

YOUR REAL ESTATE BROKER WILL,
among other things:*

- ✓ **Verify**, in accordance with generally accepted practices, **the information provided to clients** and **disclose any facts known to him** that could influence the decision of a party to a transaction.
- ✓ **Objectively inform** the party represented by him or the agency for which he acts and all other parties to a transaction.
- ✓ **Advise the party he represents** on the terms and conditions of sale or purchase, as the case may be.
- ✓ **Remain within his field of expertise** and **advise** his clients to enlist **the services of other professionals** or specialists if he is not qualified to handle a situation.

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REAL ESTATE TRANSACTIONS: EVERYONE HAS A ROLE TO PLAY

**Understanding the role and
responsibilities of each stakeholder**

Real estate transactions involve many parties other than buyers, sellers and real estate brokers. Notaries, inspectors, land surveyors, builders and various other professionals and experts all have unique roles and responsibilities.

Understanding these roles and responsibilities is crucial to ensuring a smooth real estate transaction.

When analyzing a professional liability claim against a real estate broker, the actions of each of the parties involved are taken into consideration and may influence the final decision regarding the broker's liability.



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YOU ARE A BUYER? *You must...*

- ✓ Act as a “prudent and diligent buyer,” i.e. **enquire about the immovable**, ask questions, and request copies of invoices or other documents relating to the seller’s declarations or the description sheet, and review them.
- ✓ **Conduct a thorough tour of the immovable** and pay particular attention to signs that may indicate the presence of issues or defects.
- ✓ **Decide whether or not to have the immovable inspected**, taking into account the risk of not doing so. If necessary, review the comments in the inspection report and act accordingly. This may include enlisting the services of experts for further verifications.
- ✓ **Properly communicate the essential elements of the transaction** and the desired features of the immovable, such as its intended use, and specify who will make the verifications in this regard.
- ✓ Review the transaction documents to ensure that they comply with your wishes and **raise any questions, errors or issues before signing them.**

YOU ARE A SELLER? *You must...*

- ✓ **Disclose all adverse factors** affecting the property or its accessories. A transparent and unambiguous communication in the *Declarations by the seller of the immovable* form provides the required transparency.
- ✓ **Submit invoices, work estimates, permits, proof of warranties**, etc. to your broker or the stakeholders involved.
- ✓ **Specify the items that are not included** in the transaction and the ones that are included and leased.
- ✓ Remain aware of your legal responsibility **to deliver a property that is free from all title defects and latent defects**, except those that have been disclosed prior to the transaction or when the transaction is made without legal warranty. The property sold must also be consistent with what was stated by the seller when it was put up for sale.
- ✓ Review the transaction documents **to ensure that they comply with your wishes** and raise any questions, errors or issues before signing them.

BUILDING INSPECTORS WILL, *among other things**:

- ✓ **Examine the property** within the limits of their mandate, with prudence and diligence, in compliance with industry standards and generally accepted practices.
- ✓ Comment on the visible and accessible condition of the systems and various components of a property to **properly inform clients.**
- ✓ Perform a visual inspection of the property to **identify any apparent defects** and detect any signs that may point to potential latent defects. If any deficiencies, even potential ones, are discovered, inspectors will **recommend that an in-depth expertise** be carried out by another professional.
- ✓ **Compile their observations in a report**, often accompanied by photos, where issues can be raised and actions recommended. Inspectors assess the general condition of the immovable.

NOTARIES WILL, *among other things**:

- ✓ **Advise, explain and inform the parties** to the transaction of the legal consequences of their commitment and the terms of the deed of sale.
- ✓ Conduct **searches and verifications** about the identity of the parties, their legal capacity, titles and servitudes, mortgages or arrears (taxes, special assessments, rental costs, etc.), restrictions of public or private law, etc.
- ✓ Ensure that **the deed of sale reflects the will of the parties.**
- ✓ **Specify and explain** the extent of the terms of the transaction.
- ✓ **Validate the parties’ declarations** and the verifications made in connection with them.
- ✓ **Read and explain** to the parties the documents they sign.

LAND SURVEYORS WILL, *among other things**:

- ✓ **Examine and analyze ownership titles** and other documents relating to land ownership (description, servitudes, constraints, such as agricultural zone, flood zone, environmental protection, etc.), encroachments and compliance with laws and regulations.
- ✓ Prepare the report, plan and **certificate of location.**
- ✓ **Conduct operations** such as boundary marking, staking, layout and cadastral operations.

SYNDICATE OF CO-OWNERS WILL, *among other things**:

- ✓ **Make the information and documentation** relating to management, maintenance and co-ownership rules, including minutes and budgets, available.
- ✓ **The syndicate may complete the form** *Request for information to the syndicate of co-owners* (RIS) to gather various information about the desired property or will provide any other document to transmit this information.

CERTIFIED APPRAISERS WILL, *among other things**:

- ✓ **Provide a well-founded opinion** on the value of a real estate asset or right at a given date following a thorough analysis of various information and the use of a combination of (cost, comparison and income) methods.

BUILDING CONTRACTORS* AND OTHER PROFESSIONALS*

- ✓ **Will carry out work** in compliance with codes, regulations, and other requirements.
- ✓ **Will abide by certain legal warranties** following construction work, particularly the warranty of conformity.

NOTICE

The examples provided are not an exhaustive list of the expectations, obligations or behaviours expected from each party to a transaction. This leaflet is to be used solely as a tool to help you understand the responsibilities of each party.

NOTE

* Do not hesitate to contact the professional organizations and orders that oversee these stakeholders to learn more about the role of these professionals and, where applicable, their professional liability insurance.