

## Lawyers and Bad Real Estate Advice

ASK YOUR LEGAL QUESTION

By Brian Madigan LL.B.

Did you ever get some bad real estate advice? Was it from a lawyer? The funny little problem here, is that many lawyers feel compelled to provide real estate advice *absolutely free*.

And, it should be free, because it was worthless! In fact, since it may have been simply erroneous, the client should have charged the lawyer.

For some reason, as part of a normal solicitor-client relationship, many lawyers often feel obligated to provide “a little advice” in addition to the usual legal services. This may be fine, but the advice could be entirely in error. How would anyone know?

Recently, I have been surprised to find that many lawyers are expressing opinions on matters such as price, appreciation, locations, rates of return, performance, good areas, bad areas, locations in demand and ones that are not. As well, there is often comment on the business terms of the agreement.

Now, let’s have a look at the lawyer’s qualifications. Were any of these matters covered in law school? Anything, in the Bar admission course? Probably not! So, why express the opinion?

Actually, (contrary to popular opinion) lawyers are well-liked. At least, people like their own lawyers. It’s other people’s lawyers, they don’t like! They are also well-respected. So, their clients will frequently accept their comments as informed, educated, thoughtful expressions that are worthwhile and should be noted. To the lawyer, this may simply be idle chit-chat during a meeting. But, to the client it’s advice to be heeded.

This realm of advice falls to other professionals: financial advisors, economists, realtors, actuaries, investment counsellors etc.

There is no law course in business acumen. There is no course in “negotiating”. Sometimes, comments couched as “legal advice” are really an expression of a legal bias. A lawyer recently commented to a client that he should not accept a property with a residential tenant. But, rather than retain another lawyer whose practise involved the termination of tenancies, espoused numerous anecdotes about how difficult it was to terminate tenants and how awful it was to have tenants. This seemed odd, because the lawyer, in fact, had little to no personal experience in this field. The lawyer’s true experience was in the field of real estate conveyancing where he had worked for the last 30 months. Further, the clients

relied upon this “seeming expertise” to their rather substantial financial detriment.

So, be cautious about free business advice from a lawyer. Having said that, I could probably name several hundred lawyers whose business advice I would more than welcome. However, in all such cases, they will make a clear distinction between legal advice for compensation and business advice for free.

My basic view is to obtain proper and competent advice from a professional practising within the field. All too often, people obtain free legal advice from their accountant, free real estate advice from their lawyer, free tax advice from their barber, free golf advice from their mechanic..... and this just goes on and on.

In the case of real estate, it should be clear: **obtain the advice from a competent realtor practising within the relevant field.**

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