering the grass and plants. Have max sewage flow set by the Ontario Building Code
- Class 3: Also known as cesspool, these are found in recreational areas for human waste and are often dumping stations for recreational vehicles .
- Class 4: This is the most commonly used sewage system in which the septic tank breaks down solid waste and the leaching bed distributes in into the soil.
- Class 5: This system consists of a holding tank which collects sewage and takes it away for treatment.

Septic Systems

- Household waste water leaves the home via underground pipe → septic tank
- Septic tank is a large tank that contains bacteria to break down solid waste into liquid
  - Heavy solids sink to the bottom as sludge and lighter materials (oil and grease) float to top as scum
  - Scum and sludge are removed when the tank is pumped. (3-5 years it should be pumped)
- Liquid in the septic tank is connected to a leaching bed via a pipe
  - Liquid waste moves down the pipe into the leaching bed, while baffles and screens prevent scrum from enter it
- Leaching bed is network of buried perforated pipes that disperse the effluent, allowing it to seep in to the ground where bacteria & other organisms break it down even further

Leaching Beds

- For it to function properly, the soil needs to be permeable enough for the liquid to flow into it. The sill filters the liquid of pathogenic bacteria and viruses as it passes through it
- Percolation test is a test to establish the water absorption rate of soil and is used to determine if soil is suitable for a leaching bed
- The leaching bed in class 4 septic system needs permeable soil so that liquids can flow into the soil.

Different types of leaching beds depending on soil conditions

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- Conventional Installed where land is well-drained, and stone filled drenches can be installed below ground.
- Raised Absorption bed

  Ex. Northern Ontario lack of soil depth for standard leaching bed, a raised absorption bed is often created. Special sand and soil filtering materials are brough to the site and a raised bed is created
- Limited Space: A bed area is excavated, and a filter bed is created using filtering sand so that the leaching bed uses smaller area.

Ontario Building Code and Septic Systems

- Capacity: The size of the septic system depends on the number bedrooms, total living area, and the total number of water fixtures in the house.
- Septic System Location: The Ontario Building Code and zoning bylaws specify the minimum clearances of the septic system from lot lines, nearby structures, trees, water well, shorelines, and neighbouring wells.
    - The septic system must be at least 5 metres from any structure, 30 metres from a well without casing, and 15 metres from a well with casing, lakes, ponds, rivers, and springs.
    - These distances are increased for a septic system which have a Raised Absorption Bed.
- Site evaluation: The Ontario Building Code requires site evaluation for installation of new and replacement septic systems.
- Leaching Bed Location: The location of leaching bed depends on the percolation test or by soil classification. A minimum of three possible locations must be tested and the location with fastest percolation is selected.
- Tank Design: Prefabricated septic tanks must have a minimum capacity of 3,600 litres and there must be two chambers in them.
- Best Practices
    - Homeowners should minimize wastage of water and dry out clothes in open whenever possible. Non-biodegradable materials should not be flushed into the septic system.
    - Too much household detergents or bleach should not be flushed as they can kill the bacteria used to break down solid in the septic system.

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- Harsh chemicals such as solvents, brake fluid, oil, gasoline, paint thinner, prescription drugs, pesticides, etc. should not be flushed into the septic system.
- These chemicals pollute the soil and water surrounding the septic tank.

Module 8 - Internal And External Finishes

8.1 Exterior Walls Exterior Wall Finishes

- Brick Veneer Wall: Consists of a single layer of bricks (wythe) and an inner wooden frame, which is load bearing. Bricks are tied to the wooden framing using 'brick ties. The air space between the wooden frame and the bricks prevents moisture.
  - Problems: If 'weeping holes' are mistakenly filled by the homeowner, water may build-up inside and damage the wooden sheathing.
- Rain Screen Principle This principle is used in brick masonry and brick veneer walls to prevent moisture and water from getting inside the air space between the brick layer and wooden frame. Water from wind driven rain or storm may pass through the bricks, drip down, and collect inside the air space.
  - Small amount of motor is applied between two bricks
  - To disperse this water, a 'weeping hole' is left after every three or four bricks in the lower most layer.
- Brick Masonry Wall: There are two layers of bricks attached together by the 'header course', which prevents inner and outer layer from separating. Due to poor insulating quality of bricks, these walls are not used in single-family homes. Identified by its header course, used to hold the two walls together. Decorative pattern points to older property .
  - Problems: Cracks may be caused by expansion of bricks due to excessive heat or contracting due to extreme cold.
  - Failure of window arches or lintels may also cause cracks.
- Vinyl Siding: It is made of polyvinyl chloride, is inexpensive, durable, and needs low maintenance. It is fastened on top of building paper and over flashings and butted against the exterior trim.
  - Problems: Most problems are due to poor installation, lack of securing, and improper detail work at edges and corners.

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- Metal Siding: Metal siding is made of aluminum or steel and is installed horizontally or vertically. It is also inexpensive, durable, and needs low maintenance.
    - Problems: Needs proper ventilation to allow air and moisture pressure to equalize.
- Wood Siding: Wooden siding provides aesthetic appeal, styles, textures, and may be expensive depending on type of wood.
    - Problems: Wood may rot, and water penetration may occur at joints. If wood is in contact with soil, insects and termites may develop & moisture from the soil can cause fungi to grow, resulting in wood rot.
- Stone: Stone bricks and blocks are made from granite, sandstone, limestone, or marble stone. These are popular due to their strength, durability, and weather resistance. They are glued to the exterior walls and do not bear any load.
    - Problems: Stone may be porous and may require resealing and grouting.
- Stucco: It is a fine, durable plaster coat which is applied wet and hardens when it becomes dry. It is cost-effective, good insulator, and energy efficient.
    - Problems: Stucco can shrink and crack easily in areas of freeze-thaw cycle. It is better applied over masonry walls than wood framing. Wood and stucco may shrink and expand at different rates causing cracks or bulges in stucco.

Issues with Exterior Walls

- Lean/Bow: If brick ties are not installed properly, the outer layer of brick wythe may lean or bow outwards. In serious cases, when the wall is loading bearing, it may lead to structural problems.
- Rafter Spreading: Spreading of roof rafters may result in top of the wall to tilt outwards,
- Out of Plumb: An out of plumb wall means that it is not exactly vertical or at 90 degrees. This may be caused by an impact damage.
- Wavy: Waviness in mortar is caused by hurried installation and not giving it sufficient time to set and gain strength. Cracks/Deterioration: Cracks are caused by stress in the concrete due to shrinkage or expansion. While hairline or vertical cracks are not serious, horizontal cracks indicate problem with foundation. Cracks may cause water penetration or infestation.

Discolouration: Stone may change colour over time due to weather exposure.

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8.2 Energy Efficiency

Factors Influencing Energy Efficiency

- The voluntary R-2000 program, managed by the Office of Energy Efficiency, encourages energy efficient and environmentally responsible home construction standards.
- The R-2000 home certification is based on technical standards for ventilation, minimum air leakage, and type of insulating materials used. As such, the home may be more expensive than similar non-R- 2000 homes.
- The R-2000 program is complemented by ENERGYSTAR® and EnerGuide programs. - These standards help builders protect the environment by reducing the use of fossil fuels like coal, gas, oil, and therefore, lowering greenhouse gas emissions.
- higher r value = greater resistance of heat transfer = better insulator

Heat Gain/Loss

- Heat loss occurs when the heat from inside the house escapes to outside, often due to inefficient windows and windows.
- Heat gain occurs when the heat from outside enters the building.
- Conduction: Transfer of energy through a substance. For example, the loss of heat through basement, walls and ceilings.
- Convection: Movement of gas or liquid with changes in density. It can be controlled by minimizing air leakage between a structure's interior and exterior surfaces.
- Radiation: Transfer of energy through a straight line between the source and the absorber, without a medium. For example, sunlight entering a structure.

Insulation and R-Values

- Depending on a region's climate, the R-value may be different in different areas of the house.
    - The below-grade basement may have lowest R-value as it is surrounded by soil, which acts as a natural insulator. Glass Fibre Insulation: Glass fibre insulation comes in the form of 'batts', roll, or loose fill. This pink coloured insulation is inexpensive and most commonly used for interiors.
- Mineral Wool/Rock Wool: This insulation is made from fibrous materials by melting minerals or rock and provides better insulation. It is expensive but is fire resistant and long-lasting. Used in sidewalls, attics, crawl spaces, and floors.

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- Cellulose Fibre: It is made from 85% recycled materials such as paper and is treated with chemicals to make it fire- resistant. Cellulose Fibre has high R-values and dense properties than glass fibre. It is mostly used in the attic of the house.
- Spray Foam: Spray foam consists of open cell or closed cell polyurethane and appears like sponge. Open cell gives low R- value and is mostly used for interior walls. Closed cell gives high R-value and is mostly used for exterior walls.
- Foam Board: This insulation comes in various thicknesses and R-values. It provides high insulation values and can be used in floors, ceilings and interior or exterior walls.

Disclosures Requirements

- Salespersons must make a disclosure of the following types of insulation because there may be health implications if these insulating materials are disturbed.
- Urea Formaldehyde Foam Insulation (UFFI): UFFI is a low-density foam made from plastic resins, a foaming agent and compressed air. (looks like shaving cream)
    - The formaldehyde gas can irritate eyes, nose, and throat and can increase problems for asthma and allergy sufferers.
- Asbestos: Asbestos is found in a variety of products including roofing materials, wall and pipe coverings, floor tiles, appliances, ceilings, patching compounds, textured paints, and door gaskets of stoves, furnaces and ovens.
    - Asbestos has been declared a health hazard because it becomes a health risk when it becomes airborne.
    - Friable Asbestos is considered most dangerous as it can easily crumble, pulverize or reduce to powder by hand pressure, renovations or repairs.
- Vermiculite: It is a flat shiny material, looks like silver-gold or grey, brown, that expands when heated.
    - It has not been used as insulation since 1980, but it may exist in homes built before that. Some vermiculite materials may contain asbestos, and its existence in insulation must be disclosed when the property is sold.

Retrofitting for Energy Efficiency

- Shading and glazing of windows and using smart window technologies.

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- Increasing thermal resistance for all insulation.
- Using high-efficiency furnaces or integrated furnaces and water heater systems.
- Using heat recovery ventilators, which reduces humidity, pollutants, and odours by replacing stale air with fresh air.
- Using zoned heating/cooling systems and improving the ductwork distribution.
- Using programmable thermostats to set different temperatures at different times.

8.3 Interior Walls

Load Bearing and Non-Load Bearing

- Load-bearing interior walls provide structural support to the house.
- They must not be removed or cut without consulting a structural engineer.
- A drywall is prefabricated using gypsum, can be cut to any size, and can easily be fixed/repaired using nails or screws.
- A plaster wall is thicker, consists of plaster applied on top of wooden wall, and needs skilled labour.

8.4 Enhancing Property Appeal How to Enhance Appeal

Façade refers to balanced shape or symmetry of features such as windows, roof, and garage areas.

Ceilings

- Exposed beam
- Vaulted→ slopes to the shape of the roof – lighter and space
- Tray ceiling → build upwards with a cut out design, giving the ceiling a tray like appearance. Coffered ceiling → repeating pattern of sunken squares or rectangular panels
- Domed ceilings → large or grand homes. Circular shape looks like the hollow upper half of a sphere (resembling a dome of a church) .

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Wall finishes

- Wainscoting : panelling installed on the lower half of the walls to add style and contrast to a room that might not otherwise be possible with bare walls.
- Crown molding → caps wall and gives a stylish finish. Normally applied where wall meets ceiling Exposed brick **&** unfinished walls

Floor Finishes

- Hardwood → Vary in price, popular
- Bamboo → popular due to style and durability, considered greener. Generally, less expensive Polished concrete
- Slate flooring → durable and stylish but is expensive and cold underfoot
- Ceramic and vinyl tiles → ideal for waterproofing . durable. Vinyl → ease of installation and maintenance Laminate → recycled hardwood and is a popular choice due to its low cost, durability, range of colours and ease of installation. Strong, easy to maintain, good option for high traffic. Problems → scratch easily and not considered a luxurious material, and not waterproof.
- Marble → most durable and versatile materials. Waterproof, easy to clean and maintain , easy to install. More expensive Cork → Sustainable material, making it a popular choice for environment friendly designers. Popular due to durability, warmth and comfort. Can be costly.
- Carpet → modest to expensive pricing, colours, designs , warmth, comfort. Stain easily and not waterproof.

8.5 Conversions, Retrofits, and Renovations Building Permit

Steps for obtaining a building permit

1. Application: An application with detailed plans and property survey is submitted to the building development department of the local municipality.
2. Review: The plans must comply with mechanical and structural/architectural requirements under the Ontario Building Code and zoning bylaws.
3. Permit: Issue of permit is the legal permission to start construction. It must be posted on the site. If there are any changes, they must be reviewed and approved.

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4. Inspections: Requests for inspections must be made 24 hours before work can proceed beyond stages set in the permit. Failure to request inspection may result in a 'work stoppage' order.

Building inspector

Enter a property subject to a building permit at any reasonable time. If violation found, corrective action can be taken. They can also issue a stop order

Unincorporated townships

Rather than a municipal government, lowest level of government within these unincorporated townships could be provincial or regional. No municipal authority and building permits cannot be issued. Some, however, my still be subject to zoning laws → contact Municipal services office of the Ministry of municipal affairs and housing

Conversion of a Structure to residential use

- Factors that impact such decisions include choosing the right property, obtaining approval for rezoning, heritage designation of the old building, buying in conservation areas, and budget considerations.
- Fire Code as well as the Electrical Safety Authority (ESA) regulations must be met during the conversion process.
- Fire Code Requirements: compliance criteria for the safety of occupants. *Fire protection and Prevention Act,* in addition to providing the enabling legislation for the Ontario fire code, sets out responsibilities for fire protection services, the duties and powers of the fire marshal and those appointed

Accessory Apartments

- A second self-contained unit within a house makes it a two-unit residential structure and the owner must follow certain legal requirements.
- The retrofit provisions of the Ontario Fire Code address various requirements including safety of the occupants, fire separation, escape (egress or exit) from each unit, fire alarms, fire suppression, and electrical safety.
- Approval of such additions require two separate inspections – (i) an electrical inspection, and (ii) an inspection by the fire department.
- Salespersons must exercise caution when dealing with properties with two dwelling units and ensure that appropriate disclosures are made to the buyers.

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ESA

- Investigate before a purchase to determine whether the property has any open electrical permits
- Inspect the electrical work previously done on the property to determine the history and condition and whether it was conducted using a permit & inspect by the ESA
- Ensuring the necessary permits have been issued before electrical work
- Only hiring licensed electrical contractors for all installations etc.
- Request ESA inspection after. And obtain a certificate of inspection

Insurance

- Some insurers may refuse to provide coverage, or the premiums and deductibles may be high, in case they feel the risk is high in providing insurance.
- Age of the structure is important, and the insurer may need details of roofing, heating, plumbing, and electrical systems. Insurers may also need proof of compliance with Ontario Building Code, Fire Code, and Electrical Safety Code.
- The most important consideration is that mortgage lenders will not provide financing for purchase if the buyer is unable to obtain insurance.

8.6 Trends and Innovations Residential Construction

Insulated Concrete Forms (ICF) provides permanent interlocking interior/exterior form into which the concrete is poured and can extend beyond basements to replace all exterior walls.

Benefits: stronger, more energy-efficient, added insulation, improved damp-proofing, fire hazard reduction.

Disadvantages : high labour costs

Exterior Insulation and Finishing Systems (EIFS) provide an attractive continuous exterior surface, consisting of several layers. Outermost layer is sprayed on acrylic/stone finish, applied over mesh and insulation attached to the building

Benefits: expelling moisture, limiting air leakage, and providing effective building envelope. Minimize heat and cool air loss

Compressed Wood Fibre with weather resistant adhesives may be used for baseboards, crown mouldings, and cabinetry instead of expensive solid wood.

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Factory Built Homes

Manufactured Homes are completely built in a factory, transported on large truck beds to the site, and placed on concrete piers or cement pylons. They are less expensive than modular homes.

Modular Homes are built in sections in a factory, delivered to the site, and assembled there. They have pre-built truss floors that go on a basement or foundation. Can also be used as additions which is cheaper, faster, more convenient than construction

Flex Housing

Flex Housing, promoted by the Canada Mortgage and Housing Corporation (CMHC), offers home options that meet the needs of young singles as well as aging parents.

It is a compilation of individual features such as access needs for people with disabilities that can be installed easily and cost- effectively during initial construction.

Flex housing offers adaptability, convertibility, and cost- effectiveness in the sense that they do not become functionally obsolete and do not need frequent upgrades.

Universal Appeal and Accessibility

- Universal construction designs include barrier-free access and make homes accessible for everyone, regardless of their age or abilities as they provide better access, safety and convenience. These designs offer wider door widths, level door handles, lower light switches, no-step entries, elevators, large and accessible bathrooms, adjustable hanging arrangements, and wider hallways.
    - Several private and government programs provide various types of funding to homeowners to convert their homes to universal designs.

Safety Systems for Residential Structures

- Smoke alarms → on every storey and outside all sleeping areas
- Carbon Monoxide alarms → CO be installed adjacent to each sleeping area of a single family dwelling that contains a fuel burning appliance, fireplace or attached storage garage.
- Radon Detectors → occurs naturally in earths crust, not dangerous but is hazardous when it breaks down into smaller components that cling to dust and soil. Some areas in ON its an issue, which is where radon detectors can be installed

Volatile Organic Compounds (VOCs)

- Building materials usually contain paint, adhesives, resins, caulking, fillers and finishes which can product VOC

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- They produce gas emissions inside the structure.
- These compounds can be toxic and cause harmful health effects to occupants who are hypersensitive to chemicals and gases. Selection of low-VOC materials and proper air filtration/ventilation systems reduce problems.

Sick Building Syndrome (SBS)

- SBS involves circumstances under which building occupants experience health related problems due to the time spent inside a structure.
- SBS conditions can cause dizziness, nausea, and lack of concentration, allergy, throat irritation, headaches and asthma. The main reasons for SBS are inadequate building ventilation, lack of proper air filtration, inappropriate measures to control moisture that causes mould, etc.

Green Building

- Medium density fibreboards (MDF) containing urea formaldehyde has traditionally been the mainstay of house construction. In recent years both formaldehyde free and low emission MDFs became available
- Adhesives the use of water-based adhesives or plant resins has reduced the incidence of toxicity resulting from VOC Painting various zero or low emission paintings and finishing products are available

Module 9 - Marketing A Residential Property

9.1 Meeting with Sellers Research Property Information

- Review Documents: All information provided by the seller should be reviewed from source documents, which include ownership from title/deed, property tax from tax bill, lot size from GeoWarehouse®, total square footage, surveys, permits, contracts for rental equipment, etc.
- Previous Listings and Sales: Listing history will provide information on previous listing and sale prices as well as disclosures made by the previous owners.
- Past Misuse/Stigma: Information from local police department and internet search may reveal any stigma or past misuse of the property for illegal purposes.
- External Factors: Anything surrounding the property may have a negative or positive impact on the property value.

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- -The neighborhood may be improving or may be in declining stage. Noise, pollution, local traffic, and/or flooding etc. in the area may also impact value.
- Neighborhood: Information on the neighborhood can be obtained from GeowareHouse®, or from a mapping service such as Google Maps®.

Listing Presentation

- Benefits of Pre-Listing Presentation: It demonstrates to the seller that the salesperson has the knowledge, expertise, and confidence to sell their property.
    - The salesperson must ask the sellers if they are already working with another brokerage.
- Benefits of Working with a Brokerage: The salesperson can explain that he/she has the required education, knowledge, skills, experience to market the property.
- Determine Sellers' Needs: The salesperson must listen carefully to the seller to determine their needs such as what they are expecting and how soon they want to sell.
- Service Alternatives: Explain the difference of obligations and services between a 'client' and an 'SRP'.
- Completing the Listing Agreement: The document package contains the Listing Agreement form and the Data Sheet, which must be completed accurately.
    - Ask the sellers for their photo identification to complete the FINTRAC forms.

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9.2 Visual Inspection

Disclosures

- They should ask questions about the property, use a Seller Property Information Statement (SPIS
- A known latent defect should be disclosed as soon as possible; in the listing as well as in the Agreement of Purchase and Sale by inserting appropriate conditions.

Visual Inspection

- Interior inspection includes attic area, basement, staircases, foundation, heating, ventilation, and air conditioning, plumbing, electrical wiring, walls, and the ceiling. Exterior inspection includes walls, porches, doors, windows, front and back yards, roof, and secondary structures.
- Any areas of the property that cannot be accessed for inspection should be documented. For example, an air conditioner cannot be inspected in winter, or the condition of the roof is not visible due to snow.
- If any areas are not visually inspected, this should be disclosed to the buyer by inserting a clause in the agreement.
- Since salespersons are not experts in home inspection, repairs, or construction, they have an obligation to recommend the seller to hire a third-party professional if a more thorough inspection is required before listing.
- Asking Questions
    - seller should be asked questions before conducting visual inspection of the property so that the listing is accurate and there is no misrepresentation. responses should be compared to the personal visual inspection.
    - General Questions: These include length of ownership, persons on the title of the property, and if there is any spousal interest.
    - Age of the house, availability of a survey, rights-of-way, easements, and/or encroachments.
    - Source of water (municipal or private well), septic system, and whether permits and/or inspection reports are available. Any issues regarding zoning compliance, notices, claims, work orders, or deficiency notices from the municipality.

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- Environmental Questions: These are related to soil contamination, type of fuel tank, flood plain location, any existing waste dumps in the surrounding area, soil erosion, or if the property was previously used for an illegal purpose.
- Structural Questions: These questions are related to additions or alterations to the property and associated building permits, problems with heating, ventilation, and air conditioning, plumbing, moisture, and roof leakage.

9.3 Gathering Information Verification of Property Information

Key Property Info

- Chattel → personal property that is tangible and moveable (furniture), fridge, stove
- Fixture → permanent improvement to the house & part of the property (chandelier)
- Ownership and title, land use restrictions (encroachments, easements, rights of way, heritage property) Zoning property taxes → based on assessment by Municipal Property Assessment Corp, special assessments Utility bills
- Lot size verified from survey, tax bills, or assessment notices. The frontage, depth, and any irregularity must be noted. Total Living Area: verified from - GeowareHouse®, builder's plans, or may be measured manually as per guidelines from the local board.
- Room Sizes: Individual rooms may be measured manually, or the measurements may be obtained from builder's plans in case of a new house.

Verification of Physical Aspects

- Heating, Ventilation, and Air Conditioning (HVAC): age, condition, and whether the equipment is owned or rented. Review with source documents (utility bills, statements, receipts, reports)
- Determine the source of fuel for heating such as gas, oil, electric, wood, or propane. Well and Septic System: building permits, testing & inspection. Shared? Last pump?
- Electrical Wiring: type of electrical wiring (60 amps, 100 amps, or 200 amps), copper or aluminum, and whether there are fuses or circuit breakers.
- Plumbing: type of plumbing for supply lines, which may be copper, PVC or PEX (Kitec). If Kitec, recommend inspection and written report to be completed by licensed plumber.

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- Rental Equipment: Obtain the details of any rental equipment (e.g. water heater or propane tank) from the seller. Check how the rental contract would be transferred to the buyer.
- Rent-to-Own: Any rent to own equipment should be identified and the seller be advised that the balance may have to be paid upon sale of the property if the buyer does not assume the contract.
- *How to verify info* 1. Talk to seller and ask questions. 2. Consult source documents 3. Prepare list of action items

Impact of Neighborhood on Property Value

- Conformity: A property maintains its value if land use reasonably conforms to existing standards in the neighborhood in terms of building styles.
- Progression: A property located in a neighborhood where properties are not similar, the presence of a superior property will have a positive impact on the value of the inferior property
- Regression: A property located in a neighborhood where properties are not similar, the presence of an inferior property will have a negative impact on the value of a superior property
- External Factors: Availability or unavailability of services and amenities in the neighborhood may have an impact on property values.
- Neighborhood features such as schools, public transportation, municipal water and sewage systems, parks, and shopping centers may have a positive impact on value. Features such as proximity to industrial areas, environmental hazards, sources of noise, pollution, waste disposal sites, etc. may have a negative impact on value.
- Local Economic Conditions: Municipal plans regarding new roads, highways, re-zoning, etc. may also impact the property values negatively or positively.

9.4 Calculating Areas and Linear Measurements Guidelines from Appraisal Institute of Canada (AIC)

- The Appraisal Institute of Canada (AIC) provides guidelines for measurement, which are helpful in estimating the value of the property.
- **Guidelines for Calculating Areas and Linear Measurements**: The total living area is calculated using external measurements of all above grade living areas that are heated year-around.

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- One story: L x W at base of dwelling. Multiply Exterior length times with of projections
- In most common styles such as one storey, one and half storey, two storey, and split levels, the exterior length is multiplied by exterior width to calculate the area.
    - Basement areas (even when finished and heated) and crawl spaces are excluded from measurements.
    - Areas that are finished with walls, floors and ceilings, heated year around, and are directly accessible from other living areas are included.
    - A laser measuring device, digital measuring wheel, or a simple retractable tape measure may be used for all linear measurements.

Units of Measurement and Conversions

Meters and feet are commonly used for linear measurements, while area is expressed in terms of square metres or square feet.

Acres or hectares are used for larger areas of farm, rural/recreational, vacant land and building lots.

Conversions**:**

- Meters → Feet: Multiply Meters by 3.281. Acres → Hectares: Multiply acres by 0.4047
- Feet → Meters: Multiply feet by 0.3048. Hectares → Acres: Multiply hectares by 2.471
- Square Meters → Square Feet: Multiply square meters by 10.7639 Square Feet → Square Meters: Multiply square feet by 0.0929.

Formulas for Area

- Rectangle or Square: Length X Width
- Right Angle Triangle: 1⁄2 X Base X Perpendicular Distance Parallelogram: Length X Perpendicular height
- Trapezoid: 1⁄2 X (Sum of Parallel Sides) X Perpendicular Distance
- **Total living area in a residence is based on exterior measurements**

Calculation of areas & Linear Measurements

- One story → Exterior length X width.
- One and one half story with Dormers → first floor is L x W , Second storey Interior L x W to knee wall, plus LxW of dormers ** additional 15-20 cm may be included to account for exterior wall

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9.5 Improvements Before Listing Basic Improvements

- Upgrading windows and doors, repainting the interior and/or exterior of the house, changing bathroom and kitchen fixtures, and finishing the unfinished areas of basement are some of the recommended improvements.
- Interior Staging Techniques
    - The interior may be made to look bright and airy by opening drapes to let in maximum light.
    - Areas of the house that are easily visible should be kept neat and clean. Clutter in kitchens, bathrooms and other parts of the house should be removed.
    - It is recommended that personalized items such as pictures and photos should be removed.

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Module 10 - Property Conditions And Disclosures

10.1 Environmental Issues and Regulatory Authorities Septic Systems

Ontario Building Code

The Ministry of Municipal Affairs and Housing works with local municipalities (lower tier or regional) to regulate and enforce, usually reviewed every 5 years.

- Building code Act & Septic Systems
    - municipalities are responsible for issuing permits, collecting feeds, inspections, septic tank installation docus.
    - OBC sets out eligibility criteria for septic system inspectors and licensing of technicians & requirements for installation, repair, maintenance, and cleaning of septic systems.
    - Salespersons should ensure that the septic system is inspected before the property is listed.
    - Buyer's salesperson may include a condition in the agreement regarding inspection of the septic system by a licensed inspector.
- TSSA and Fuel Tanks
    - Fuel tanks (underground or above ground) pose a risk of contamination to the environment.
    - All such tanks must be registered with Technical Standards and Safety Authority (TSSA).
    - TSSA regulates the activities of contractors for installation, testing, maintenance, repair, removal, replacement, inspection and use of appliances, equipment, components and accessories where oil is used as fuel.
    - Existing underground oil tanks must be upgraded with leak and spill prevention equipment or should be removed.
    - Unused oil tanks must be removed by TSSA registered technician and contamination must be cleaned up. They may remain abandoned on the property only if approved by TSSA after applying for a TSSA variance
- Disclosures: Salespersons should inspect the property during listing process and make enquiries to determine if any underground fuel tank exists.
    - They should verify the information with TSSA since its existence is a material fact as well as a latent defect. Existence of an seller sells a property and does not disclose an unused underground oil tank, a legal action can be taken by buyers.

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Ministry of Environment, Conservation and Parks

- The provincial Ministry of Environment, Conservation and Parks handle the Environmental Protection Act (EPA) to ensure clean and unpolluted safe air, land, and water.
- The ministry is authorized to investigate matters concerning pollution, waste management, waste disposal, and litter management in order to protect and conserve the natural environment.
- It grants approvals to businesses to emit a certain amount of pollution in order to restrict the impact on air quality.
- Licenses and Approvals: The ministry reserves the authority for the following –
    - Permits for private water wells.
    - Approvals for herbicide use by cottage owners to control aquatic plants.
    - Remediation of contaminated lands.
    - Land development and associated sewage works. Haulage of septic waste from medical facilities.
- Environmental protection Act
    - Provides various types of order that can be invoked by the minister
    - Type of order
        - Remedial order
        - Preventative order
        - Waste removal order
        - Control order
        - Stop order

Ministry of Natural Resources and Forestry

- responsible for protecting and managing the province's diverse natural resources and improving quality of life. It manages
    - manages fish and wildlife resources, forests,
    - manages Crown lands, oil, gas, salt, and aggregate resources.
    - Ensures sustainable management of Crown Forests

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- It protects fish habitat, including discharge of pollutants into watercourses, on behalf of the federal government under the Fisheries Act.
- The Ministry issues permit for work on shorelands adjacent to navigable waters.

- Wetlands: The ministry protects and conserves wetland areas.
  - Wetlands are areas covered either seasonally or permanently by shallow water or where the water table is at or near the surface → swamps, bogs, fens, marshes, and open water less than 2 meters in depth.

Current and Previous Uses of Property

- investigate current and previous uses of the subject property which may potentially create detrimental conditions, and as such, may become material latent defects. Hoarding of useless or discarded items (no value) on the property, which may lead to build-up of grease, dust, dampness, mold, or even infestation with mice, termites, bats, etc.
- Illegal narcotics lab (other than cannabis or marijuana) of synthetic or other drugs.
- Mold, roof vents, fresh paint on floors, windows, tempering of electric meter, unusual or modified wiring, brownish stains, patterns of screw holes, fireplace alterations
- Use of garage as an auto repair shop, which stores and uses lubricants, solvents, and engine oil.
- Renovation of the property without appropriate permits, which may not be in compliance with Ontario Building Code or the Ontario Fire Code.
- Salespersons should advise the sellers to consult an appropriate third-party professional to identify and correct the detrimental condition of the property.

Potentially Detrimental Conditions

- Deferred Maintenance: Lack of routine maintenance results in conditions such as rotten walkways, broken wooden structures, leaky roofs, insufficient insulation, growth of mould, etc.
- Aluminum Wiring: Homes built during 1950s and 1960s may have aluminum wiring.
  - OBC permits use of aluminum wiring if appropriate aluminum or copper wire connectors are used.'
  - The 'Aluminum' or 'Alum' mark on the casing identifies such wiring. In this case, the seller may be advised to consult a licensed electrician.
- Knob & Tub Wiring: fire risk as it is not grounding, cannot carry heavy electrical load or be used in outdoor locations, and its rubber insulation breaks down.

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    - Material fact. Many insurance companies will refuse to insure a property with knob and tube wiring. Give 60-90 day period during which the new owner must replace

- Poor Insulation: Typical wall insulation is made up of batt insulation, a vapour barrier, and interior finishing with drywall or other panels.
    - Insulation is rated based on R-Value, and higher R-Value means good insulation. Signs of poor insulation results in higher energy bills, fluctuating room temperatures, and chilly drafts. Salespersons should ask the sellers if they have cold floors and walls in winter or if there is any growth of mould.
- Galvanized Piping/Plumbing: Used until 1950s, these pipes may have begun to rust or corrode from inside and outside.
    - This results in reduction of water pressure, restricted water flow, increased risk of leaks or ruptures, and potential for flooding.
    - Galvanized pipes that run from municipal service pipes to property taps have been banned on Ontario.

Detrimental conditions relating to the environment

- Mold growth of minute fungi associated with decaying vegetable or animal matter. Lack of ventilation (air-tight building) and modern building materials are also a reason for growth of mold.
    - requires moisture and water to grow and can generally be found in damp areas of a building.
- Furnace and air conditioners recirculate internal air and further complicate the problem. Should be cleaned regular Lead-Based Products bluish-grey metal found in various products, e.g. grooved bars in stained glass windows.
    - Major health risk and designated hazardous substance. Used to join pipes together
- Asbestos found in a variety of products including roofing materials, wall and pipe coverings, floor tiles, appliances, ceilings, patching compounds, textured paints, and door gaskets of stoves, furnaces and ovens. Asbestos has been declared a health hazard as it becomes a health risk when it becomes airborne.
    - Asbestos is both a patent defect (visible) and a latent defect (not visible), and as such, it is a material fact that must be disclosed.
    - Friable Asbestos is considered dangerous as it can easily crumble, pulverize or reduce to powder by hand pressure during renovations or repairs.
    - Asbestos may be found in
        - Insulating materials in homes built between 1920s and mid- 1960s.

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        - Insulated water pipes that are deteriorating, old stoves, ovens, and furnace gaskets. -Pipes wrapped in a foil-like or canvas-type material
        - Attic ceiling or wall materials that are crumbling due to water damage.

- Urea Formaldehyde Foam Insulation (UFFI) low- density foam made from plastic resins. and compressed air.
    - The formaldehyde gas can irritate eyes, nose, and throat and can increase problems for asthma and allergy sufferers.
    - UFFI was used as insulation material in buildings built between 1975 and 1979 but was later banned in 1980.Generally, it is not scientifically or medically decided whether it is actually a health hazard or not.
    - Presence of UFFI in a property is a material fact and must be disclosed by inserting an appropriate clause in the Agreement of Purchase and Sale.
- Radon invisible, odourless and tasteless gas produced by natural decay of uranium in earth's crest.
    - The gas itself is not dangerous but becomes hazardous when it breaks down into progeny that cling to dust and soil particles inside the structure.
    - These radioactive particles attach themselves to lung tissues when Radon is inhaled. - Homeowners can buy a Radon test kit, or they can hire a radon measurement professional.
    - *Remedial Action for Radon*: Covering exposed earth in a building, ventilation of the basement, sealing cracks and openings within basement areas and sealing service entrance points

Salesperson Obligations for Disclosures

- These material facts include, but not limited to, potential hazards and environmental issues. Best Interests: The best interests of the seller clients must be protected and promoted.
- Conscientious and Competent Service: Salespersons must have reasonable knowledge, skill, judgement, and competence to provide services to clients.
- Material Facts: Salespersons must take reasonable steps to determine material facts about the subject property, discuss the issues with their clients, and make requisite disclosures. This duty applies to both clients.
- Services from Others: If the salesperson is unable to provide services with reasonable knowledge, the client must be advised.to obtain expert services from other third-party professionals.

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Environmental Site Assessment

- Phase 1: visit to the property for visual evidence of possible contamination.
    - A review of documents, aerial photographs, title search, information from the ministry, and municipality are conducted.
        - It determines if reasons exist to believe that a property may have some form of contamination.
- Phase 2: collecting samples of soil and water (by on-site drilling), which are sent to a laboratory for analysis. The tests determine the extent of contamination and suggest a remediation plan.
    - The purpose of this phase is to have conclusive evidence whether a property is contaminated, and if some remedial action is required.
- Phase 3: remediation of the contaminated land, which may take from a few days to a few months.
    - The environmental clean-up report is a confirmation for contamination removal, treatment, and current status of the site.
    - Unsuccessful remediation may result in a Site-Specific Risk Assessment, which specifies the type of development that can be done on the site.

10.2 Stigmatized Properties Stigma

- Murder or suicide in the property, criminal activity, grow operations, natural or unnatural death of a person, death of an infant in the crib, haunted house, etc. Media exposure and rumors also impact the value.
- Ask Questions and Make Disclosures
    - *Questions for the Seller:* Ask the seller if anything happened on the property that would possibly be considered a stigma. *Questions for the Buyer:* Ask the buyer if an event or circumstance that occurred on the property would affect their decision to buy the property.
- Disclosure Requirements for Stigma: In Ontario, there is no legal requirement for the seller to disclose stigma.

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- However, when this issue is appropriately discussed with sellers, recommend the seller that a disclosure will protect them from possible lawsuits from the buyer after the closing.

Stigma and Potential Buyers

- Stigma is subjective, and what is important to one buyer may not be an issue for another buyer.
    - Salespersons should discuss relevant stigma issues with buyers and conduct additional research to protect a potential buyer.
- A Representation and Warranty clause can be inserted in the Agreement of Purchase and Sale
- Salesperson Disclosure Obligation Under Multiple representation
    - Need to explain that any info known about the stigma will have to be shared with the buyer as part of the brokerage's duties to the buyer
    - If the seller objects, they do not have to consent to multiple representation, and the brokerage will have to release one of the clients to seek alternative representation
- Caveat emptor (let the buyer beware)
- Real vs. Perceived Risk: There may not be any real risk or danger due to stigma, but the perceived impact may arise when a buyer is informed that the house they just purchased is haunted.
- Impact on Value: Stigma causes negative impact on value, but it is difficult to estimate the actual loos of value.

- Salespersons Leading Practices Regarding Property Conditions
    - Accurate and current property description and not falsify
    - Fairness and honesty when dealing with others
    - Consult with a third party
    - Steps taken to address issues relating to property conditions
    - Accurate advertising & other promotional materials
    - Conscientious and competent service to promote a client's best interest
- *Minimize a salesperson risk concerning disclosure*

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- Document any info provided by the seller
- Advise the seller to obtain services from third party Marketing reflects the property
- Discuss obligations for disclosure by the brokerage to buy Details brokerages policies regarding non-required disclosures Document steps you have taken representing the seller

Module 11 - Property Value and Listing Price considerations

11.1 Opinion on Property Value and List Price Value vs. Listing Price

- Two organize actions designate appraiser
    - Appraisal institute of Canada (AIC) National Society of Professional real estate appraiser
    - *Canadian Residential Appraiser* (CRA) → valuation and consulting assignment on dwellings containing not more than 4 self-contained family housing units
    - *Accredit appraiser Canadian Institute* (AACI) any valuation and consulting assignment
    - Canadian National Association of Real Estate Appraisers (CNAREA) → non-profit, independent association that certifies and regulates real property appraisers in Canada.
    - *Designated appraiser Residential* (DAR) → residential property types consisting of not more than 4 housing units and non-complex commercial properties with a residential component.
    - *Designated Appraiser Commercial* (DAC) → valuations on all real property types
    - *Certified Appraisal Reviewer* → DAC + DAR designated members who have achieved a higher level of training and certification in appraisal review. Qualified to author either field or technical appraisal review reports on all types of appraisal reports.
    - The value of the property is different than its listing price.
    - When estimating a reasonable listing price for a property, salespersons may use the Comparative Market Analysis (CMA) form.
    - The market value of a property is best estimated by professional appraisers who have the required knowledge, ability, skills, and experience in the appraisal profession.
    - TRESA prohibits registrants (Brokerages, Brokers and Salespersons) from providing value opinions to clients or SRPs when they do not have knowledge, skills, judgment, competence, education or experience related to valuation of real estate.
    - RECO Errors and Omissions Insurance does not cover a registrant for appraisal assignments.

Appraisal Reports and Benefits

- The Form Report: systematic presentation

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  - Provides appraisal reports to financial institutions, relocation companies, government agencies.
  - Preprinted info that must be checked off when relevant
  - Self-contained, summary, restricted report

- The Narrative Report
  - logical systemic and detailed approach by presenting in writing the theory, facts, analysis , application and methodology
  - Narrative Report is generally lengthy, time consuming to prepare, and may be from 50 to 100 pages.
  - It is typically used for evaluation of apartment buildings, office/commercial/industrial buildings, and agricultural land. The purpose of appraisal may be financing, transfer of ownership, capital gains tax, etc.
  - It can also be used for single family homes, duplexes, triplexes and fourplexes where the purpose would be for legal/court proceedings.
- Benefits of Appraisal
  - It allows for an independent third-party advice on property value.
  - The advice is from professionals who regularly appraise real estate.
  - The property owner is able to get an unbiased opinion on the value of their property.

Comparative Market Analysis (CMA)

- A CMA is used to establish a reasonable listing price for a property and is not meant for estimating the market value.
- Most salespersons would prepare a CMA for the seller instead of completing the Form Report.
- The seller is shown how his property ranks in comparison to similar properties that are- (i) now on sale, (ii) have sold in the past 12 months, and (iii) listed but expired in past 12 months.

Components of the CMA Form:

- Comparable for Sale Now.
- Comparable Sold in the Past 12 Months.

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- Comparable Expired in the Past 12 Months. Recommendations and Net Proceeds.
- **Recommendations for the Seller**: Adjustments to comparable properties are made in the CMA form to arrive at a reasonable listing price for the seller's property.
- Sources → local listing service, municipality, geowarehouse
- Strategies for Presenting CMA
    - Cautions on Overpricing: The seller should be informed that an overpriced property may remain in the market for more than average time period. An overpriced property may remain as a 'comparison property' that attracts many showing but there are no offers.

11.2 Factors That Impact Value Highest and Best Use

- Factors considered include permitted uses as per zoning by-laws, demand, and financial feasibility.
- The amount of money a buyer would pay is based on the use and enjoyment (residential) and future income or profit (commercial) that the buyer would derive from the property.
- If the current use is not the highest and best use the appraiser would look at an alternative use.
    - Example: Consider a residential building where the zoning by-laws permit construction of a three storey commercial complex.

Location and Neighbourhood

Value is also affected by local economy, government regulations, and nearby services or amenities.

Three Approaches to Estimate Value

- The Cost Approach
    - focused on objective value, which means the cost to create is the main criterion. Guided by the principle of substitution
    - Buyer will pay no more for a property than the cost of producing or creating it

Advantages	Disadvantages

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People understand it	Difficult to estimate depreciation
method to use in appraisal of special-purpose properties	Different construction methods yield varying costs
Relatively easy to make a cost calculation	Construction costs change

  - The Cost Approach is useful when either good comparable sales are not available, or the subject property is unique.
  - This method cannot be used for valuation of condominium units. This method is preferred by those consumers who give more importance to costing and depreciation (loss in value due to aging, wear and tear, etc.).

- Income Approach
  - valuation of commercial, investment, or income producing properties.
  - based on the fact that the value of an investment property is the Present Worth of Future Cash Flows. Appraisers review the Annual Operating Statement of the owner, which represents one year's analysis of income and expenses.
  - Used to estimate the value of income-producing property only
  - *Disadvantages* → difficulty in selecting an appropriate capitalization for direct capitalization
    - income and operating expenses can prove difficult
  - Limited use in the appraisal of owner-occupied or special purpose properties Direct Comparison Approach
    - an informed buyer will pay no more than the cost of acquiring an existing property with same Utility
    - It is widely accepted by courts, lenders, insurance companies and is understood by general public.
    - Lack of recent comparable sales may be a problem because the older the comparable sales, the less reliable they are.
    - This method may pose problems for evaluation of Special Purpose industrial/commercial properties and certain unique properties because comparable sales data may not be available. Investors do not prefer this method as they look for economic performance of the property. They will rather prefer the Income Approach or Cost Approach.
  - Steps:

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1. *Select comparable* s → Time and market conditions, value, similarity + Proximity
2. *Make Adjustments* → Time (past) , Location (different neighborhoods Increase or decrease value) Lot size + physical characteristics
3. *Establish adjusted sale price* → all adjustments are totaled , then subtracted or added to a time-adjusted sale price
4. Complete → reconciliation, reasoning process to arrive at a final estimate of value

- Reconstructed Operating Statement: The statement provided by the owner may not be reliable and hence, the appraiser may have to make certain modifications.
- This is the revised operating statement prepared by appraiser with adjustments and modifications made according to comparable properties.

11.3 The Direct Comparison Approach Qualities of Good Comparable Sales

- Physical Characteristics: These adjustments relate to differences in square footage, room sizes, number of bathrooms, etc. Adjusted Sale Price: The adjusted sale price reflects the effect of time, lot size, location, and feature adjustments.
- Calculating Time Adjustment:

  Example: A comparable property was sold 3 months ago for b$350,000. The prices in the market have decreased by 4% over the last 8 months. What is the amount of Time Adjustment and Time Adjusted Sale Price?

  Since the given percentage is not 'per month', divide it by 8.

  Time Adjustment = 350,000 x 3 x (4% ÷ 8) = — $5,250 (Minus adjustment because prices have decreased)

  Time Adjusted Sale Price = 350,000 — 5,250 = $344,750 Special Note: Time Adjustment is NIL if the comparable is sold –

  Few Days Ago; 1 Week Ago, 2 Weeks Ago, 3 Weeks Ago or 4 Weeks Ago.30 Days Ago, or This Month.

  Note: Watch out for above words in the exam. In this case, the Time Adjusted Sale Price is equal to the Sale Price.

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Feature Adjustments

- Features of each property are compared with the subject. Remember a simple rule – More is Less and Less is More. Plus (+) Adjustment: If a feature in the comparable is worse than the subject, the adjustment is Plus (+).
- Minus (–) Adjustment: If a feature in the comparable is better than the subject, the adjustment is Minus (—). Value Difference: Calculate the difference in values for bathroom and garage. DO not use their cost.
- Note: If both Cost and Value are given, use Value and ignore the Cost.
- **Reconciliation** process of selecting one value estimate out of two or more.
- The most recent sale is most reliable because the social, economic, and political changes in the local market may have resulted in significant changes to real estate values.
- Least number of adjustments would mean that a comparable is very similar to the subject property. Final Estimate
- The final estimate of value may be given as a single value or a value range .If a value range is provided, it must be useful and meaningful for the client.
- The final estimate is given as a rounded number because the estimate of value is an opinion and may not be accurate.
- The estimate of value must be Convincing and Defensible.

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Module 12 - Listing And Marketing Properties

12.1 Preparing to List Documents Required for Listing

One such important form is the Data Sheet, which provides detailed information about the property.

- Documents that may be required for gathering additional information for listing include the title/deed, survey, municipal tax bills and assessment notices, GeowareHouse® report, transferable warranties for the home and the equipment, copy of lease (if any), utility bills, repairs or testing of water well and septic systems, any capital improvements, etc.
- Taxes/Assessments: Taxes and assessments should be verified from source documents such as tax notices from the municipality. Tax notices should be final taxes for the year and not the interim taxes.
- Zoning: The zoning of the property must be confirmed from the municipality.
- Wiring: The electrical service size (60 amps, 100 amps, or 200 amps), type of distribution panel (fuses or circuit breaker), and the type of wiring (copper or aluminum) should be identified.
- Plumbing: The salesperson should be able to distinguish between various plumbing types such as copper, PVC, Kitec, etc. HVAC: The type of heating, ventilation, and air conditioning system should be clearly identified.
- Chattels and Fixtures: Chattels included in the sale and fixtures excluded from the sale must be clearly identified so that there are no confusions or problems.
- Rental Equipment: Besides the hot water tank, rental or rent-to- own equipment may include furnace, water softener, satellite dishes, security systems, etc.
- The agreement or contract may be transferable to the buyer, or the seller may be able to pay off the balance amount upon completion.

The Data Sheet Information

- Legal Description: The source documents for verification of legal description are the title/deed and the survey.
    - An up-to-date survey will not only show property boundaries but also show any easements or encroachments.

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- *Minor Easements:* Easements for municipal services (water and sewage), and utilities such as hydro, telephone, gas, etc. are considered minor.
- *Major Easements:* These include mutual/shared driveways or rights of way, which must be clearly identified.

- Lot Size: The lot size must be verified from source documents such as a survey, property tax bill, from GeowareHouse®, etc.
  - First dimension identified is Lot frontage
- Age of Principal Structure: The buyer may need to know the age of the principal structure for obtaining insurance.
  - This information may be obtained from the seller, the original builder, municipal records, or from GeowareHouse®.
- Living Area: It is usually the overall square footage of the house, based on exterior measurements. (not basement or garage)
  - This information may be obtained from builder's plans (if the house is new), from GeowareHouse®, or a professional company may be hired for the purpose.
  - Including square footage of the house is not always mandatory, and a range of square footage may be given.
  - Room Sizes: Salespersons should not rely on old listings for room sizes and take their own measurements.

Commission Fees

- start and expiry date of the agreement, the services provided, and the amount of commission payable to the co- operating brokerage.
- A La Carte/Fee Commission: This means that there are flat fees for various services, which the seller can select. This arrangement is used when the brokerage is not providing full services to the seller.
- Special Commission Agreements: A collateral agreement provides for a reduction in commission if no other brokerage is involved and the property is sold by the listing brokerage. This may also apply when the seller sells the property to a known buyer.
  - All such agreements must be in writing and disclosed to other brokerages and buyers.

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Seller's Directions for Marketing and Disclosures

- Under TRESA, salespersons must present all offers to the seller at the earliest opportunity. If a seller wishes to delay the presentation of offers (for example, until a specific date and time), this direction must be provided in writing and kept with the brokerage's trade records.
- SPIS and Disclosures
    - Information about the property that is known to the seller may be provided using the Seller Property Information Statement (SPIS) form.
    - The SPIS form is not mandatory under TRESA, but the salesperson should explain to the seller that it is a convenient way to record important written disclosures.
    - Even if the SPIS is not used, all known material facts about the property must still be disclosed as required by law.
- Verification of Ownership
    - Ownership should be confirmed through reliable documentation such as the title deed or by using online resources like GeoWarehouse®.
- Gathering Property Information
    - Certain information may be obtained by searching the property address online or through official sources:
    - The municipality and the Municipal Property Assessment Corporation (MPAC) can provide essential information on zoning, taxes, and assessments.
    - GeoWarehouse® provides details such as zoning, taxation, property photos, and previous sale prices.
- Document Retention by the Brokerage
    - Copies of all listing documents must be provided to the seller immediately upon signing.
    - Salespersons must submit original copies of all documents to the brokerage. They may keep a shadow copy for personal reference, ensuring compliance with the federal Privacy Act and PIPEDA.
    - These documents include the Listing Agreement, data sheet, seller's lockbox authorization, collateral agreements, FINTRAC identification forms, disclosures, and surveys.
    - All trade-related records must be retained for at least six (6) years and stored:

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- At the main brokerage office, or
- At another location approved by the Registrar of RECO.
- If no location has been specified by the Registrar, all documents must remain at the main office of the brokerage.

12.2 Listing a Residential Property Saleable Listing

Consequences of Overpricing the Property

- Other salespersons may not show the property, or it may become just a 'comparison property', which is only shown as evidence of salability of other properties.
- If the property does not sell for a long-time, people may think that there is something wrong with the property.
- The reputation of the listing salesperson may be negatively affected.
- Promoting the Property
    - Local Listing Service: The local listing service is a database of current and past listings for the area, and the salesperson must abide by its rules and regulations for posting the listing.
        - The 'Broker Load Practice' allows a brokerage or a salesperson to load the listing on the database including photos and other attachments.
- House Tours: House tours for salespersons from other brokerages provides them an opportunity to view the property without appointment and obtain more information from the listing salesperson.
- Advertising: The listed property may be advertised using 'For Sale' or 'Open House' signs and on social media platforms such as Facebook, Twitter, Instagram, and blogs
- Competition Act
    - The Act prohibits misleading advertising and deceptive business practices in promotion of products or services.
- The Canadian Real Estate Association (CREA) has published Principles of Competition to comply with the provisions of the Act.

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- The trademarks REALTOR®, REALTORS®, and the REALTOR® logo can only be used by members of CREA.
- Trademark misuse → Unauthorized use by a member + improper use by a member

12.3 Salesperson's Obligations Listing Obligations

- Accurate Representation
  - Under the TRESA Code of Ethics, registrants (brokerages, brokers, and salespersons) must not knowingly make inaccurate or misleading representations or statements, whether verbally, in writing, or in advertising.
    If inaccurate information is discovered, the registrant must take immediate steps to correct it.
  - Salespersons must exercise due diligence by verifying all listing information before publication.
  - Verification should include property measurements, legal description, taxes, zoning, and features using reliable source documents or databases such as GeoWarehouse® and MPAC.
  - Failure to verify or correct false information can result in disciplinary action under the TRESA Code of Ethics.
- Mere Postings / Limited-Service Agreements
  - A mere posting (also referred to as a limited-service agreement) occurs when a brokerage's only duty is to place a property on the listing service (MLS®) without providing full representation or additional services.
- Under TRESA:
  - A written service agreement is still required.
  - The scope and limitations of the services must be clearly disclosed in writing before the seller signs.
  - The brokerage must still ensure that all listing information is accurate, disclose any material facts known to them, and provide a signed copy of the agreement to the seller immediately upon execution.
  - The **seller remains responsible** for:
    - Booking and managing showings.

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        - Hosting open houses.
        - Marketing the property.
        - Negotiating and responding to offers.
    - The **brokerage's responsibilities** include:
        - Verifying all property information entered into the listing system.
        - Maintaining compliance with RECO and TRESA requirements.
        - Documenting each specific service offered and the cost of each, ensuring there is no misunderstanding about what the brokerage will or will not do.

Potential Errors and Omissions in the listing process

- Potential errors that may lead to disputes include documentation errors, misrepresentation of facts, and verbal misunderstandings.
- Representation Duties, disclosures, and related procedures
    - Failure to document the services, non-disclosure of material facts, not providing copies of agreement, and failure to verify ownership of the property.
- Misrepresentation of facts concerning listed properties
- Non-verification of facts such as lot size, square footage, information on wells or septic systems, encroachments or easements, structural defects, electrical and mechanical systems, and zoning information.
- Documentation errors
    - Failure to read and analyze source documents and incorrect transfer of information from these documents.
    - Improper document preparation regarding taxation
- Verbal Misunderstandings with sellers . Incomplete list of items the seller will include/exclude, status of rental items, explanation of services being provided, agreements to showing the property

Leading Practices for Advertising

- Photographs → photographs are considered proprietary under law Print and Marketing → unique and creative advertising is important
    - Personal information of the seller must never be included in the advertisement.

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- Permission to advertise must not go on indefinitely. You will need permission
- Salespersons must be aware of their obligations under the Canada's Anti-Spam Law (CASL), the Privacy Legislation (PIPEDA), the Competition Act, and the National Do Not Call List (DNCL).

12.4 Advertising Requirements Under TRESA Four Minimum Requirements

- Advertising under TRESA
  - Advertising → any notice, announcement, representation directed at the public that is authorized, made by or on behalf of a salesperson . Print, radio, television, business cards, letterhead, or fax cover sheets.
  - Broadcast & Electronic any advertisement in any electronic medium, including the internet, radio and television Disclaimer → disclosure that must be included in an advertisement to explain, modify, or qualify claims etc.

Advertising Obligations

- TRESA Requirements
  1. Identification of the Registrant: The name of the registrant placing the advertisement must be clearly identified. The font size should be such that it is clearly noticed and visible. (broker, brokerage, or salesperson)
  2. Identification of the Individual: The name being advertised must be exactly as registered with RECO. However, registrants are permitted to use a trade name, provided it is registered with RECO.
  3. Identification of the Brokerage: The name of the employing brokerage, as registered with RECO, must be included in every advertisement.
  4. Description of the Registrant: The permitted descriptions are 'Salesperson', 'Real Estate Salesperson', 'Sales Representative', 'Real Estate Sales Representative', 'Broker', 'Real Estate Broker', 'Broker of Record', 'Brokerage', and 'Real Estate Brokerage'.
- Ensuring Compliance
- False and Inaccurate Advertising:

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  - Comparative Claims and Awards: TRESA Code of ethics requires that a comparative claim referring to business volume, an award, or honour the basis for claim must be included *Purchased awards and honours cannot be advertised ** Promises and Offers: Claims for reducing the commission or savings must be accompanied by a disclosure of conditions or circumstances in which the commission would be reduced.
  - Disclaimers: Advertisements that need additional information to avoid ambiguity, confusion, deception,

- Advertising a Property
  - Seller's permission to advertise the listed property is typically included in the Listing Agreement.
  - After the property is sold, a 'SOLD' sign may be placed on the property but distributing 'SOLD' flyers with address of the property and/or its sale price requires seller's written consent.
  - The advertisement must not include anything that identifies any party to a transaction or the property, unless written consent of the owner is obtained.
  - Consent of the Seller: If the sold property is advertised before the closing date.
  - Consent of the Buyer: If the sold property is advertised after the closing date.
  - Consent of Both the Seller and the Buyer: If any terms or details of the agreement (e.g. percentage of list price, sold in xx number of days, etc.) are to be included in the advertisement.

- Social Media and Internet Advertising
  - every advertisement you create, must comply with TRESA.
  - Name as registered with RECO
  - Description of your role
  - Name of the brokerage
  - Words brokerage or real estate brokerage

- For a website, the name of the salesperson, the brokerage, the description, contact information, and disclaimers (if any), must be clearly shown.

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12.5 Open House - Marketing and Interactions Basics of Open House

- Benefits
    - Allows preview of the property to ensure it meets criteria booking book an appt.
    - The buyers get a comfortable atmosphere to view the property and gain knowledge and perspective.
    - The sellers get the opportunity to fully prepare the home in advance and increase exposure, which may result in multiple offers.
    - The salesperson can demonstrate that he/she is working hard for the seller and may get additional clients during the open house.
    - Salespersons must check with the local municipality regarding placement and removal of 'Open House' signs.
- Considerations
    - Some buyers may just be curious but not interested in buying the property and there is no guarantee that the house will sell during the open house.
    - Crime + damage
    - Always as open house guests for identification but potential buyers are not required to give their contact info unless they want to be contacted with real estate info
    - Code of ethics requires that the salesperson must ask the visitors if they are working with another brokerage.

- Open House for Different Properties
    - permission from the management or board of directors for the open house signs.
    - Some high-rise apartment buildings may not allow open houses, and if they allow, multiple salespersons may be required; one for showing the property and one to greet the visitors at the building entrance.
    - For high-end properties, security and privacy are some of the major concerns and the salesperson must ensure that valuable items of the owner are safely stored.

- Collaborating with Sellers

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- marketing strategy with sellers with regards to appropriate timings for the open house and the ways sellers can assist in the open house.
- Security concerns should be adequately addressed, including the responsibility of the salesperson and the sellers.
- Salespersons must not leave the house anytime during the event, which allows him/her to have discussions with potential buyers. Seller should vacate so you can discuss property openly, view more freely, not have seller interject, ensures the seller does not overhear any negative comments

Marketing Materials for Open House

- Advertising the open house in advance has several benefits which include –It allows potential buyers to schedule their visits.
- Other salespersons, who might have buyers in that neighborhood, come to know about the open house and show the property
- It results in more exposure to the property and more attendees to the open house.

12.6 Open House - Leading Practices

Compliance

- Disclosures: TRESA Code of ethics requires that a salesperson must not interfere with clients of other brokerages during the open house and, if any such buyer wants to make an offer, he/she should be directed to their own salesperson.
- Client's Best Interests: Salesperson conducting the open house must ensure that safety and privacy of the seller client is protected at all times during the open house.
- CASL: The marketing materials for the open house, which include emails and messages, must be in compliance with Personal Information of Visitors: If personal information of the visitors is collected during the open house, it should be safeguarded and used only for the intended purpose.

Open House Leading Practices

- Unregistered Assistants → can help but not do anything considered trading
    - Placing and removing open house signs and compiling feature sheets.

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- Greeting visitors and monitoring the safety and security of the property.
- asking the visitors to sign the guest register.
- Directing any property related questions to the salesperson.
- Placing and removing open house signs

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Module 13 - Showing And Advising On Properties

13.1 Meeting with Buyers Sources to Find Buyers

- Incoming Calls: Create first impression + arrange for a face to face + ask if they are represented .
- Duty Time in Brokerage: Some brokerages have a policy of allocating floor duty time at the brokerage, which in turn, can be a good source of finding buyers.
- Farming in the Neighbourhood: Farming refers to selection of a specific territory and targeting the marketing efforts in that area.
    - The salesperson must be aware of social, political, physical, and economic features of the farm territory.
    - By farming in the target neighborhood, the salesperson can get to know potential buyers.
- A Customer Relationship Management (CRM) software program can also be used for organizing the farming activities.
- Buyer's Information Package
    - The salesperson can use a readymade package from the brokerage that provides details about hidden costs involved in the buying process.
    - The package should include referral information for third-party professionals such as home inspectors, mortgage brokers, lawyers, etc.
- Optional information such as neighborhood information related to schools, hospitals, social media links, and other frequently asked questions (FAQs) can be added to the information package.
- Questions to Identify Buyer's Needs
    - Budget
    - Lifestyle
    - Timing
    - Contact method

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13.2 Obligations to Buyers Buyer Client vs SRP

- Reminder Contents of Written Agreement
    - Effective Date + Expiration Date
    - Specify commissions or remuneration→ and how it is to be made
    - Outline Services Provided
- Obligations When Showing Properties

Item	CLI	SRP
Disclosure of commission and other remuneration the brokerage may receive in the same trade	X	X
Conscientious service + demonstrate reasonable knowledge , Skill, Judgement and competence	X	X
Treat every person fairly, honestly and with integrity. Disclose buyer with any material facts known	X	X
Take reasonable steps to determine the material facts relating to a property	X	
Promote and protect the best interests of the buyer	X	
Duty of confidentiality and loyalty to the buyer	X	

    - Fairness honestly, conscientious competent service etc.
    - Providing opinions
    - Dealings with other salespersons
    - Services from others
    - Info before agreements
    - Seller proper
    - Seller Property Information Statement (SPIS) form,
    - Material facts

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13.3 Selecting Properties Buyer's Needs and Wants

- Buyer Profile: detailed interview with the buyer to understand property specifications and requirements.
    - the type of the property, price range, natural characteristics, accessibility, availability of utilities, services, amenities, etc.
- Area Information: The buyer should be provided information on property values, market conditions, services or amenities (schools, shopping, transportation, etc.) in the neighborhood.
- Target Properties: identifying properties that meet buyer's search criteria
- Viewing and Showing: view the selected properties beforehand, shortlist properties after
- Comparing Properties: The features, prices, and key trends in the area should be discussed with the buyer to compare different properties that have been viewed.
- Need for Outside Professionals: should be recommended based on buyer's specific needs and selection of a specific property.

Profile Buyer Sheet

- Must have all the preferences that a buyer has communicated
- Updated regularly
- Keep track of preferences. Include place to record potential buyer's "Deal Breakers"
    - *Basic Info* → lot size, location, bedrooms, bathrooms etc.
    - *Environment* → lakefront, view, wooded area
    - *Access and Accessibility* → Cul-de-sac, highway access, availability of public transit, schools , # of stories
    - *Utilities* → municipal or private water, natural gas, central air etc.
    - *Amenities* → services available to the area
    - *Additional section* → no standards for property profile sheets , can add house style, types of school,
- Local Listing Service: The buyer profile can be set up in the local listing service as a 'client portal' so that the system automatically pulls every property that matches the buyer's search

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criteria. “hot sheets” show all new listing, price changes conditions and properties that are sold, expired, suspended or cancelled

13.4 Showing Properties Preparations

- The appointments for the showings are generally made through the listing brokerage
- Typically allow 1 hour to show
- Buyer takes their own car
- Leading Practices
    - go to each property well-prepared with the listing data sheet (one for buyer one for me), lockbox code, business cards, After viewing the property, the lights are turned off, a business card is left on the counter, house locked
    - After the buyer has seen some properties, the salesperson should follow up with them to gauge their interest in the properties and if they would prefer to revisit one of them.
- Asking for Offer
    - Compare properties the buyer likes (benefits and features)
    - When comparing, some buyers may divert from major differences and focus on minor details such as chattels and fixtures and overall finish of the selected properties.
    - Using the well-known ‘Benjamin Franklin’ technique, a line can be drawn to compare the advantages and disadvantages of the properties, and their negative and positive features can be compared.
    - Confirm advantages of property and draw away from minor details
- Protecting the Buyer
    - Privacy and safety two most fundamental interests of the buyer, which must be protected before, during, and after the showings
    - safety is related to ensuring that the home is inspected for mould, broken stairs railing, or rotten wood planks on the deck, etc.
    - Safety can also be in regard to confidential personal information that the buyer may disclose during showings.

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- If personal information is not safeguarded, it can be used against the buyer in further negotiations with the seller.
- Remember some houses have security cameras inside

13.5 Showing When Seller has Limited/No Service Types of Listings

- Mere Postings: seller's brokerage only lists the property on the local listing service but does not provide any other services. Typically, the seller is contacted directly to show the property.
- For Sale by Owner (FSBO): The seller is working independent of any brokerage to make arrangements for showings and negotiations. The buyer's salesperson contacts the seller directly for showings and negotiating commission.
- Full Listing Service: The seller is represented by a brokerage for all activities in regard to listing, marketing, showings, and offer negotiations.
- Providing Limited Services to a Seller
- Contacting the Brokerage or Seller
- When a property is listed with limited services (such as a *mere posting*), the listing brokerage typically provides written permission allowing co-operating brokerages to contact the seller directly for specific purposes:
  - To arrange a showing of the property for a buyer.
  - To negotiate commission to be paid by the seller to the buyer's brokerage.
  - To present and negotiate offers directly with the seller.
- The buyer's salesperson must always have clear written instructions from the listing brokerage before contacting the seller directly.
  The buyer's brokerage must inform the seller that they have an interested buyer and, before showing the property, must confirm any commission arrangements if the property is sold to that buyer.
- Commission Agreement with the Seller

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- If the seller is unwilling to pay commission to the buyer's brokerage, the buyer may be required to pay their brokerage's commission as per their Buyer Representation Agreement.
- The seller is not obligated to compensate the buyer's brokerage unless that obligation forms part of a written commission agreement.
- The written agreement (using Seller's Commission Agreement – Form 202) confirms the seller's obligation to pay a specified commission if their property is sold to that buyer within a defined period.

- Informing the Buyer
  - The buyer must be informed in writing of any potential commission obligation before viewing the property.
  - If the buyer does not agree to pay commission, the brokerage may advise the buyer not to pursue that property.
  - This disclosure allows the buyer to make an informed choice — for example, they may:
  - Choose not to view the property, or
  - Agree to pay the required commission to their brokerage.

- For Sale by Owner (FSBO)
  - A private seller (not represented by any brokerage) is not regulated under TRESA.
  - The buyer's salesperson may contact the seller directly to arrange showings or discuss commission.
  - The salesperson can offer the seller to sign a Seller's Commission Agreement (Form 202) with the buyer's brokerage to confirm commission payable if the buyer purchases the property.
  - If the seller refuses to pay commission, the buyer's brokerage may collect it from the buyer, as per the Buyer Representation Agreement.
  - Working with FSBO sellers typically involves more work and additional due diligence.

- Added Due Diligence Actions

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- Salespersons must conduct or recommend additional due diligence when the seller is unrepresented:
- Search title records or registry for liens, encumbrances, and ownership.
- Contact the municipality for details on easements, encroachments, and open building permits.
- Confirm there are no outstanding work orders or safety violations.
- Verify measurements, lot size, and boundaries.
- Speak with neighbors for property background or local concerns.
- Recommend a professional home inspection and verify the condition of appliances, fixtures, and systems.
- Explain all documents and forms to ensure the seller understands their legal obligations.

- Commission Agreement with a Mere Posting Seller
  - When working with a limited-service (mere posting) seller, a special written agreement — such as the Seller's Commission Agreement with Co-operating Brokerage (Form 202) — must be completed to establish clear commission terms.
  - Key elements include:
    - Commission: Specifies the exact commission the seller agrees to pay for a valid offer to purchase or lease during the agreement period.
    - Deposit Handling: Identifies who will hold the deposit in trust — typically the seller's lawyer or the listing brokerage.
      - The deposit is first applied to reduce the commission owed by the seller.
    - Permission to Contact Seller: Confirms that the buyer's brokerage has obtained written consent from the listing brokerage to communicate directly with the seller.

13.6 Due Diligence and Third-Party Advice Third-Party Service Providers

- Buyers usually ask for advice on different aspects of the home such as mortgage, electrical, plumbing, home inspections, insurance, etc.

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- TRESA Code of ethics requires that the salesperson should advice the buyers to obtain services from third-party experts and must not discourage them from doing so.
- Names of at least three professionals in a particular field should be referred to the buyers, without insisting that the buyers work with any specific professional.
- The salesperson should not show any favoritism to any service provider or appear like getting any referral fees from them.
- Home inspectors, lawyers, and insurance companies can provide vital material facts about the property, and all these facts must be disclosed to the buyer.
- The salesperson should personally be present at the time of home inspection to protect the interests of the buyer.
- Third party
    - Lawyer: Lawyers are involved in title searches and requisitions before closing and advice the buyers if there are any second or third liens registered on the title of the property.
    - Mortgage Broker: Mortgage brokers help buyers with pre-approvals so that the buyers know how much financing they can obtain for the purchase.
    - Insurance: In some situations, such as a home with 60 amps service or knob and tube wiring, the insurance company may not be ready to provide coverage, or the premiums would be very high.
    - Inspector: A home inspector assesses the structural integrity of the home and, if there are any issues, they can be discussed with the seller during the negotiation process.

TRESA Code of Ethics

- Many sections for conduct
- Section 1:
    - Honesty
        - Being accurate, and not omitting info
    - Integrity
        - Ethical principles
    - Good faith
        - Acting reasonably, without causing harm
    - Courtesy
        - Respect
- Section 2: Unprofessional Conduct
    - Agents may not act unprofessional

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- Section 3: No counselling contraventions
    - Agents may not act against legislation or law
- Section 4: Fraud
    - Agents may not engage in fraud
- Section 5: Misrepresentation
    - Agents must ensure representation is not misleading
- Section 6: No discrimination
    - Agents must treat everyone equally
- Section 7: Intimidation, coercion, etc.
    - Agents must not engage in intimidating, coercive, or abusive conduct
- Section 8: Best interests
    - Agents must act in the best interests of the client
- Section 9: Conscientious and competent service
    - Agents must be conscientious, courteous, and responsive
- Section 10: Dealing with self-represented parties
    - Agents must not provide services to a self-represented party
- Section 11: Services from others
    - If an agent cannot provide the necessary service, they must advise the client to go with someone else
- Section 12: Confidentiality
    - Maintaining confidentiality, getting consent, etc.
- Section 13: Conflicts
    - Avoiding conflicts of interest
- Section 14: Dealing with Clients of Other Registrants
    - Respect other agents and their clients (not communicate directly with other agents' clients)
- Section 15: No obstruction
    - Agents and brokerages must not obstruct RECO's administration of law
- Section 16: Duty to ensure compliance
    - Brokerages must ensure every agent complies with the Code of Ethics regulation
- **In summary:**
    - Professional conduct expectations include:
        - Acting with integrity, honesty, good faith, and courtesy,
        - Providing conscientious, courteous, and responsive service to clients,
        - Promoting and protecting the best interests of clients,
        - Avoiding conflicts of interest, and disclosing conflicts if they arise,
        - Maintaining the confidentiality of client information,
        - Dealing appropriately with self-represented parties, and

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- Respecting other agent's client relationships

Module 14 - The Offer Process And Regulatory Obligations

14.1 The Offer Process

The Agreement of Purchase and Sale

- Most important document + must be in writing and signed by parties
- Although there is no standard or specific agreement form, any form that is used must include all the statutory obligations of the parties under the Vendors and Purchasers Act.
    - Buyer is required to search the title at their own expense and make objection within 30 days of when the agreement is made
    - Seller has 30 days to remove any objection, if the seller is not able or unwilling to remove any objection that the buyer does not agree to accept → agreement can be terminated, and the buyers deposit is returned
- All adjustments made to the purchase price (property taxes, rents, and interests) are adjusted as the date of closing with the day of closing apportioned to the buyer
- Deed is prepared by the seller and registered at the expense of the buyer
- Offer Versus Agreement
    - During negotiations, the agreement of purchase and sale from is referred to as an **offer**
    - Once the terms are agreed to the offer can be reference as one of two types
    - Accepted, conditional offer → conditional upon an event
    - *Agreement* → offer is legal binding contract
        -

Key Components of the Agreement

- Names of Buyers and Sellers: Accurately identifies the parties to the transaction with their full legal names.
- Address and Legal Description: Provides municipal address and complete legal description of the property.

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- Purchase Price: The amount that the buyer pays to the seller for purchase of seller's property.
- Deposit: Although there is no legal requirement for a deposit, it is paid as a sign of good faith and buyer's commitment.
- Irrevocable date The time given by the person making the offer(buyer or seller) to the other party to consider the offer. If the other party does not accept the offer within this time period, the offer becomes null and void.
- Completion Date: This is the date set for closing when the title of the property is legally transferred to the buyer and the seller is typically required to provide vacant possession of the property.
    - The completion date must be a business day as the Land Registry Office is closed on Saturdays, Sundays and statutory holidays.
- Title Search Date (Requisition Date): This is the date by which the buyer's lawyer must complete the title search in Land Registry Office records.
- Chattels and Fixtures: This section identifies the chattels (personal and movable items) that are included in the sale and fixtures (seller's personal items but fixed to the property) that are excluded from the sale.
- Conditions: Most conditions are included for the benefit of the buyer, with a few exceptions. Common conditions include financing, home inspection, etc.

The Offers Process: Buyer's Perspective

- Step 1 - Initiating the Offer
    - Review the listing
    - Typically, the buyer's salesperson initiates the offer process when the buyer is ready to submit an offer.
    - The salesperson must ensure that the agreement is accurate, complete, and includes all the required terms and conditions. The listing should be reviewed to ensure that it includes all the information required to draft the offer.
    - Certain legal information such as owner's name, legal description, etc. must be confirmed from original source documents.
    - Discuss specific details with the buyer → offer price, deposit, completion date, chattels, fixtures etc.

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  - The buyer's salesperson contacts the listing salesperson before drafting the offer to see if any other offer(s) is already registered on the property.
  - If any other offer is already registered, it may lead to multiple/competing offers and the buyer may change his/her decision to proceed with the offer.
  - A CMA can also assist the buyer in deciding about the right price that should be offered.

- Step 2 - Draft the Offer
  - Draft the offer based on buyer's instructions for terms and conditions.
  - Review entire offer with buyer, including pre-printed and inserted clauses
  - The buyer must understand that the agreement would be signed under seal resulting in legal obligations.
- Step 3 - Register the Offer: After the buyer signs the offer, send it to brokerage, offer is presented to seller → known as registering the offer
- If there are other offers also registered on the property, the listing salesperson is required to say
- Step 4 - Present the Offer: The seller's salesperson presents the offer to the seller and the buyer's salesperson may attend the offer presentation.
- Step 5 - Wait for Seller's Response: The buyer and buyer's salesperson now wait for seller's response, which must be received

The Offer Process: Seller's Perspective

- Step 1 - Arrange Offer Presentation Time : Once the offer is registered, arrange for the offer presentation to take place as soon as possible .
  - Follow up with any other salesperson who have shown the property and inform them that an offer has been received.
  - Generating competing offers is considered working in the seller's best interests.
  - If additional offers are received → notify all of the brokerages , with registered offers, how many
- Step 2- Prepare the seller for offer presentation : explain how many offers they will receive and how the presentation will be conducted

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    - If other salesrep present, discuss any confidential info privately & They can ask questions if they want

- Step 3- Update the seller on current market conditions: Update the previous CMA (comparative market analysis) to show any recent activity that occurred wince the most recent update. Prepare the seller's net proceeds based on CMA

- Step 4- Review& Analyze the offer do we each offer. Review additional aspects of each offer → Deposit, completion date, chattels included rental or lease to own, conditions included, time period of the conditions

- Step 5- Discuss options to address the offer: The seller has the option to accept, reject, counter the offer, or send all or some offers back for improvement if there are competing offers within the irrevocable time given in the offer.

    - Only allowed to counter one offer at a time.

    - A counter offer (sign back) from the seller is considered a new offer and the seller is free to extend the irrevocable time for the buyer.

- Step 6 – Negotiate the Offer : The buyer's salesperson is informed whether the offer is accepted, rejected, or is being countered by the seller.

    - TRESA requires the seller's brokerage to retain copies of all written offers that it receives.

The Offer Acceptance Process

1. <u>Accept the offer</u>

    a. all sellers must sign and initial the agreement, and the acceptance must be communicated to the other party within the irrevocable time period.

2. <u>Confirm Acceptance</u>

    a. Agreement of purchase and sale will provide for the time and date of acceptance to be identified. Signed by the last party who accepted the offer

3. <u>Distribute Copies</u>

    a. Copies of the accepted offer are distributed to each party to the agreement, and the salesperson retains a copy for the brokerage.

    b. The brokerage will provide these copies and obtain the parties signature acknowledging they have received their true copies

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c. When the seller accepts, a copy is provided at the time for each seller, the buyers' salesperson will obtain copies for each buyer, have them sign acknowledgement of receipt and deliver to brokerage (copy)

d. Each brokerage is authorized by its respective client to forward copies of the agreement to their lawyers.

e. Paper based or electronic

4. Sign Commission Trust Agreement:

   a. When two different brokerages are involved in the transaction, a trust agreement is created which protects the co-operating brokerage's commission should the listing brokerage become insolvent or bankrupt

   b. Salesperson can sign on behalf of brokerage

5. Retain a copy for the Brokerage

   a. Copy of Fully signed and accepted agreement of purchase and sale.

6. Forward Copy to the Lawyer

   a. Brokerage will provide copies for all documentation relating to the trade

14.2 Deposits and Other TRESA Criteria Deposit and Time Frames

- Definition of Deposit
  - The Agreement of Purchase and Sale (APS) include a section specifying the amount of the deposit, when, how, and to whom it is paid.
- There are three standard timing options for deposit delivery:
  - Herewith: The deposit is submitted with the offer.
  - Upon Acceptance: The deposit is provided within 24 hours (or another time stated) after the offer is accepted.
  - As Otherwise Specified: A custom clause may specify alternate timing or payment method in the Schedule to the APS.
- Salesperson's Obligations
  - The salesperson must follow the APS instructions exactly and ensure:

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    - The deposit is made payable to the correct deposit holder (as identified in the APS).
    - Funds are delivered on time and in full.
    - The deposit instrument (cheque, draft, EFT, etc.) is valid and can be immediately presented for payment.
    - The deposit is a sign of good faith and commitment by the buyer — it is not legally required but is customary.
    - There is no minimum or fixed amount for a deposit.
    - The deposit is typically held in trust by the listing brokerage and applied to the purchase price on closing.
- Time Requirements for Deposit
    - When a brokerage receives a deposit, it must be placed into the Real Estate Trust Account within 5 business days of receipt (excluding weekends and statutory holidays).
    - If the deposit is not received within the agreed period, the seller must be notified immediately.
    - Delays by a co-operating brokerage in delivering the cheque are closely monitored by RECO.
    - Real Estate Trust Account Requirements (TRESA)
- When a brokerage is named in the APS as the deposit holder, funds must be held in a designated Real Estate Trust Account, separate from all general accounts.
- A separate Trust Ledger must be maintained for each trade.
- The broker of record must authorize all transactions.
- Trust Account Rules under TRESA
    - The account must be clearly titled "Real Estate Trust Account."
    - Bank fees for this account must be paid from another account (not from trust funds).
    - All cheques must be signed by the broker of record.
    - A brokerage may operate only one trust account, unless authorized by the Registrar of RECO.
    - A monthly bank reconciliation must be completed within 30 days of receiving the statement.

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- Payments to salespersons or co-operating brokerages cannot be made directly from the trust account. They must be issued from a commission trust or general account.
- Deposits held in trust are protected under the RECO Insurance Program**.**

Documenting a Deposit

- **Listing Brokerage**
  - Receives the deposit as per the APS.
  - Issues a **receipt to the buyer** confirming the deposit was received.
  - **Deposits funds** into its Real Estate Trust Account within 5 business days.
- **Co-operating Brokerage**
  - Obtains the buyer's deposit and provides a **receipt** confirming compliance.
  - Delivers the deposit to the listing brokerage **as soon as possible** and obtains a **receipt** from them.
- **Interest on Deposit Funds**
  - If the deposit is placed in an interest-bearing trust account, the brokerage must:
  - Disclose this fact and the applicable interest rate to the person making the deposit.
  - Identify in the APS who will receive the interest.
  - The standard APS clause states that no interest will be paid unless otherwise agreed.
- **Types of Interest Arrangements**
  1. **Full Interest Payment:**
     a. The full interest earned on the deposit is paid to the owner of the funds (usually the buyer).
     b. The APS must specify the interest rate, payment terms, and recipient.
  2. **Interest Less than Earned:**
     a. The brokerage pays less than the actual interest earned (for example, keeps a portion as an admin fee).

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b. The APS must include a clause disclosing this and confirming consent by both parties.

3. **Interest Less than a Minimum Amount (Fee):**
    a. The brokerage keeps small amounts of interest below a set minimum.
    b. The APS must disclose this term and specify the threshold.
4. **Term Deposit Bearing Interest:**
    a. The brokerage may invest the deposit in a short-term security (e.g., GIC).
    b. The APS must specify the terms, rate, and that interest will be paid to the buyer.
    c. If withdrawn early, only the short-term rate applies.

- **Electronic Funds Transfer (EFT) Deposits**
    - The APS must clearly state that the deposit will be paid by **EFT**.
    - The brokerage must:
    - Retain a complete paper trail for all EFT transactions.
    - Obtain written confirmation from the financial institution.
    - Record EFT details in both the deposit book and trust ledger.
    - The use of EFT must also be referenced in related trade documents (e.g., Trade Record Sheet).
- **Return of Deposit**
    - A brokerage may only release a deposit from trust under one of the following conditions:
        1. Mutual Release: A written direction or release signed by both buyer and seller, specifying how funds are to be disbursed.
        2. Court Order: A court order authorizing release if the parties cannot agree.

        The broker of record (or delegated manager) must also sign the release before disbursement.

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Offer Process Obligations under TRESA

- **Obtaining Offers**
  - A registrant cannot state or imply that an offer has been obtained unless it is in writing and signed by the buyer.
  - Verbal offers or verbal interest are not valid.
- **Conveying and Presenting Offers**
  - All written offers must be presented to the client as soon as practically possible, regardless of:
    - The identity of the sender,
    - The contents of the offer, or
  - The commission payable.
  - The seller or buyer may provide written instructions to delay presentation (e.g., "no offers before 6 p.m. Friday").
    - Such instructions must be documented and communicated to all potential buyers**.**
- **Copies of Agreements**
  - Once an offer is accepted, signed copies must be provided to all parties immediately.
  - If sent electronically, the party is deemed to have received and retained a copy.
  - Copies may also be sent electronically to lawyers or mortgage brokers.
- **Dealing with Other Registrants**
  - Registrants must always act fairly, honestly, and with integrity toward other brokerages.
  - A registrant must not induce clients of another brokerage to breach or terminate an existing representation agreement.

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14.3 Multiple Representation

Definition & Scenarios

- Multiple representation occurs when a single brokerage represents more than one client in the same trade in real estate.
- The brokerage must act impartially, treating all clients fairly, honestly, and with integrity—without favoring one client over another.

Examples of Multiple Representation Situations

1. A brokerage represents both the seller and the buyer through different salespersons (same office or different branches).
2. A brokerage represents two or more competing buyers making offers on the same property through different salespersons.
3. A brokerage represents both the seller and the buyer through the same salesperson.
4. A brokerage represents two competing buyers for the same property through the same salesperson, while the seller is represented by a different brokerage.

Disclosure and Consent Requirements

- The brokerage must provide written disclosure of multiple representation at the earliest practical opportunity and before any offer is made or presented.
- Written informed consent from all affected clients is required before proceeding.
    - If any party refuses consent, the brokerage must release one or more clients to seek other representation.
    - Disclosure and consent are typically included in the Listing Agreement or Buyer Representation Agreement.

Limitations on Services in Multiple Representation

- The brokerage cannot disclose or advise on:
    - The price a seller may or will accept.
    - The price or terms a buyer may offer or counteroffer.
    - Details or terms of competing offers (price, conditions, closing dates).
    - Personal or motivational information about either party.
- The brokerage may disclose:
    - Material facts about the property.

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- Market data and comparable sales.
- General information about potential uses of the property.

Required Steps Under TRESA

Step 1 – Before Representation Agreement

- Explain service alternatives and the possibility of multiple representation.
- Obtain written confirmation from clients that they received and understood this information.
- Retain a signed copy for brokerage records.

Step 2 – At the Time of Representation Agreement

- Confirm in writing:
  - The services that will be provided.
  - How those services will change if multiple representation occurs.
  - The brokerage's obligation to obtain written informed consent from all parties before proceeding.

Step 3 – Before an Offer Is Made or Presented

- If multiple representation arises during a transaction, provide new written disclosure and obtain new written consent before presenting or accepting any offers.
- The brokerage must ensure both parties fully understand the implications before signing.

Confirmation of Co-operation and Representation Form

- This RECO/CREA form confirms the relationship between the parties and the brokerages involved.
- In a multiple representation situation, both the seller and the buyer must initial the disclosure box acknowledging the arrangement.
- The form also specifies the commission split between the listing and co-operating brokerages.

Leading Practices

- Always obtain written informed consent before proceeding.
- Maintain clear, neutral communication between parties.
- Reiterate to clients how services are limited under multiple representation.

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- Document every disclosure and retain copies in brokerage records.
- When potential multiple representation is identified early, disclose and confirm it in writing immediately.

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Module 15 - The Residential Agreement Of Purchase And Sale

- Date of Offer → date the document was initially signed (The date of offer is the date when the offer is first drafted)??
    - If after modifications the date of offer does not change
- Names of the Buyer and the Seller → full legal names as shown on their identification documents or on title/deed.
- Names on Title: The names that would be registered on the title may be different from the names shown on the agreement. It is up to the buyers to decide whose names would be registered on the title.
- Identification: Each buyer must be identified on a separate form to comply with the FINTRAC requirements.
    - Verify ownership → deed, land registry office, Municipal Property Assessment Corporation
- Matrimonial Home for Buyers: A property may be purchased by a single buyer, and it can still become a matrimonial home.
- Seller's Matrimonial Home: If both spouses are on the title, they are both shown as owners.
- However, if only one spouse is on the title, the non-owner spouse signs the Spousal Consent section on the signature page.
- Corporations: Full legal name of the corporation, as given in the Article of Incorporation, is inserted.
    - The individuals identified as officers of the corporation must sign and use Seal or write "I/We have the authority to bind the corporation".
- Partners: All partners must be fully identified in the agreement, and all must insert their signatures.
- Estate Trustees: All Estate Trustees must sign the agreement and copies of documents showing their authority must be seen by the listing brokerage.
    - The Certificate of Appointment of Estate Trustee should be seen.
    - The name of the seller reads like 'The Estate of Jim Cram' and the trustee signs using the words 'Estate Trustee'.
- Power of Attorney (POA): When the sellers have given this authority to someone to sell the property on their behalf.

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- This document is registered in Land Registry Office, and the listing brokerage must obtain a copy of this document.

Real Property

- Address: Full municipal address including name of the town and the region. Rural Property include lot number, concession number and township.
    - Include side of the road on which the property is front
- Lot Size: Specify the frontage and dept, verify the dimensions of the property by using a source document such as a survey, property tax bill or notice of assessment.
    - If appropriate attach survey
    - "more or less" allows for minor discrepancies
- Frontage: If you are standing in front of the house, the direction you are facing
- Legal Description: Complete legal description, as given in the title/deed or the survey, Reference to any easement, mutual driveway, etc. must also be given.
    - If not available a secondary document such as property tax statement or property assessment notice can be used

Purchase Price, Deposit, and Balance

- Purchase Price: Also called the Offer Price. The amount is written in words and figures. For acreage/frontage, the amount is given as Per Front Foot, Per Front Metre or Per Acre.
- Deposit: There is no minimum amount set for deposit. The Deposit Holder is typically the listing brokerage. Deposit is to be held in Trust Account until completion or other termination of the agreement.
- Payment of Deposit:
    - Herewith: The deposit is given with the offer.
    - Upon Acceptance: The buyer agrees to give the deposit within 24 hours of signing the Confirmation of Acceptance. As Otherwise Described in this Agreement: If some other arrangement is to be made, a clause may be inserted in the Schedule A. Additional deposits are given in Supplementary Deposit clause in Schedule A.
    - The clause wording clarifies that if nothing else is specified in the agreement, the deposit holder does not earn any interest on deposit, and no interest would be paid.

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- Deposit Clauses – added to the schedule
  - Specific number of days
  - Deposit by electronic funds
- Balance: The buyer agrees to pay the balance of purchase price upon completion, as provided in the 'Balance Due on Completion' clause in the Schedule.

Common FAQ on Deposit Funds

- *How Can the Buyer Pay the Deposit*? By cheque, bank draft, money order or Electronic Funds Transfer (EFT).
- *Who Holds the Deposit?* Typically, the deposit is held by the listing brokerage in its Real Estate Trust Account.
- *When are the Funds Deposited?* TRESA requires that the brokerage holding the funds must deposit it in the trust account within 5 business days of receipt.
- *Does the Deposit Earn Interest?* The agreement has a pre- printed wording that no interest is earned but if the brokerage has an interest-bearing trust account, it must disclose the interest, and it should be paid to the buyer.
- *What if the Agreement Fails?* The deposit is returned to the buyer when both parties sign the Mutual Release form. If not, a court may order return of deposit funds.
- *Who Gives Receipt for the Deposit?* The co-operating brokerage issues a receipt to the buyer, and the listing brokerage gives a receipt to the co-operating brokerage. The deposit is documented in the trust ledger of the deposit holder.

15.2 Pre-Printed Clauses

Irrevocability

- The time period given by the offeror (buyer or seller) to the offeree (other party) to consider the offer.
- No min required, but should be reasonable
- If offer not accepted → null and void
- Must address three items
  - Party making the offer
    - Who offer is being made by rather than who the offer is being made too

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    - Time limit
    - Consequences of failure to achieve an accepted offer
        - If the offer is not accepted, the offer automatically expires and is considered rejected by the other party

- The other party may extend this date and time when making the counteroffer during negotiations.

Completion Date

- This is the date when the title of the property is legally transferred to the buyer (AKA closing date)
- Although the transaction can be completed electronically, this date must not be Saturday/Sunday or a statutory holiday.
- If nothing else is agreed, the buyer will be provided Vacant Possession of the property on completion.
- If the property is rented and the buyer agrees to assume the tenants, appropriate clauses must be inserted in the Schedule.
- If the buyer does not want to assume the tenants, the situation should be addressed according to the Residential Tenancies Act.
- Lease → cannot terminate before lease end date

Notices

- The parties authorize their brokerage to send and receive notices on their behalf.
- Fax numbers and/or email addresses of the listing brokerage and the co-operating brokerage are provided for delivery of documents.
- Notices are deemed delivered when sent electronically by fax or email.
- This section is left blank – (i) if there is Multiple representation, and (ii) when so instructed by parties.

Chattels, Fixtures, and Rental Items

- Chattels Included: Personal that is movable. List of chattels that are to be included with sale. The seller has the right to remove all chattels if not specifically included in the agreement. Chattels are excluded from purchase price unless they are specifically noted in agreement

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- Fixtures Excluded: Permanently attached to. Property List of items fixed to the property that the seller does not want to give.
    - Salespersons must be careful about 'built-in' items such as the dishwasher.
- The seller cannot remove any fixture if not specifically excluded in the agreement.
- Rental Items: Items that are not owned by seller and cannot be included in the agreement. The wording of the clause specifies that the buyer agrees to assume the lease of such rental items.

HST

- CRA collects HST on new home purchases
- Most residential resales are exempted from HST. If half was used for commercial on that % HST applies
- 'Included In': Means that the seller is responsible, in case HST applies.
- 'In Addition To': Means that the buyer is responsible, if HST applies.

Title Search

- Completed by buyer's lawyer → encumbrances, mortgages, liens etc.
- *Requisition Date:* Date for complete of title search by lawyer. This date should be after the date in conditional clauses (not Saturday, Sunday, or holidays)
- Could uncover
    - *Root of Title objections* → fundamental issues related to the title, e.g. seller cannot transfer title because a previous severance was not legal under the Planning Act
    - *Matters of Title objections* → issues that the seller cannot remove, e.g. an easement registered on the title.
        - Must report these prior to requisition date
- Nontitle searches (sub-search)
    - Date for matters such as outstanding work orders, deficiency notices, fire insurance
    - Two options for determining this second date, earliest of which applies
        - 30 days from the requisition date or the date when the conditions are fulfilled or waived.
        - 5 days before closing

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- Present Use: The permitted use of the property such as 'Single Family Residential' is inserted here. Zoning of the property must not be inserted in this space.
    - If this space is left blank, then it implies that the seller represents that the present use of the property may be lawfully continued, and it may be insured against risk of fire.
- Future Use The buyer and the seller agree that there is no warranty that the future intended use of the property by the buyer would be lawful.
    - If the buyer wants to use the property in a way other than the present lawful use, an appropriate clause should be inserted in the Schedule.
- Title The buyer is assured that the title is good and free from all restrictions, charges, liens and encumbrances other than those specified in the agreement.
- No Objection: Registered Restrictive Covenants (Deed Restrictions) that run with land and complied with, registered easements for public utilities, and any minor easements that do not materially affect the use of property are not an objection to the title.
- Valid Objection: If the property cannot be insured against risk of fire, there is any deficiency notice or work order against the property, or the present use may not be lawfully continued, the buyer may have a valid objection to the title.
    - The buyer's solicitor must send the objections to the seller's lawyer before the Requisition Date.
    - If the seller is unwilling or unable to remove any valid objections and the buyer is unwilling to waive the objections, the buyer may terminate the agreement.
- Documentation Review Related to Title
    - Source documents, property disclosure form, buyer plans/uses

15.3 Pre-Printed Clauses - II Closing Arrangements Closing Arrangements

- The seller's lawyer prepares the Transfer/Deed of Land for electronic registration.
- The buyer's lawyer completes the electronic registration of the title and/or other documents such as the Charge/Mortgage of Land.
- Certain documents that are prepared by the lawyers but are not registered include undertakings, directions, declarations, etc. key closing funds, garage opener

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- Documents and Discharge
    - The seller is only required to produce documents (title/deed, survey, etc.) that are under his possession or control.
    - Obligations for mortgage discharge, title and property survey → lawyer might withhold funds to discharge mortgage
    - Insurance
        - Seller responsible for insurance up until completion date. If substantial damage should occur to the property prior to the closing two options available to buyer
        - Terminate the agreement
        - Complete the transaction and collect any insurance proceeds provided by the seller's insurance policy Planning Act
        - Agreement must comply with the *Planning Act,* for the transaction to be completed.
        - In case of land, which is subject to severance, the seller can accept an offer, but the agreement will be completed only after receiving Consent for Severance before completion.
            - Property has to comply for it to be transferred.
            - If it does not comply with the planning act
    - Invalid if not complete
        - Required prior to completion (seller must comply with provisions)
        - Seller involvement (obtain necessary consent – must proceed diligently)
            - Can take 3-6 months
            - Seller is responsible for any costs to ensure the agreement complies to the planning act
- Document Preparation
    - This clause identifies the party which is responsible to pay the cost of document preparation.
    - The seller pays for the transfer/deed of the title.
    - The buyer pays for the cost of mortgage documents and the applicable Land Transfer Tax.
    - Helps ensure compliance with the planning act
- Residency

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- Non-resident sellers must pay Capital Gains Tax within 10 days of completion of sale.
- If the seller fails to pay, the buyer becomes responsible.
- The agreement provides the following options to the seller–
    - Seller will Provide a Statutory Declaration to the buyer that they are not, and will not on completion be a non-resident of Canada → received no liability under *Income Tax Act*
    - If seller is a non-resident, the seller can provide a certificate from the Minister of Revenue showing that the seller has filed the necessary documents and paid the taxes.
    - If seller is non-resident and certificate has not bee provided, the buyer may claim a credit towards purchase price with the amount needed to pay minister of national revenue

- Adjustments
    - This clause specifies that certain costs will be apportioned at the time of closing.
    - Typical adjustments include property tax, unmetered utilities, heating fuel, rents for rental property, etc.
    - Adjustments are based on the number of days the seller and the buyer have owned the property.
    - The buyer is responsible for the costs from the actual day of closing.
- Property Assessment
    - By Municipal Property Assessment Corporation (MPAC)
    - Buyers and sellers cannot make any claim against each other or the brokerages for assessment matters.
    - Property assessments are done by municipalities on an annual basis.
- Time Limits
    - This clause specifies that time limits given in the agreement must be strictly adhered to.
    - If there are any changes, these must be agreed to by both parties in writing.
- Tender
    - Parties tender their obligations under the contract (documents and funds) at the time of completion.

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- If one party breaches the contract, the other party can still tender documents or funds on the day of completion, but not before completion
- Transfer deed → seller and funds by buyer
- Confirms readiness and wiliness to complete transaction → refusal → seek remedies under breach of contracts
  - Recession → contract void
  - Damages
  - Specific performance → contract completed

- Family Law Act
  - The seller warrants that Spousal Consent is not required under the provisions
  - matrimonial home →the non-owner spouse must give written consent by signing the Spousal Consent section.
- UFFI
  - UFFI (Urea Formaldehyde Foam Insulation) was used in properties built during 1970's.
  - This clause is a disclosure and warranty from the seller that the seller has not installed UFFI in the building, and UFFI was never used as insulation in the building (to the best of their knowledge)
  - If the property is a unit in a multi-residential building, the provision applies only to the unit and not the entire building.
  - Since this representation and warranty survives the closing, the buyer can make a claim against the seller if they find that the property contains UFFI.
- Legal, Accounting and Environmental Advice
  - The parties agree that the information provided by the brokerages is not to be considered as any expert advice on legal, accounting, and environmental matters.
- Consumer Reports
  - This disclosure is required under the Consumer Reporting Act → report containing credit/personal info
  - The buyer is informed that a consumer report may be obtained in connection with this agreement, if it is appropriate.
- Agreement in Writing

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- Any information inserted into the agreement takes precedence over the pre-set text should there be a conflict
- Parties agree that nothing has been 'said or done', other than specifically given in the agreement.
- All representations, warranties, collateral agreements, or conditions affecting the agreement must be included in the agreement

- Time and Date
  - dates and the timings given in the agreement refer to the place where the property is located.
- Successors and Assigns
  - In the event that a seller or a buyer dies before completion, the agreement states that their heirs, executors, administrators, successors, and assigns are bound by the terms of the agreement. The salesperson should advise their clients to seek legal advice in this matter.

15.4 Signatures

- Buyer and Seller Signatures
  - All parties to the agreement must sign and insert date.
  - For a property in Joint Tenancy, both owner spouses should sign as Sellers.
  - The parties must understand that they are signing underseal.
  - If the buyer/seller is a corporation → the officer must sign and use Seal or write "I/We have the authority to bind the corporation".
  - In partnership → all partners should sign the agreement.
  - Power of attorney → written underneath the signature
  - Reasonable efforts to ensure that a person signing an agreement
  - *Buyer Signatures & seller* → usual signature in lieu of the full egal name identified earlier in the agreement Initials

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- Initials of the buyers and sellers are required at the bottom of every page where signatures are not present. This ensures that the parties have read and understand the contents of the page.
- Initials indicate that the parties agree to the contents of the page being initialed.

- Witness
  - Any competent person can sign as witness. If a dispute arises, the witness may be called to testify.
  - Typically, the salespersons for each party insert their signatures as witness.
  - The witness must be - (i) physically present, (ii) must have attained the age of maturity, and (iii) must be a third party (must not be a party to the contract).
  - In case of multiple representation, the same salesperson or salespersons from same brokerage sign as witness.
  - Signing under seal
  - Essential element of a valid contract is consideration
  - Mark put on the document to indicate the party's intention to be bound even though the other party has not given consideration

- Spousal Consent
  - Applies only to seller
  - Spousal Consent is required if the property is a matrimonial home and one of the spouses is not on title. The signatures of the non-owner spouse must also be witnessed.
  - Not on title – not needed

- Confirmation of Acceptance
  - The last party to accept all changes signs and dates this section.
  - This section must be completed before the Irrevocable date and time given on page 1.
  - If the seller accepts the original offer without any changes, then this section is signed by one of the sellers.
  - If this is a counteroffer, where the seller has made changes and buyer accepts the changes, then this section is signed by one of the buyers.

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- Information on Brokerages
    - This section provides information on the listing brokerage and the co-operating brokerage. In case of multiple representation, the space for the co-operating brokerage is left blank.
    - Brokerage name, phone number + representative from brokerage
- Acknowledgement
    - Each party acknowledges that they have read, understood, and received a Signed copy of Accepted agreement.
    - This section is completed after the Confirmation of Acceptance has been signed.
    - also authorizes the brokerages to forward copies of the accepted agreement to the lawyers of their respective clients.
    - The lawyers' information may be completed right away or may be completed later.
- Commission Trust Agreement
    - When two different brokerages are involved in the transaction, the salespersons of each brokerage sign on behalf of their brokerages.
    - The Commission Trust Account protects the commission of the co-operating brokerage in case of misuse of funds or bankruptcy of the listing brokerage.
    - Typically listing brokerage receives the gross commission paid for the trade
    - This section is left blank when there is multiple representation situation because there is no co-operating brokerage involved.

- Electronic Signatures
    - The parties agree to electronic signatures under the Electronic Commerce Act.
    - The consent is recommended to be in writing but, in certain cases, it can be an implied consent.
    - Requires Authenticated, ability to confirm the signature is from the person it is supposed to be
    - Protected from unauthorized use, permanent and tamper proof Schedules

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- Used to insert additional terms, conditions, warranties, etc. that are agreed to
- The names of the buyers, the sellers, and the property address must be inserted as reference.\
- The date on this page is same as on page 1 of the agreement.

- Buyer agrees to pay the balance as Follows
  - Clause would contain the following 6 things as well as method of payment
    - By whom
    - Amount
    - Adjustments
    - To Whom
    - When it will be paid
    - How it will be paid
  - Purchase Price minus
    - S → seller take back mortgage
    - A → assumed mortgage
    - D → deposits
  - Buyer agrees to Pay the balance examples

Example 1: buyer is offer $500,000 for a property. Buyer has 200,000 to use as a downpayment out of which, he will submit a 50,000 deposit. Buyer will be arranging a new first mortgage for the required funds of 300,000. Seller will not take back mortgage.

Purchase Price $500,000 Less Seller take Back 0

Less assumed mortgage 0

Less deposits - $50,000

Balance Due =$450,000

Example 2: A buyer is offering $500,000 for a property. They have 200,000 to use as a down payment out of which, he will submit a $50,000 deposit upon acceptance. Buyer will assume the sellers first mortgage with current balance of 300,000.

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Purchase Price $500,000 Less seller take back - 0

Less assumed mortgage -$300,000

Less deposits -50,000 Balance Due $150,000

- Payment of Balance Clause Examples
  - Seller takes back → seller is providing financing for the buyer's purchase
  - Or the buyer is assuming the sellers existing mortgage

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Module 16 - Completing The Agreement Of Purchase And Sale

- The Offer Plan (used to show you are organized prior to drafting offer)
    - Offer Mathematics: The SAD formula for the balance due on completion is used to calculate the balance amount to be paid by the buyer on closing date.
    - Required Dates: offer date, irrevocable date, requisition date, and the completion date. These dates must be in chronological order.
    - Information Required on Schedule: The salesperson needs to identify the clauses that would be inserted in the Schedule A, which is a part of every offer.
    - Additional Information: This includes information on chattels included in the agreement, fixtures excluded from the agreement, rental items that would be assumed by the buyer, HST ('Included In' or 'In Addition To'), and easements (if any).
- Signatures and Initials
    - Once the offer has been drafted and reviewed, the buyers will sign and date the offer on the signature page.
    - initials at the bottom of every other page and the Schedule to acknowledge that they understand the terms of the offer.
    - The signatures are typically witnessed by the salespersons.
    - If the offer is accepted, the sellers sign the offer and insert their initials on every page except the signature page.
    - The last party to accept the terms of the offer signs the Confirmation of Acceptance section, which also includes the date and time of acceptance.
    - After this, the Acknowledgement section is completed, and the salespersons sign the Commission Trust Agreement on behalf of their brokerages.

16.1 Inserting Clauses for Terms of the Offer Deposit and Supplementary Deposit

- The initial deposit paid by the buyer is inserted on the first page of the offer and other supplementary or additional deposit clauses are inserted in the Schedule.
- The deposit is typically held in a trust account by the seller's brokerage as per the Agreement of Purchase and Sale.

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- If the trust account is an interest-bearing account, an appropriate clause would be inserted in the Schedule, giving details on how it is calculated and who will receive it.
- When the deposit amount is large, the buyer may request that the amount be placed in a Guaranteed Investment Certificate (GIC).
- Supplemental or additional deposits
    - Additional deposits are paid by the buyer before the completion date when the amount of total deposit is large, which also increases the chances of acceptance of the offer by the seller.
    - *Essential Elements of the Clause: The clause includes the information as follows:*
    - The buyer agrees to pay a further sum of ____. This amount is to be credited towards the purchase price.
    - *Supplemental Deposit by a Specified Date: The clause format is as follows:*
- The buyer agrees to pay a further sum of cheque not later than p.m. on the day of, 20 as a supplementary deposit to be held in trust in the same manner as the initial deposit pending completion or other termination of this agreement. This amount is to be credited towards the purchase price upon completion of this transaction.
- *Additional Deposit Upon Fulfillment/Waiver of a Condition:*
    - The buyer agrees to pay a further sum of to by-to-by negotiable cheque, at the time of fulfilment or removal of the condition pertaining to, as an additional deposit to be held in trust pending completion or other termination of this agreement. This amount is to be credited towards the purchase price upon completion of this transaction.

Acknowledgement Clauses

- No Warranty on Chattels → This clause is used when the seller does not provide any warranties on appliances.
    - The buyer acknowledges that there are no express or implied warranties on chattels included in this Agreement
    - Water Access → to ensure the buyer acknowledges no road access at a clause
- Discharge of Existing Mortgage → Seller to pay prepayment charges or fees for discharging mortgage
- Growth of Illegal substance – Acknowledgement → buyer aware that the subject property was being used for growth or manufacture of illegal substances.

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- Buyer Acknowledges – Kitec Plumbing → buyer is making an offer on a property with Kitec
- Underground tank Seller has removed → buyer wants assurances that tank was removed and contaminated soil cleaned Ontario Heritage Act *designation* → buyer aware that the property is designated as a Heritage Property.
- Acknowledgements or Agreements
    - This clause serves as an acceptance of an existing condition by both parties to an agreement, an affirmation of a fact that could affect one or more parties to the agreement.
    - An acknowledgement is simply a written statement by one or more parties that something exists or does not exist.
    - This helps avoid assumptions and clarify items that could lead to misunderstanding.

Representation or Warranties

- The representation and warranty clause is intended to protect either the buyer or the seller regarding an existing fact or event that could be basis for rescinding (terminating) the agreement if found to be false.
- Since all matters in an agreement are merged or extinguished on closing, this clause assures that the seller is responsible for the condition of the property until the date of closing.
- The typical clause wording includes a statement that the representation and warranty will survive and not merge (extinguish) on closing but apply only to the state of the property on the day of closing.
- Chattels and Fixtures: This clause is added to ensure that on closing the chattels and fixtures are in good working order.
    - The seller is responsible until the closing date and if there is a problem after closing, the buyer is responsible.
    - The seller represents and warrants that the chattels and fixtures included in this Agreement of Purchase and Sale will be in good working order and free from all liens and encumbrances on completion. The parties agree that these representations and warranties shall survive and not merge on completion of this transaction but apply only to the state of the property at completion of this transaction.

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- Swimming Pool: In case there is an inground swimming pool in the property, this clause provides an assurance to the buyer that it meets provincial and municipal requirements:
    - The seller represents and warrants to the best of seller's knowledge and belief that the swimming pool, its equipment, and the fencing of the said pool, comply with all applicable bylaws, regulations, and legislation. The parties agree that these representations and warranties shall survive and not merge on completion of this transaction but apply only to the state of the property at completion of this transaction.
- General Representations by the Seller: The buyer may notice water stains on the walls and wants assurance that the home has no water leakage or flooding problem.
    - The seller represents and warrants that on completion there is no known water damage to the basement, roof, or elsewhere caused by water seepage or flooding. The parties agree that these representations and warranties shall survive and not merge on completion of this transaction but apply only to the state of the property at completion of this transaction.
- Specific Time Period: The buyer may want the seller to warrant the condition of the furnace, but the seller may only agree to for as long as the manufacturer's warranty.

Directions or Consents

This clause gives authority or instruction for a party to take some action or do something to proceed with the agreement.

Examples:

The buyer may authorize the seller to deliver notices to the tenants regarding the new owner (buyer).

The seller agrees to provide reasonable access during daytime hours to the property for the purpose of a home inspection at the direction of the buyer between(date) ----- to ----- (date) , 20xx.

Covenants

- A covenant is a promise by one party to the other party and can be either permissive or restrictive.
- This clause is used when there is an enforceable restriction or obligation with the subject property that binds all subsequent buyers.
- *Permissive Covenant*: It may be in terms of a promise by the property owner to do something, such as pay money to use the land.

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- For example, a buyer may agree to honour the existing rights granted to the neighbouring properties.
- *Restrictive Covenant:* It may be in terms of a promise by the property owner that restricts the use of land for a specific purpose.
- For example, a buyer may acknowledge that the municipality has a bylaw that restricts renting or leasing the property.
- *The clause:* The clause is written in the following format: The buyer/seller agrees that/to.(Rights/Covenants/Promise)

Conditions

- A conditional clause requires the occurrence of some event or performance of some act to be fulfilled.
- Common examples of conditional clauses include arranging mortgage financing, home inspection, sale of buyer's property, arranging insurance, etc.
- Condition Precedents are most commonly used and can be waived.

Condition Subsequent, which are mostly used in commercial transactions, are self- fulfilling.

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Module 17

17.1 Conditional Clauses

- No conditions = binding once accepted, and confirmation signed
- Conditions set out stipulations that can result in a binding contract either upon occurrence or non-occurrence of a specific event
- Minimizes risk of liability, and protects the interest of client
- Conditional Clauses
    - Two methods of drafting conditions
        - *Condition Precedent* → calling for an event to happen, or act to be performed, before agreement is binding (most often used)
        - Condition subsequent →Future even that, upon its occurrence, causes the contract to be no longer binding to the parties
    - Notice must be provided to the party within the time period identified in the condition for proposed transaction to proceed
    - Binding agreement is formed when the notice is provided indicating the condition is either fulfilled or waived
    - If the notice is not provided indicating the condition is either fulfilled or waived the offer becomes null and void
- Elements of Condition Precedent → 6 steps
    1. *Who is to do it?* Identifies the party which is required to complete the task.
    2. *Who is to pay for it?* Identifies the party which is responsible for the cost of the task.
    3. *What is to be done?* Identifies the nature of the due diligence to be completed.
    4. *Within what time limit?* Gives the time limits within which the task is to be completed. The buyer must either send a Notice of Fulfillment of Conditions or a Waiver within given date and time. This makes the agreement a legally binding contract.
    5. *What happens if it is not done?* Most conditions state that the agreement will become null and void if a notice regarding fulfilment of the condition is

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not received within the specified time. If the party does not want to proceed with the agreement, no notice is required.

6. *Can it be waived?* The waiver provision allows the party to waive the condition instead of fulfilling it. This waiver must be received within the time period specified.

- Waiver Provision*:*
    - The Waiver provision in the clause allows the party for whose protection the condition was included to remove that condition entirely rather than fulfilling the condition.
    - Binding agreement regardless of whether the specific terms have been fulfilled
    - Party with the option to release their rights associated with the condition and proceed with the proposed transaction.
    - Reads " this condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein
- Conditions Drafted as a condition precedent
    - Common conditions
    - Financing, having the property inspected, confirming insurance can be obtained, sale of buyer's property
    - Different property types require different conditions
        - Condo → review status certificate
        - Multi-unit residential → an inspection to confirm fire and building code compliances
        - Rural → testing the well or septic
        - Waterfront → confirming the legal status of improvements
        - Investment property → lease and financial info
        - Vacant land → obtaining a building permit or confirming services
- True Condition Precedent
    - Condition must be fulfilled exactly as its detailed in the offer for the proposed transaction to proceed

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- Must be met , not waived
- No waiver provision is possible
- Used when the nature of the condition requires the approval or consent of a third party
    - Mortgage Assumption, which is conditional upon approval of the buyer by seller's lender.
    - Sale of a parcel of land, which is conditional upon Consent to Sever by the municipality.
    - A condition that the seller needs to be released from a previous offer.
- The agreement becomes legally binding when the Notice of Fulfillment of Conditions is sent by the party who needs to fulfil the condition.
- Drafting a true condition precedent and providing notice
    - Same format as condition precedent with the exception of the waiver provision

- Condition Subsequent
    - Provides that if the party does not wish to proceed with the proposed transaction, they must take action to terminate the agreement within the time limits
    - The wording starts with – 'The buyer may terminate this agreement □'
    - Termination of the agreement can only be based on defined circumstances in the condition.
    - No Waiver is necessary as a binding contract already exists.
    - The buyer must send the Notice of Termination if he wants to terminate the agreement within the given time limits.
    - If no notice is provided, the conditions within the agreement are deemed to be waived and either party can demand the agreement to be completed
    - Unless the buyer terminates the agreement within the time limit, the conditions are deemed to have been waived, and the agreement remains firm and becomes fully binding.

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- Only time a party needs to give notice is if they are terminating the agreement
- Condition requires the consent of a 3rd party to be fulfilled
- **primary risk *** "deemed waiver" this means that a buyer who forgets to deliver a notice may unintentionally automatically buy a property

	Condition Precedent	Condition Subsequent
Terminology used	Uses the term ***offer***	Uses the term agreement
Action Required	Notice is required to **create** a binding agreement	Notice is required to **terminate** a binding agreement
Waiver Provision	Waiver provision **must be added** to the clause	Waiver provision is **deemed included** in the clause

Common Conditions in a Residential Offer

- Arranging mortgage financing – new, seller take back, or mortgage assumption.
- Having the home inspection done by a professional home inspector.
- Confirmation that insurance can be obtained for rural property or a property with outdated systems.
- Sale of buyer's property.
- Review of condominium status certificate by buyer's lawyer.
- Fire and building code compliance for a multi-unit building.
- Testing of well and septic tank in rural properties. Confirming legal status of dock or boathouse for a waterfront property
- Obtaining building permit or availability of services for vacant land.

17.2 Financing Conditions Arranging a New Mortgage

- As a salesperson you could include min terms that a buyer would be willing to accept to ensure that all fundamental mortgage particulars are identified including
- Required min principal amount
    - Max interest rate

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    - Min term

- Clause will also include a waiver provision which would allow the buyer the option to remove the condition whether the buyer receives the planned financing or not
- Time period for the condition to be fulfilled should be based on market conditions (typically 5-10 days)

- Arranging a new mortgage satisfactory to the buyer
    - Could include a clause stating that the offer is conditional upon arranging financing satisfactory to buyer
    - Written as condition precedent → include waiver and notice of fulfillment
    - If purchase price increased → no need to change working of the clause
    - Well written condition precedent mortgage clause would include
        - Waiver provision
        - Estimated mortgage payment
        - Required min
        - Max interest rate
        - Min term
    - Clause Format:

This offer is conditional upon the Buyer arranging, at the Buyer's own expense, a new Charge/Mortgage satisfactory to the Buyer in the Buyer's sole and absolute discretion. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than p.m. on the day of, 20, that this condition is fulfilled, this offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.

- Arranging a New Mortgage (condition subsequent)
    - same mortgage specifics as the condition precedent → no waiver provisions
    - NOTE: condition subsequent is used and the financing is not approved, a notice of termination must be completed and delivered to the seller prior to the expiration on the time period

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- This condition is included for arrangement of New First/Second Mortgage by the buyer at Buyer's Own Expense.
- The given amount includes the wording 'Not Less Than' to specify the minimum loan.
- If there are two mortgage loan conditions included in the offer, then the amount should be written as 'Not More Than' in order to prevent over-financing of the property.
- The annual interest rate includes the wording 'Not More Than' to specify the maximum interest rate.

- Assuming an Existing Mortgage
  - The buyer may assume seller's existing mortgage if the financing terms are attractive, such as a lower interest rate, as compared to current interest rates.
  - However, the seller must be cautioned that unless they are specifically released from the personal covenant by the lender, there is a chance that they may be responsible if the buyer defaults on mortgage payments.
  - May save on appraisal fees, legal cots, survey costs and seller saves on penalties or interest differential
  - The clause must include the name of existing lender, the amount of loan to be assumed, the annual interest rate, the payment amount and the due date.
  - Clause Format:

The Buyer agrees to assume the existing Charge/Mortgage held byfor approximately ($), bearing interest rate of % per annum, calculated semi-annually not in advance, repayable in blended monthly payments of ($), including principal and interest, and due on the day of, 20. This offer is conditional upon the Buyer obtaining the approval of the Chargee/Mortgagee to assume the existing Charge/Mortgage. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than p.m. on the day of, 20, that this condition is fulfilled, this offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein. The Buyer hereby agrees to proceed immediately to make an application and provide such material as may be required by the Chargee/Mortgagee for approval of the Buyer as the Chargor/Mortgagor.

- Three Essential Parts of Mortgage Assumption clause:
  - The first part is an agreement that the buyer is assuming seller's existing mortgage.
  - The second part is a condition that the buyer needs to be approved by seller's lender.

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- The third part of the clause is an agreement that the buyer will proceed immediately to make an application to lender and provide required documents.
- Since the condition needs the consent of a third party (the seller's lender) to be fulfilled, this condition cannot include a waiver provision, and hence, it becomes a True Condition Precedent.
- The buyer must send a Notice of Fulfillment of Conditions to make the agreement a legally binding contract.

- Impact on Conditional Clauses Related to Financing: **Time Frames**
  - *Seller's Market*: include shorter timelines
    - More buyers competing for properties + Seller has a larger buyer pool
    - Seller may not want to tie up their property with too many conditions
  - *Buyer's market*;: include longer timelines
    - More properties on the market + Homes are more likely to sit unsold
    - Buyers have more chances and more leverage
  - Other factors → lender requirements such as documents
  - High ratio mortgage → approval may be required by the lender
  - Appraisal needed → longer conditional period

Seller Take Back Mortgage (STB)

- This clause is used when the seller gives a mortgage loan to the buyer and takes back mortgage of the same property.
- This is an agreement clause and not a conditional clause, which allows for negotiation of more creative terms between the seller and the buyer.
- Benefits to the Seller
  - Higher interest earnings and monthly income can set interest rates higher = increased return on investment
  - Improved Marketability of Property an attractive feature in slow market or for a hard to sell property.
  - Higher Purchase Price

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- Benefits to the Buyer
  - Alternate Mortgage Financing → buyer who requires additional funds.
  - Savings on cost and Timing on Financing → various cots through banks and approval time
  - Negotiable interest Rate and Terms → allow buyer more flexibility in negotiating the rate of interest and terms of the mortgage
- Conditional Clauses related to STB
  - Clearly state the terms agreed to by the seller and the buyer.
  - Document exact amount, interest rate, monthly payments, term of the mortgage

The seller agrees to take back a Charge/Mortgage in the amount of($), bearing interest at the rate of % per annum, calculated semi-annually not in advance, repayable in blended monthly payments of ($), including principal and interest, and to run for a term of years from the date of completion of this transaction.

- Credit Check:
  - This clause may be required with Seller Take Back (STB) mortgage if the seller wants to ensure repayment credibility of the buyer.
  - The clause specifies that the seller must be satisfied with personal information and creditworthiness of the buyer.
  - This condition is for the benefit of the seller and may be waived by the seller.
- Postponement:
  - Privilege given to a mortgagor to pay all or part of the mortgage debt in advance of the maturity date
    - Allows to make payments in addition to mortgage payments
  - Options include:
    - Fully open → prepay any amount any time
    - Open → pay all or part of the principal on the next mortgage day
    - Open on anniversary date → pay a percentage of the original principal amount on each anniversary date without notice or bonus

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        - Prepayment subject to a bonus → pay a percentage of the original principal amount on each anniversary date subject to a bonus of a specified number of months interest on the principal being prepaid
    - This clause permits the mortgagor, when not in default, the privilege of prepaying all or part of the principal sum amount any time or times without notice or bonus

- Renewal:
    - This clause gives the mortgagor (the buyer) a privilege to renew the STB mortgage once the term is completed provided the loan is in good standing.
    - The buyer may want to renew on the same interest rate if the rates are increasing but the seller may want to take advantage of the current higher interest rates.

- Postponement Clause
    - Commonly used in second and subsequent mortgages such as a STB, gives the buyer the right to arrange a new first mortgage or renew the existing mortgage in priority to the second
    - Upon default, the first mortgage would be paid before an existing second or subsequent mortgages are paid. If the second mortgage term extends beyond the first mortgage term, a postponement clause is a must
    - Protects the first mortgagee + the mortgagee for the second mortgage is also protected by this clause

- Over Financing Prevention:
    - When the new first mortgage includes the wording 'not less than' the buyer may borrow more than the specified amount from the lender.
    - In case the agreement involves STB mortgage as well, these words are replaced with 'not more than' to prevent overfinancing.
    - The seller has agreed to a set amount of the second mortgage based on their comfort
    - Because of the wording "not less than" the buyer could arrange a mortgage for a higher amount, and the seller would be unaware of the amount , higher amount = the less the buyer's down payment which could put the seller's mortgage at risk
    - Clause would stat that if the buyer arranges a mortgage amount higher than stated in the clause, the excess monies will need to be applied to reduce the second mortgage

      In the event that the first mortgage arranged by the Buyer has a principal amount in excess of ($), the principal amount of the second mortgage will be reduced by the

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excess amount, with a corresponding reduction in the payment for the second mortgage. The Buyer agrees to provide the Seller or the Seller's lawyer with a confirmation of the principal amount of the first mortgage to be arranged.

- Right to Sell the Mortgage:
  - This condition is included for the protection of the seller in case the seller decides to sell the mortgage to another lender.
  - An acknowledgement or agreement clause can be included for the buyer to ensure that they understand and agree that the mortgage may be sold, and the buyer agrees to provide any information required to sell the mortgage.
  - Lenders involved in purchasing an STB mortgage normally require the following
  - Seller to declare that there is good title other than encumbrances declared in the purchase agreement and allow a time limit to check out that title . It should be noted that title insurance can be required
  - Seller to sell at a discounted value, to increase the rate of return to the investor, unless the mortgage already has terms that are favourable
    - The seller to supply an assignment of mortgage
    - The seller to supply affidavit attesting to the balance of the mortgage and that such mortgage is up to date
- Inspection Discharge of Existing Mortgage:
  - This clause ensures that the seller understands there may be a penalty to discharge their mortgage before expiry of the term. This may reduce the net amount the seller will receive from the sale.

17.3 Supplemental Conditional Clauses Home Inspection

- Property Inspection
  - The home inspection condition is used so that the buyer may hire a professional home inspector to check the condition of the property.
  - As per the wording of the clause, the buyer pays for the cost of home inspection.
  - The clause wording specifies that the inspection report must be satisfactory to the buyer, in buyer's sole and absolute discretion.
  - The seller agrees to provide access to the property for the purpose of this inspection.

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- Can include wording that allows the seller to remedy any deficiencies found during a property inspection
- Can limit scope too ex… limit to mechanical
- *Seller's market* → allow the seller to remedy any deficiencies *buyers market* → not to offer the opportunity for the seller to remedy any deficiencies but to choose to have the inspection as their sole and absolute discretion

This offer is conditional upon the inspection of the subject property by a home inspector at the Buyer's own expense and obtaining of a report satisfactory to the Buyer in the Buyer's sole and absolute discretion. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than __p.m. on the day of, 20, that this condition is fulfilled, this offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. The Seller agrees to co-operate in providing access to the property for the purpose of this inspection. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.

- General Home Inspection: Typical residential home inspection covers the physical structure, electrical system, roofing, plumbing, heating, air conditioning, insulation, and general interior/exterior condition.
    - The report specifically includes general and property specific limitations of inspection.
    - The home inspection is not done according to the Ontario Building Code.
    - A standard home inspection does not cover the Water Well or the Septic Tank in rural properties.
- Obtaining Insurance
    - Clause stating that prior to completion the buyer will confirm that the property can be insured against fire
    - The decision to include this condition is based on the age of the structure, its location, and condition of the property.
    - Factors influencing insurance
        - rural property is far from a fire station, and the distance will impact the insurance premium.
        - Outdated wiring in the property, underground oil tank, or other matters may require remedial action and can impact the insurance premiums.
    - Due to the nature of the clause, a short time frame is recommended for this condition.

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- Clause Format:

This offer is conditional upon the Buyer arranging insurance for the property satisfactory to the Buyer in the Buyer's sole and absolute discretion. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than p.m. on the day of, 20, that this condition is fulfilled, this offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. The Seller agrees to co-operate in providing access to the property, if necessary, for any inspection of the property required for the fulfilment of this condition. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.

- Sale of Buyer's Property (SBP)
  - This conditional clause makes the agreement conditional upon sale of buyer's property.
  - This clause might include a lengthy time period to fulfill(e.g. 60 or 90 days).
  - An agreement with such a condition is generally accepted by seller in very slow market or if the property is unique.
  - Clause Format:

This offer is conditional upon the sale of Buyer's property known as _____ Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than p.m. on the day of __, 20, that this condition is fulfilled, this offer shall be null, and void and the deposit shall be returned to the Buyer in full without deduction. The Seller agrees to co-operate in providing access to the property, if necessary, for any inspection of the property required for the fulfilment of this condition. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.

  - Typically, the SBP clause is followed by an Escape Clause.

- The Escape Clause
  - An Escape Clause is typically used with any condition that involves a lengthy condition in the agreement, such as a condition involving Sale of Buyer's Property.
  - Allow the seller to continue offering the property for sale and to accept a second offer during the conditional period of the first offer
  - Buyer would then need to decide to waive the condition and continue with the transaction or release the seller for it
  - Typically includes a time period of 24-72 hours for the first buyer to make decision to waive and release seller

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- Clause Format:

Provided further that the Seller may continue to offer the property for sale and, in the event that the Seller receives another offer satisfactory to the Seller, the Seller may so notify the Buyer in writing by delivery to the Buyer personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto. The Buyer shall have hours from the giving of such notice to waive this condition by notice in writing delivered to the Seller personally or in accordance with any other provisions for delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto, failing which this offer shall be null and void, and the Buyer's deposit shall be returned in full without deduction. The seller can continue to market the property after the Confirmation of Acceptance has been signed. In case the seller receives a better offer, he would give 48/72 hours' notice to the buyer to waive conditions and make the agreement firm. If the buyer does not respond within the given time period, the offer becomes null and void.

- The seller can now sell the property to the other buyer with a better offer.
- More likely to be accepted in a buyer's market

- Lawyer's Approval
  - Some sellers or buyers may refuse to accept any offer unless their lawyer has reviewed the offer and approved the terms included.
  - Clause Format:

This offer is conditional upon the approval of the terms hereof by the Buyer's Solicitor. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement is fulfilled, this offer shall be null, and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.

17.4 Supplementary Conditional Clauses: Environmental Issues

- Oil tank → aboveground or underground Clause
- *Aboveground:* This conditional clause allows the buyer to get the aboveground oil tank tested to determine that the tank system is safe and meets the current requirements of the Technical Standards and Safety Authority (TSSA).
- *Underground - Seller Has Removed*: In this clause, the seller makes a disclosure that the underground oil tank was removed by a contractor licensed by the Technical Standards and Safety Authority (TSSA).
- It provides assurance to the buyer that the tank was removed properly, the surrounding soil was tested, and any contamination was removed

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- *Underground – Seller to Remove*: In this clause, the seller agrees to get the underground oil tank removed by a contractor licensed by the Technical Standards and Safety Authority (TSSA).
- Vermiculite and Asbestos
    - This condition is included to ensure that the subject property is not insulated with vermiculite or asbestos.
    - Vermiculite is a mineral that does not burn and when heated, it expands and is suitable for insulation.
    - Vermiculite itself is not a health hazard, but it may contain asbestos which when airborne and inhaled can cause health issues.
    - If the seller is aware that the property is insulated with vermiculite containing asbestos, this fact must be disclosed to the buyer as this is a material latent defect.
    - There may be a concern if the buyer wants to renovate the property because the dust from broken tiles may become airborne and create health problems.
    - The buyer may want to get the property inspected, and if the report is not satisfactory to the buyer, he may terminate the agreement.

- Water systems
    - Typically, the buyer hires a professional to collect water samples from the actual water supply, which is sent to the local Public Health department for testing.
    - The buyer has the right to walk away from the agreement if the condition is not fulfilled.
    - Three Parts of Condition:
        - Quantity: There must be adequate water supply to meet the buyer's household needs,
        - Equipment: The pump and all related equipment serving the property must be in proper operating condition, and
        - Potability: The buyer can obtain a Bacteriological Analysis of drinking water from the authority having jurisdiction indicating that there is no significant evidence of bacterial contamination.

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- Septic System
    - Must be adequate to meet the needs of the buyer's family
    - May want to include this conditional clause to make sure that the system is located totally within the property boundaries and meets the setback requirements.
    - It also ensures that the septic system is installed correctly and with applicable permits from the municipality.
    - An additional representation and warranty clause can be included to address the working condition of the septic system.
- Zoning
    - This clause is used when the buyer wants to apply to the municipality for change in zoning of the property to allow for a different use.
    - It can also be used if the buyer wants to apply for a minor variance.
    - In case the change in zoning or minor variance is not approved, the buyer may not want to proceed with the transaction.
    - Since the required consent for fulfilment of condition is by a third party (the municipality), the condition becomes a True Condition Precedent.
    - If the buyers wish to retain the right to purchase the property, even though the rezoning is not approved, then a waiver should be included

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Module 18 - Counter Offer And Competing Offers

181.1 Complete an Agreement of Purchase and Sale with Conditions

Information to identify in an Offer Plan Related to Conditions

Required Dates (step 2 of the offer plan)

- The offer plan should itemize these dates in chronological order
    - Offer date
    - Irrevocable
    - Expiry of conditions – condition date
    - Requisition – title search date
    - Completion or closing date

Required Clauses (Step 3 of the offer plan)

- Clause identifying the balance due on completion must be included in every offer
- To organize these clauses → use these steps as a guidance
    - List the conditions with short timeframes A) financing B) inspection, C)insurance
    - For a condition with a longer period, such as D) the sale of a buyer's property, the conditional period will be longer for example 30 days
    - Use one condition with the same timeframe for A, B, C
    - A separate condition should be used for D as the conditional period will be longer, and the condition may include an escape clause
- Using one date for conditions A, B, C will simplify the process and allow better tracking

Guideline for Writing Multiple Clauses

- Review Clauses
- Be Precise (avoid vague wording
- Group Clauses when possible simplify by grouping similar requirements for ex. Rental property might want to include a review of the following → tenant records, rental amounts, fire safety issues, building code compliance

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    - You might group these items under on condition that states the property meets these requirements

- Be concise
- Redraft Offer
- Stacked Conditions
    - Several conditions can be stacked one over another when they have the same date and time for fulfillment.
    - All stacked conditions must be either Precedent type or Subsequent type.
    - The conditions are written in the sequence of the tasks to be completed.
- Single fulfillment or waiver date for multiple conditions (helps avoid repetitive language)

Typical Format:

"This offer is conditional upon:

1. The Buyer arranging a new first mortgage
2. The inspection of the subject property by a home inspector
3. This is followed by: "Unless the Buyer gives notice in writing delivered to the Seller"

18.2 TRESA Requirements for Counter Offers Copies of Offers

Complete A Counteroffer

- Retaining Copies of offers
    - According to TRESA, a valid offer must be in writing and signed by the buyers, otherwise a salesperson cannot indicate that they have an offer.
    - The brokerage must convey all written offers, and counter offers to the client as soon as practically possible.
    - TRESA requires brokerages to retain documents and records relating to trade for min 6 years

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- If the seller rejects the offer without making a counter offer, the listing brokerage must retain a copy of the original offer for a period of at least one year after the brokerage received the written offer
- If the seller counters the offer but it is not accepted, the listing brokerage must retain copies of the original as well as counter offers.
- For unsuccessful offers → retain a summary document instead
- Copy of original offer, during a counter offer, must be retained by the listing brokerage for a period of at least one year (summary document can be used)
- For every written offer that is received on behalf of a seller, whether it is a buyer original or an agreement of purchase and sale with changes made during negotiations, the offer is considered a separate offer, and the listing brokerage is required to retain a copy of the agreement of purchase and sale and all related documents and records

- Summary Document
  - A summary document may be used by the brokerage instead of retaining all offers and counter offers that are not accepted by the seller.
  - Can be used for the following conditions
    - Seller's brokerage receives the offer on behalf of the seller
    - The offer is made through a brokerage on behalf of the buyer
    - The offer did not result in a transaction, the offer was not accepted
    - The summary contains all required information
  - Specific information to be included
    - Buyer's name and signature
    - Seller's name and contact
    - Name of the buyer's brokerage + representative
    - Name of the seller's brokerage + representative
    - Address, legal description of property
    - Date and time the offer was made
    - Date and time the offer was received by the brokerage and how the offer was received

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        - Date of presentation
        - Date and time until offer is irrevocable
    - Although a summary document may be used instead of retaining copies of all unaccepted offers, it is not a substitute for the Agreement of Purchase and Sale during negotiations.

- Legibility
    - If the offer becomes illegible Create a new offer for the next counter offer, make sure each amendment is written and legible

Counter Offer

- Ensure the seller or buyer fully understand any changes they make releases the other party of their obligations
- A counter offer is a new offer from the seller to the buyer. The seller now makes it Irrevocable for the buyer. The word 'Buyer' in the Irrevocable clause is replaced with the word 'Seller'. The seller may extend the Irrevocable time, if required.
- 3 options
    - Amend the original offer → insert required changes , delete terms not acceptable and add terms
        - Initial each change
    - Draft a new offer → significant changes and inserting changes is difficult
    - Prepare Counter offer form → itemizes each change in detail, rather than seller signing purchase of sale, they sign this form

Amending the Original Offer

- All changes need to be initialed by the party to indicate agreement
- Prior to any chances to a buyers offer, the seller's brokerage should ensure a copy of the unsuccessful offer, is retained
    1. Make copy of the original
    2. Amend offer by crossing out the original text and inserting the change
    3. Change the irrevocable
    4. Initial changes
    5. Present the counter offer to the buyer

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6. Complete confirmation of acceptance and acknowledgement

Seller Accepts the Original Offer

- The seller initials at the bottom of all pages and inserts signatures. The salesperson signs as a witness.
- The Confirmation of Acceptance is signed by one of the sellers.
- All above steps must be completed before the specified Irrevocable time.

Typical Changes in a Counter Offer

- Purchase Price: The seller's price in counter offer may be somewhere in between the list price and the buyer's offer price. Deposit: The amount of deposit is an indication of good faith between the parties, and the seller may want to increase this amount if it is too low. A deposit with certified cheque increases the chances of acceptance.
- Completion Date: A change in completion date for negotiations may impact the financial aspects of the seller or the buyer.
- For example, the seller may have a firm date for purchase of a new home.
- Conditions and/or Terms: The seller may reject certain condition(s) in the offer or may want to insert some other clause or condition.
- Chattels and Fixtures: Salespersons must ensure that there is no confusion regarding chattels included and fixtures excluded.
    - The sellers do not sign the Confirmation of Acceptance. The offer is sent back to the buyer before the specified Irrevocable time.
    - Assuming that the buyer accepts these changes, the buyer initials all changes confirming the acceptance of changes.
    - The Confirmation of Acceptance is now signed by one of the buyers.
- Changing the balance Due on Closing in a Counter Offer
- When a counter offer contains a change to the purchase price and/or deposit the change impacts the balance on closing
    - Might need to amend the amount under *Buyer agrees to pay the balance*
        - S (seller take back mortgage)
        - A (assumed Mortgage)

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- D (deposits)

Changing the Irrevocable

- In a counter offer need to change irrevocable
- Irrevocable specifies who the offer is coming form as well as the deadline for making the decision about the offer.
- If the party making the counter offer is changing the time or date, the change is made in the same way by placing a line through the time or date and inserting the new deadline (remember to initial)
- Accepting a Counter Offer
  - To accept a counter offer from the seller, the buyer must
    - Initial all changes made by the seller
    - Complete and sign the confirmation of acceptance on the A of P and Sale
    - Complete and sign Acknowledgement portion on the A of P and Sale
  - As the salesperson for buyer
    - Provide a copy of the accepted offer to each buyer
    - Sign the commission trust agreement on the A of P and Sale and obtain the listing brokerages signature when providing documents to the listing salesperson
    - Provide copies of the accepted offer to the listing salesperson
    - Retain a copy of the accepted offer for the brokerage records
- Acknowledgement
  - The parties Acknowledge that they have received copies of the Accepted agreement.
  - Typically, the last party to accept the terms of the offer signs the Confirmation of Acceptance and then signs the Acknowledgement section.
  - The Address for Service section is completed.
  - Lawyer's information may be completed at this time or at a later date.
  - Salespersons of the listing brokerage and the co- operating brokerage sign the Commission Trust Agreement.

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18.3 Completing a Residential Agreement & Competing Offers

Working with Competing Offers

Requirements

- All written offers must be presented to the seller in the order they are received.
- Must disclose the existence of all competing offers to each buyer, and
    - If from the same brokerage, the sellers salesrep should advise them
- Must not disclose the content of any competing offer to any buyer.
- If an offer has not been presented to the seller, the buyer may withdraw the offer if they decide not to participate the multiple offer situation.

Disclosure of Agreements relating to commission

- When a brokerage offers a commission reduction , it is essential to create an appropriate agreement.
- All commission reduction agreements negotiated by a salesperson are binding on the brokerage so ensure you check with the brokerage for policies
- Code requires the disclosure whenever a commission agreement could impact the sale and whether it is accepted
- This could occur when a brokerage seller is signing, or seller is being presented one or more offers
- In any commission reduction situation, the listing salesperson must disclose the details and terms of the commission reduction agreement in writing to all buyers who have made a written offer
    - Must occur before the seller accepts any offer
- An agreement to reduce gross commission by a brokerage may be effective only when
    - One salesperson is working with both the seller and the buyer in a transaction (commission will be □)
    - When two salespersons from the same brokerage are working with both the seller and buyer

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- When a competing offer situation exists, the brokerage may exclude any commission reduction identified on the collateral agreement

- Most common
  - One brokerage → working with both the seller and buyer
  - Two brokerages → the co-operating brokerage offers to reduce the commission being paid to that brokerage

Disclosure of multiple representation (requirements under the code)

- If there are competing offers and one offer is from the buyer client of the listing brokerage; this creates a multiple offer and multiple representation situation.
- A disclosure of multiple representation must be made to all parties.
- Written consent of the parties must be obtained at the earliest practical opportunity but before an offer is presented.
- Occurs when
  - Brokerage represents the seller and buyer
  - Brokerage represents multiple buyers

Buyers

- Risk for buyers
  - Price – with competing offer, a higher price will be more successful
  - Removing the condition of property inspections
- Strategies for buyers
  - Best offer first (make sure you research comparable sales in area)
  - Pre – Approved Mortgage – should know the max amount they could get from their lender
  - Deposit → larger deposit
  - Proof of funds → have seller speak with their lender indicating the buyer's financial ability
  - Completion date → when is the sellers optimal closing date, be flexible
  - Unconditional or firm offer might be more desirable
  - Inclusion, maybe leave out chattels you were hoping the seller would sell

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- Right price with shortened irrevocable time period can help put the buyer in a better negotiation position

Sellers

- Risk
    - Conditions → if conditions are not met the risk is the potential loss of transaction
    - Countering offers → they may not accept the offer + other buyers might have put offers on other houses
    - Seller can reject all offers and advise buyers to bring back their best offer at a specific time which can be dangerous
- Strategies
    - Irrevocable time difference → ensure everyone is identified
    - Offer presentation time → opportunity to have many buyers view the property and consider placing an offer before addressing any offer (generates interest, builds competition, and produce more offers for the seller to consider)
    - Property inspection report → seller could obtain one and make it available to any buyer during the property viewing indicate seller is providing as much information as possible

- Best Offer First: In a seller's market, the sellers tend to look at the best offer first and there is little room for negotiations.
    - The buyer should be advised to make their offer strong after research of comparable sales in the subject neighborhood. Pre-approved Mortgage: If the buyer has a pre-approved mortgage, combined with a large down payment, it will increase the chances of acceptance.
- Deposit: A large deposit gives the seller more confidence about the seriousness of the buyer. This also indicates that the chances of mortgage approval are strong.
- Proof of Funds: Whether the offer includes a financing condition or not, the chances of acceptance of offer are increased if the seller gets an assurance that the buyer has sufficient funds available to complete the transaction.
- Completion Date: Buyers should pay attention to the completion date given in the listing.

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- Conditions: In a multiple offer situation, an unconditional or firm offer is desirable by sellers. However, the buyer needs to be cautious about the risks associated with an unconditional offer.
- Inclusions: The buyer might want to leave out some chattels included if they are insignificant.
- Irrevocable: A right price combined with a short irrevocable time can put the buyer in a strong negotiating position in a multiple offer situation.
- Risk and Strategies for the Seller
    - Irrevocability: The seller must be made aware of irrevocable time in each competing offer as several offers may appear to be similar.
    - Presentation Time: The seller may ask the salesperson to withhold offer presentation until a specific day and time to have as many buyers view the property and make offers.
    - During this time, offers can be registered but no offers are presented.
    - Property Inspection: The seller can have the property inspected and make the report available to buyers, which may result in fewer conditions and a higher offer price.
- The seller has three options in case of multiple offers, and each has different consequence. Possible actions by sellers during offer negotiations -
    - One Offer Accepted – It may be conditional, and the condition may not be fulfilled.
    - One Offer Countered – This buyer may wait until the Irrevocable time expires and the offer becomes Null and Void.
    - All Offers Rejected – All buyers may look for other properties.
- Real Risk: The seller must not counter more than one offer at a time as more than one buyer may accept the counter offer.
        - This may result in competing contracts and lawsuits as the seller cannot sell the property to two buyers.
        - This strategy should never be seriously considered.

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Module 19 - Additional Documents And Legal Obligations

19.1 Amendments

Amendment to Agreement of Purchase and Sale

- The Amendment to Agreement of Purchase and Sale form is used to change the terms of an already accepted agreement.
    - It allows parties to add, delete, or revise any term that was previously agreed upon.
    - Common examples include changes to completion date, purchase price, chattels and fixtures, or names of the parties.
- An amendment does not void the original agreement — it simply modifies or supplements it.
- Each amendment must include a new irrevocable time period for acceptance.
- If the Amendment Is Not Accepted
    - If the other party does not accept or counteroffer within the irrevocable time period, the amendment becomes null and void, and the original agreement remains in full effect.

Completing the Amendment Form

1. Cross-reference the amendment to the original Agreement of Purchase and Sale (APS).
2. Insert the original wording being deleted or changed exactly as it appears in the APS.
3. Insert the new wording (if applicable) clearly and precisely.
4. Include the irrevocable date and time.
5. All parties who signed the original APS must sign and date the amendment.
6. The party proposing the amendment signs before sending it for review.
7. If accepted, the other party completes the Confirmation of Acceptance and Acknowledgement sections.
    - Either the buyer or the seller may initiate an amendment at any time, provided both parties consent in writing.

Notice of Fulfillment of Conditions

- When an accepted offer contains conditions, the party responsible must provide written notice confirming whether those conditions have been fulfilled or waived before the deadline stated in the APS.

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- This form is used to notify the other party that a Condition Precedent (or True Condition Precedent) has been fulfilled.

Condition Types

- **Condition Precedent:**
  The agreement is conditional until the party gives written notice of fulfillment or waiver. If notice is not provided within the specified time, the agreement automatically becomes null and void.

- **True Condition Precedent:**
  The condition must be fulfilled (cannot be waived).
  Example: "Subject to the buyer obtaining approval from the municipality to sever the lot."

- **Condition Subsequent:**
  The agreement is binding immediately upon acceptance, but one party has the right to terminate within a specified time if the condition is not met.
  No notice of fulfillment or waiver is required for a condition subsequent.

Completing a Notice of Fulfillment

1. Cross-reference the Notice to the original APS.
2. Insert the exact clause being fulfilled.
3. The party fulfilling the condition signs and dates the notice.
4. The other party (or their brokerage) acknowledges receipt, inserts the time received, and signs.
5. Copies are provided to all parties, and each brokerage retains a copy.
6. If it's a multiple representation situation, the brokerage cannot sign on behalf of either client — only the parties themselves may acknowledge.

When this form is signed and delivered before the deadline, the APS becomes firm and legally binding.

Providing Notice – Using a Waiver

- A Waiver is used to remove a condition in the APS, provided the clause includes a waiver provision (e.g., "This condition is included for the benefit of the buyer and may be waived at the buyer's option by written notice…").

- If the clause does not contain a waiver provision, it is a True Condition Precedent, and a Notice of Fulfillment must be used instead.

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Completing a Waiver Form

1. Cross-reference to the original APS.
2. Insert the exact condition being waived.
3. The party providing the waiver signs and dates the form.
4. The receiving party (or brokerage) acknowledges receipt before the expiry of the condition period.
5. Copies are given to both parties, and brokerages retain a copy.
6. In multiple representation, the brokerage cannot sign the acknowledgement on behalf of the clients.

Examples Requiring a Waiver

1. Property Inspection Condition:

Example: A condition allows the buyer to obtain a home inspection and cancel if repairs exceed $2,000.
If the inspection report shows $3,000 in repairs and the buyer still wants to proceed, they would sign a waiver to remove the condition.

2. Insurance Condition:

Example: A condition allows the buyer to terminate if insurance exceeds $1,000 annually.
If the actual quote is $1,150 and the buyer proceeds, a waiver must be signed to remove the condition.

Mutual Release

- The Mutual Release form is used to formally release all parties and the brokerages from any further claims or obligations related to a transaction.
- It also specifies how the deposit will be disbursed.
- This form authorizes the listing brokerage to withdraw the deposit from its Real Estate Trust Account and return it to the appropriate party (usually the buyer).

Completing a Mutual Release

1. Cross-reference to the original APS.
2. Insert the terms for disbursement of the deposit.
3. Include an irrevocable time period for acceptance.

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4. The receiving party signs and dates the form, including Confirmation of Acceptance.
5. The Broker of Record (or authorized manager) of both brokerages must sign.
6. Copies are provided to all parties, and both brokerages retain a copy.

When an Agreement Becomes Binding

An Agreement of Purchase and Sale become a binding contract when:

1. A conditional offer is accepted, and all conditions have been fulfilled or waived, or
2. A conditional offer is accepted with a condition subsequent (agreement binding immediately upon acceptance), or
3. An unconditional offer is accepted.

Termination of Agreement

Termination by Buyer

- Used when a buyer initiates termination of a legally binding agreement (e.g., under a condition subsequent).
- A Mutual Release must still accompany the termination to handle deposit disbursement.
- Note: A Mutual Release alone does not legally terminate a binding agreement — a Termination Form must also be used.

Termination by Seller

- Used when a seller initiates termination of a binding agreement.
- Also accompanied by a Mutual Release to confirm disbursement of the deposit and release of obligations.

19.2 Requirements Under TRESA Disclosure of Sale/Purchase by a Registrant

Disclosure of Interest

- **Interested Party**: A registrant (salesperson, broker, or brokerage) is considered an *interested party* when they have a personal or financial interest in the transaction.
  Examples include situations where the registrant:
    - Is the buyer or seller of the property.
    - Has a relative or business partner who is buying or selling.

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  - Holds shares or ownership in a company involved in the transaction.
  - Is providing financing or otherwise stands to benefit financially.
- **Direct Interest**: When the registrant is personally buying or selling the property.
- **Disclosure Requirements**
  - Written disclosure must be made to the other party as soon as possible and before an offer is made or accepted.
  - A signed acknowledgment from the other party must be obtained.
  - The disclosure must include:
    - All material facts known to the registrant that could affect the value of the property.
    - Notice of any negotiation, offer, or agreement the registrant has been involved in regarding the property.
    - Details of any payments or benefits the registrant will receive from any source not already disclosed in a listing or service agreement.
  - The Disclosure Notice Must Include:
  - A statement that the individual is a salesperson, broker, or brokerage registered under TRESA.
  - Full disclosure of all known facts that may affect the value or desirability of the property.
  - Details of any third-party negotiations for resale or assignment of the property.

Written Directions for Receiving Offers

- Seller's Directions
  - Under TRESA, all written offers must be conveyed to the seller at the earliest practical opportunity, regardless of who made the offer, the content of the offer, or the amount of commission.
  - A seller may, however, give written directions to the brokerage to delay or manage how offers are received and presented.
  - In a competitive or "seller's" market, this written direction might specify that offers will be reviewed at a certain date and time.
  - Pros: May generate multiple offers and increase competition.

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    - Cons: Some buyers may withdraw or choose not to make an offer if they must wait.

- Pre-emptive ("Bully") Offers
    - A pre-emptive offer occurs when a buyer instructs their salesperson to present an offer before the time specified in the seller's written directions.
    - These offers usually have an irrevocable time that expires before the scheduled offer presentation.
    - The listing brokerage cannot present a pre-emptive offer unless the seller changes their written direction to allow it.
- Changing Offer Directions
    - Sellers (or buyers) may change written directions at any time by providing a new written instruction.
    - When directions are changed, the brokerage must:
    - Update the listing remarks to reflect the new process.
    - Notify in writing all parties who have expressed interest — including those who have booked showings, viewed the property, or submitted offers.
- Offer Process under TRESA
    - The offer process in Ontario is no longer automatically closed.
    - By default, offers remain confidential, but under TRESA, a seller may direct in writing that some or all of the contents of competing offers be disclosed to every person who has made a written offer.
    - Personal or identifying information (names, contact info, signatures, etc.) must not be shared.
    - Once the seller gives written direction to disclose offer details:
    - The same information must be shared equally with all offerors.
    - The brokerage must make best efforts to notify every person who has submitted an offer.
    - If no such written direction exists, only the number of competing offers may be disclosed.
- Written seller direction is required before any offer details are shared. Brokerages should document and retain all such directions for at least six years.

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- Retention of Documents
    - Salespersons may retain copies of transaction-related documents for their personal records, provided they are stored securely in compliance with PIPEDA.
    - Brokerages must retain all documents relating to a trade, including:
    - Listing and representation agreements
    - Accepted and unaccepted offers
    - Notices, amendments, waivers
    - Deposit receipts and financial records
    - Documents must be kept for a minimum of six years from the date of completion or termination of the trade.
    - Summary documents may be used for unaccepted offers, except where the person making the offer was not a client or SRP of a brokerage.
- Safeguarding Information
    - All personal, financial, and transaction information must be handled in accordance with PIPEDA and TRESA's record-keeping and privacy provisions.
    - Salespersons may maintain shadow files (copies of notes, correspondence, and documents) if securely stored.
    - Types of Information
    - Personal information: Identifiers such as name, address, or contact details.
    - Sensitive information: Financial or credit data, employment details, or personal identifiers.
- Brokerage Policy
    - Each brokerage must have a written privacy policy covering:
    - Collection, use, storage, and destruction of personal information.
    - Appointment of a Privacy Officer to ensure compliance.
    - Mailing Lists and CASL
    - When building mailing lists or sending promotional emails:
    - Obtain express consent before collecting or using contact information.
    - Include a clear unsubscribe option.

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- Follow Canada's Anti-Spam Legislation (CASL).
- Implementing Safeguards
- Inform clients how their data will be used.
- Obtain written consent for data collection and retention.
- etc.).
- Use data only for its intended purpose.
- Maintain strong security systems (locked files, password protection, encryption,

- Trade Record Sheet
  - A Trade Record Sheet (TRS) must be created by each brokerage for every real estate transaction in which it participates.
  - Each trade receives a unique, sequential trade number.
  - Required whether the parties are clients or self-represented.
  - Preparation and Sign-off
  - Completed by both the listing and buyer's brokerages once an offer is accepted.
  - Must be signed by the salesperson and broker of record.
  - Also required when the brokerage receives any payment related to a trade (referral fee, appraisal fee, commission, etc.).
  - If two salespersons from the same brokerage are involved, separate TRSs are prepared for each.
- Documents Typically Included
  - Representation
  - Agreement of Purchase and Sale
  - Amendments and notices (fulfillment or waiver)
  - Deposit receipts
  - Correspondence with lawyers or brokerages
  - Trade Record Sheet itself
  - Key Information Recorded
  - Nature of trade (sale, purchase, lease, etc.)
  - Property description (address or legal description)
  - Purchase price or true consideration
  - Parties to the transaction
  - Lawyers' contact details

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- Registrants and brokerages involved
- Deposit and commission details
- Completion date
- Additional Recommended Information
- Date of TRS preparation
- Internal reference (e.g., MLS® number)
- Commission distribution breakdown
- Interest earned on deposit (if applicable)
- Commission trust agreement between brokerage and salesperson

19.3 Document Requirements Under FINTRAC

- This Act is administered by Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).
- It applies to all businesses including real estate brokerages with respect to suspicious activities or transactions.

Compliance Requirements for Brokerages:

- Compliance Officer: Every real estate brokerage must appoint a compliance officer to implement FINTRAC requirements.
- Written Policies & Procedures : Every brokerage must have written policies and procedures to guide decisions and actions to comply with the provisions of the Act. Update as required
- Risk Assessment: Every brokerage must complete a Risk Assessment of their business activities to analyze potential threats and vulnerabilities.
- Training: Every brokerage must provide documented and up-to-date training to its employee salespersons and brokers.
- Program Review: Every brokerage must conduct an evaluation every 2 years to check the effectiveness of its compliance program.
- Know your client, reporting, record keeping

Individual Identification

- Registrants must know their client and ascertain their identity to ensure that they are not involved in some irregular or suspicious transaction.

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- A one or two step verification should be carried out from the following documents –
    - *Photo Identification*: A valid government issued photo ID should be viewed and the client's name, ID type (driver license, passport, etc.), issuing jurisdiction, expiry date, etc. should be recorded.
        - Foreign license or passport is acceptable
    - *Credit File*: The credit file of the client may also be checked (minimum 3 years record from Equifax of TransUnion) to verify information such as name, address, date of birth, etc.
        - Record source of credit file and reference number
    - *Dual Process*: Two or three different and reliable source documents from CRA or other government agency should be checked for verification (Tax Assessment Notice from CRA, T4 slips, Record of Employment, date of birth certificate, etc. gas or electric bill, statement by employer etc.)
        - The source document being used for identification must be current and not an expired one.
        - For electronic documents → individual can email the original document, show document on their phone, tablet, or laptop, print the electronic document or show the document in the original format
        - Documentation must verify the client's name and contain two out of the 3 requirements
            - Client's name and date of birth (original birth certificate)
            - Client's name and address (utility bill or property tax assessment
            - Client's name and confirmation of financial bank account

Additional Considerations when Verifying Individuals

Previously Identified Clients: A client who was previously identified need not be identified again and a photocopy of the previous form may be kept in the transaction file. If any info changed, update the client info record

Unrepresented Individuals: It is recommended that an unrepresented seller or buyer should be identified

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- However, if the individual refuses to provide identification information, a note should be made along with the date of refusal, the reason for refusal, and the steps taken for obtaining identification.
- Salespersons may also need to consider any requirement for a Suspicious Transaction Report (STR) to FINTRAC.

Excluded Activities: Activities related to residential and commercial property management are excluded from identification requirements. Leases or rental management also excluded

Know your client: Verify a Corporation or Entity

Corporation

- Information required
  - Name of corporation
  - Corporate address
  - Nature of principal business
  - Names of all directions
- To confirm existence, refer to
  - Corporations certificate of corporate status
  - A record that confirms the corporation's existence (annual report, letter or notice of assessment)
- Paper → copy it
- Electronic
  - Confirmation bust be from a provincial or federal database that Is accessible by the public
- Verify the individual acting under the authority of the corporation Entity
- Trust, fund, partnership unincorporated association or organization
  - Name and address, articles of association, partnership agreement or similar document

Foreign Clients: If the registrant cannot personally meet a foreign client, an agent or mandatary must be used who has identified the foreign client on behalf of the registrant.

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- Agent → individual who is representing the client
- Mandatary → individual who has been retained specifically to identify the client
- Must be written agreement in place prior to identifying the individual on my behalf
- FINTRAC requires
    - Full name of the agent or mandatary that ascertained client identity
    - Client identification method used
    - Info gathered according to the method used
    - Date the identify of the client was verified
    - Date the brokerage referred to the client identification info
    - Copy of the agreement with the agent or mandatary

Third Parties: A third-party is that who is not interacting directly with the registrant but is supplying funds or giving instructions for a real estate purchase.

- Obtain the third party's name and address
    - If an individual includes date of birth and principal business or occupation
    - If an entity includes principal business
    - If a corporation include principal business, incorporation number and place of issue
- Record the relationship between the client and third party

Businesses relationships: a business relationship is established when a brokerage conducts two transactions with a seller or a buyer within a five-year period where identification verification is required

    - Ex . *business relationship established* → Sells their current property and at the same time, purchases a new property using the same brokerage
    - Ex. *No business relationship established:* individual sells their current property and at the same time, leases a residential apartment using the same brokerage. As the leasing does not require identification verification, only one transaction for the purposes of establishing a business occurred

- The 5-year period requirement would begin again, should the brokerage and client complete a transaction at any time during the 5 years following the latest transaction

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    - Ex. Client who last transacted three years ago now entering into another transaction with the brokerage , the 5 years would start again with the new transaction

- Requirements by brokerage
    - Keep a purpose and intended nature record → describes the business dealings with the client and will help anticipate the types of transactions and activities the client may conduct
    - Ensure client info is kept up to date → ongoing periodic monitoring of the business relationship to keep their info and purpose accurate
    - Keep the record of measures taken to monito the business relationship
- Dependent on risk level
- Once 5 years has passed form last transaction → business relationship no longer exists and does not need ongoing monitoring

Risk Assessment

All clients whether they are individuals, corporations, or other entities must be assessed based on their level of risk in relation to their being involved in money laundering or terrorist financing. The assessment can include client groups based on profiles that share similar characteristics according to brokerage policies. When a client is high-risk, the brokerage may obtain additional information about the client, their source of funds, and the reason for the transaction.

Reporting

Large Cash Transaction Report (LCTR): This applies when a registrant receives $10,000 or more in actual cash in a single transaction or multiple transactions within 24 hours.

- The LCTR must be submitted to FINTRAC within 15 days of receipt.

Suspicious Transaction Report (STR): This report must be submitted to FINTRAC when a registrant has reasonable grounds to believe that a financial transaction is related to money laundering or terrorist financing.

- The STR must be submitted within 30 days of determining a suspicious transaction.
- There is no such requirement that money was actually involved in the transaction and whether the incident was verified or not.

Terrorist Property Reporting (TPR): This report is submitted to FINTRAC immediately after the registrant knows or believes that the property they are dealing with is owned, or controlled by, or on behalf of a terrorist or a terrorist group.

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- Contact RCMP or CSIS immediately to report any suspicions of terrorist financing activity
- Submit a TPR report without delay to FINTRACT
- Also submit a STR if there is a completed or attempted transaction
  The registrant must also immediately inform the RCMP or CSIS.

Indicators of Suspicious activity

- When obtaining deposits indicators include
  - Client refuses to identify source of funds or provides incorrect or conflicting info
  - Client appears to be structuring amounts to avoid reporting (several cash deposits within short time)
  - Client appears knowledgeable about reporting threshold when paying by cash
  - Unrelated parties with no apparent connection to the person making purchase provides the deposit
  - Client uses multiple accounts at several banks for no reason
  - Client arrives at closing with loads of cash
  - Client pays substantial down payment in cash, and balance is finance by unusual source or offshore bank
- Indicators dealing with the purchase and sale of properties
  - Client exhibits a lack of concern about higher-than-normal costs
  - Client appears to be purchasing property beyond financial capabilities
  - Size or type of transaction not typical of client
  - Sudden change in client's financial profile, pattern or activity
  - Client insists on providing a signature on documents by facsimile only
  - Client purchases property without inspecting
  - Client purchases multiple properties in a short time period with few concerns about location repairs etc.
- Indicators for identification

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- Not possible
- Provides misleading, vague, or info that cannot be verified
- Provides copies of identification rather than original
- Inconsistency in info such as address, date of birth phone number
- Address is a post office box rather than physical address
- Client alters the transaction after being asked to verify identity

Record Keeping

- The brokerage must retain the following records for a minimum period of 5 years – Client identification documents
- full legal name, address, date of birth, nature of their principal business or occupation, info used to verify their identity, info on unrepresented parties, verification of third parties, client risk + business relationship
  - *** EXCLUDE any activity related to leases or property management

Corporation or other identification record

- name and address, nature of business, directors' info, type of verification record, registration number, identify who is shown as having authority, info on unrepresented entity, verification of third parties, client risk, business relationship

Receipt of Funds, including cash receipts.

Suspicious Transaction - - Reports (STR). Large Cash Transaction Reports (LCTR).

- Record of reasonable measures, which were unsuccessful.
- The brokerage is not required to retain records of the unrepresented parties.
- There is no time frame for retaining records related to Terrorist Property Report (TPR)

Reasonable Measures → keep record of reasonable measures that have been taken to comply with the obligations but were unsuccessful. Include: measures taken, date, why they were unsuccessful

Fraud Prevention

Mortgage Fraud:

- Mortgage fraud occurs when the personal and financial information of an individual is falsified in mortgage applications for approval of loan.

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- Stating the borrower will reside in the residence when they will not, obtaining monetary compensation to obtain a mortgage from a specific lender
- Being offered an interest rate or mortgage amount that appears very competitive when the borrower has been declined by others

Types of Mortgage Fraud

- *Straw buyers* → individual who is paid to apply for a mortgage on someone else's behalf.
- *Falsifying info* → to qualify for a larger mortgage than your income or credit history would allow , not disclosing a second mortgage to the primary lender
- *Identity Theft* → Identity fraud occurs when criminals use stolen credit card numbers, social insurance numbers, bank PINs, etc. to borrow large amounts of money, make major purchases and/or empty bank accounts.
    - In real estate, the criminal may steal the items used to get access to electronic land registry system (POLARIS).
    - They may possibly transfer titles of property, register a discharge of mortgage, or register mortgage lien on some property and get away with the funds.
- *Value Fraud*: Value fraud occurs when the actual value of a commodity is much less than indicated value or has no value. In real estate, it is related to significant increase in the sale price of the property.
- *Escalating Price*: This involves large scale and complex schemes such as escalating property prices in order to over finance a property.
- *Property Flipping*: This may involve a fraud buyer, fake appraisals, etc. to increase the value significantly and pocket the funds.

Identifying Fraud

- Listing price or sale price is not supported by market data, individual could use a falsified data sheet to obtain a mortgage
- Significant down payment no assets, limited employment history who has accumulated significant assets
- Buyer who has drastic increase in income, large credit to the purchase price
- Unusual requests → buyer wants property removed from listing service and sale price not reported

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- Property info doesn't align with facts
- Buyer requests the deposit held by someone other than the listing brokerage for no reason

- Steps to deter: Verify identity, keep client info secure, advise buyer to provide a deposit to a lawyer or brokerage, ask seller for copies of documents that an owner would have (deed etc.), research the ownership history of property, provide copies of A of P and S , educate sellers or buyers

Requirements to ensure accuracy and ethical Practice in a Trade

- Inaccurate Representation: Registrants must not knowingly make an inaccurate representation about a trade or the service provided.
  - They must not knowingly provide false or misleading information about a property that contributes to a mortgage fraud.
- Prevent Error, Misrepresentation, and Fraud: Registrants are not only required to avoid error, misrepresentation, or fraud but must also take reasonable steps to prevent it.

19.4 Putting It Together - A Residential Agreement of Purchase + Sale Leading Practices for the Offer Process

Transaction 1: Registering an Easement

- Legal description
  - Should include the easement that is identified including as much info as possible about it
    - Size , the location and description of the purpose should be stated
- Title
  - Includes provision that requires the buyer to accept title when certain encumbrances are registered on the property.
- Certain easements must be accepted → minor easement for supplying utilities and telecommunications services, drainage, sewer, cable television etc.
  - also include if the easement is considered minor or major
- Circumstances which would allow objection to title if the buyer has not been made aware of the easement

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    - Easement that materially affects the use of the property
    - Easement for any purpose other than drainage, sewer, utilities, and telecommunications ,

- Include any condition in the offer as required to allow the buyer to perform the required due diligence
- Explain the ramifications to both a seller and buyer should the easement not be properly documented or investigated
    - Seller → offer might be terminated
    - Buyer → offer might be binding which results in the purchase of a property that does not meet requirements

Transaction 2: The Mortgage

Drafting an offer

- Completion date → property will transfer from the seller to the buyer
    - Not statutory holiday or weekend
- Title search → completed by the buyer's lawyer within a specified time period prior to the completion of the transaction
    - Also confirm legal description and the names of the owners
- Documents and discharge → seller only obligated to provide documents that are in their possessions

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Module 20

20.1 Due Diligence During the Conditional Period

Overview

- Most offers include conditions to be satisfied before closing.
- Salespersons coordinate inspections, confirm terms are met, resolve issues (e.g., repair requests), and obtain/deliver required documents.

Buyer's Salesperson — Responsibilities

- Document submission: submit representation/service agreement, APS, FINTRAC, and other trade documents to the brokerage.
- Deposit handling: deliver the deposit promptly; provide a receipt to the buyer; obtain a deposit receipt from the listing brokerage.
- Support & coordination: provide referrals (inspector, lawyer, appraiser, mortgage/insurance broker) and assist with scheduling and access.
- Condominium specifics: obtain and deliver the status certificate promptly as required by the APS (typically buyer obtains/pays unless otherwise agreed); ensure the buyer's lawyer has time to review.
- Negotiation & resolution: negotiate in good faith to address issues found during due diligence; once conditions are fulfilled or waived, the deal proceeds toward closing.

Seller's Salesperson — Responsibilities

- Communication & access: communicate with the buyer's salesperson; provide timely access for inspections and appraisals; keep the seller updated on condition status.
- Document & deposit handling: submit all trade documents to the brokerage; deposit any cheques without delay; provide a receipt to the co-operating brokerage.
- Coordination: arrange/confirm buyer visits; provide documents the buyer needs to fulfill conditions as per the APS.

20.2 Due Diligence Obligations Until Closing

Buyer's Salesperson

- Maintain regular contact with the buyer; ensure all terms are being carried out.

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- Forward required documents to the buyer's lawyer and assist with questions.
- Arrange agreed property visits; verify agreed repairs are completed.
- Conduct a pre-closing walk-through (typically within one week of closing).
- Provide moving referrals if requested.

Seller's Salesperson

- Maintain regular contact with the seller; ensure seller obligations (repairs, replacements, access) are completed.
- Forward required documents to the seller's lawyer; confirm and facilitate buyer visits.
- Advise the seller on moving timelines; remove the "SOLD" sign by closing day.

Both Salespersons

- Be available on closing day to help resolve last-minute issues (e.g., damage during move-out, cleanliness, missing keys/remotes).
- Note: keys are typically exchanged through the lawyers.

20.3 Conveyance of Title

Buyer's Perspective — Title Search

- Purpose: buyer's lawyer confirms marketable title and identifies issues before closing.

Land Registration Systems

- Registry Act: search Abstract Books (geographic); 40-year chain of title; any gap creates a "cloud on title."
- Land Titles Act: Parcel Register is the authoritative record; title assurance (subject to statutory qualifications); search focuses on current record.

Searches Conducted

- Title-related: liens/encumbrances; restrictive covenants; non-resident status; expropriations; matrimonial home status; Planning Act compliance.
- Non-title: zoning; permits/work orders; executions; unregistered easements; Personal Property Security Act (PPSA) liens; utilities/tax arrears; survey; site-plan/subdivision agreements.
- Rural add-ons: well/septic compliance; fuel tank records; shoreline/waterfront approvals.

Requisitions & Reporting

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- Buyer's lawyer sends requisitions for issues found; seller's lawyer addresses before closing.
- After closing, each lawyer reports to their own client (final reporting letter) with the Statement of Adjustments and registration confirmation.

Seller's Perspective — Document Preparation

- Seller's lawyer prepares the Transfer/Deed of Land.
- Seller's lawyer typically provides non-resident declaration; possession/occupancy confirmation; direction for payment of proceeds; undertaking to discharge existing mortgage from closing funds; evidence of no arrears/liens/executions; confirmation of no Planning Act issues/expropriations; zoning compliance confirmation; HST representation per the APS (e.g., resale residential typically exempt).

Undertakings

- Written promises by lawyers to resolve outstanding items after closing (e.g., discharge a mortgage once closing funds are received).

Title Registration — E-Registration

- Create/update documents electronically → send to buyer's lawyer for review → both parties e-sign → release for electronic registration.

Statement of Adjustments

- Purpose: details all financial aspects (purchase price, deposits, adjustments, legal fees, commission, final balance).
- Prepared by seller's lawyer; reviewed by buyer's lawyer.

Typical Adjustments

- Property taxes: prorated daily (seller to day before closing; buyer from closing day).
- Fuel oil/propane: seller fills tank before closing; buyer reimburses full tank value.
- Metered utilities: seller arranges final readings; utilities billed directly; usually no adjustment.
- Property insurance: seller maintains coverage to closing; buyer arranges their own; no adjustment.
- Rent/condo fees: prorated daily between seller and buyer.

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Module 20.4 Cost of Title Conveyance

Typical Buyer Costs

- Adjustments & professional fees: prorated taxes; lawyer's fees/disbursements (searches, registrations, title insurance, compliance certificates).
- Property-related: home insurance from closing; condo status certificate (if applicable).
- Mortgage-related: interest adjustments; high-ratio mortgage insurance (if <20% down); optional mortgage life insurance.
- Government taxes: provincial LTT; municipal LTT where applicable (e.g., City of Toronto); Non-Resident Speculation Tax (if applicable; province-wide rules apply).
- Moving & setup: movers; household setup expenses.

HST (Harmonized Sales Tax)

- New homes: HST applies (rebates may be available).
- Resale residential: generally exempt.
- Chattels: HST may apply if separately priced and not merely incidental to the exempt resale; if included with no separate consideration in a single exempt supply, HST typically does not apply.

Ontario Land Transfer Tax (Residential Single/Duplex)

- 0.5% on first $55,000
- 1.0% on $55,000–$250,000
- 1.5% on $250,000–$400,000
- 2.0% on $400,000–$2,000,000
- 2.5% on amounts over $2,000,000 (single-family/duplex only)
- Note: some municipalities (e.g., Toronto) levy a separate municipal LTT; first-time homebuyer rebates may apply.

LTT Examples (Residential)

- Example 1 — $48,000: $48,000 × 0.5% = $240
- Example 2 — $165,000: $55,000 × 0.5% = 275; $110,000 × 1.0% = 1,100 → Total $1,375
- Example 3 — $320,700: $55,000 × 0.5% = 275; $195,000 × 1.0% = 1,950; $70,700 × 1.5% = 1,060.50 → Total $3,285.50

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- Example 4 — $448,300: $55,000 × 0.5% = 275; $195,000 × 1.0% = 1,950; $150,000 × 1.5% = 2,250; $48,300 × 2.0% = 966 → **Total $5,441**
- Example 5 — $2,300,000: $55,000 × 0.5% = 275; $195,000 × 1.0% = 1,950; $150,000 × 1.5% = 2,250; $1,600,000 × 2.0% = 32,000; $300,000 × 2.5% = 7,500 → **Total $43,975**

Vacant Land & Commercial Properties (Provincial)

- 0.5% on first $55,000
- 1.0% on next $195,000 ($55,001–$250,000)
- 1.5% on next $150,000 ($250,001–$400,000)
- 2.0% on balance over $400,000
- Note: up to $2,000,000, the provincial brackets are the same as residential.

Vacant/Commercial Examples

- Vacant land $240,000: $55,000 × 0.5% = 275; $185,000 × 1.0% = 1,850 → **Total $2,125**
- Commercial $650,000: $55,000 × 0.5% = 275; $195,000 × 1.0% = 1,950; $150,000 × 1.5% = 2,250; $250,000 × 2.0% = 5,000 → **Total $9,475**
- Commercial $2,650,000: $55,000 × 0.5% = 275; $195,000 × 1.0% = 1,950; $150,000 × 1.5% = 2,250; $2,250,000 × 2.0% = 45,000 → **Total $49,475**

First-Time Home Buyer Refund (Provincial)

- Refund up to $4,000 against provincial LTT (eligibility applies to Canadian citizens/permanent residents, principal residence within 9 months, age 18+, no prior home ownership by purchaser or spouse, etc.).
- Refund can be claimed on closing through the buyer's lawyer or within 18 months of closing; proportional to interest acquired.

Title Insurance — Overview

- Distinct from property insurance and the Land Titles Assurance Fund.
- Two primary duties: indemnify (actual loss) and defend (legal costs).
- Owner and lender policies; residential and commercial versions; policies list covered risks, exclusions, and exceptions.
- Typical protections: fraud/forgery affecting title, document defects, lack of legal access, undisclosed liens, certain zoning/building-permit issues, some restrictive covenants.

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Trust & Commission Accounts — Completion/Disbursement

- On completion, the listing brokerage receives notification from the solicitor.
- Deposit in the Real Estate Trust Account is transferred to the Commission Trust Account; commissions are disbursed (to co-operating brokerage, salesperson/broker, brokerage); HST is payable on commission.
- Return of deposit requires mutual release (or court order if disputed).

Issues Before Closing — Common Problems & Responses

- Title search: untraceable prior lender; restrictive covenants; undisclosed easements; missing heirs/spousal consent.
- Conditions/repairs: seller unable to complete agreed work discovered on walk-through.
- Property condition change: fire/flood/tree damage before closing.
- Buyer capacity/insurance: financing no longer qualifies; insurer declines coverage or increases premium.
- Practical approach: consult lawyers; broker of record guidance; distinguish true legal problems from misunderstandings; consider negotiated adjustments where appropriate.

If the Transaction Does Not Close

- Deposit is returned only with mutual release (or court order).
- Salespersons should recommend clients obtain legal advice; assist with Termination of APS and Mutual Release as instructed; listing salesperson should relist promptly if directed.

After Closing — Leading Practices

- Maintain credibility: check client satisfaction; obtain consent for mailing list; remain available for future needs.
- Seek expert advice for your own legal/insurance/tax matters.
- Keep a business journal of key dates and obligations; maintain a secure filing system.
- Manage HST remittances if registered: track HST on commissions and ITCs; remit to CRA as required.

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