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Sales Representative

Real Estate Review

September 2008

PLEASE ATTEND... BUSINESS, FRANCHISE AND INVESTMENT EXPO

sponsored by the Business Exchange.

October 3 & 4, 2008 10:00am to 5:00pm

Toronto Congress Centre

650 Dixon Road, Toronto

8, 000 to 10,000 visitors are expected.

I will be one of four speakers and will speak about **Buying and Selling Businesses** and the **Role of the Commercial Realtor** at 2:00 pm on Friday, Oct, 3rd, 2008.

Also, I will be hosting a booth and would be please to meet with you and introduce you to several colleagues who might assist you:

Mortgage Financing: Francis MacDonald, Centum Financial Professionals Inc.

Real Estate Investments (RRSP): Tom Napionck, VSM Investment Inc.

Business Solutions: Nickolas Zsifkov, Conitech Systems



After the fall

The Housing Crisis

You might be quite concerned about the present housing crisis. Could it happen in the GTA?

The crisis in the US stock market, and world financial markets occurred because of deflation in the US housing sector. In large measure this was due to the fact that houses were built and sold to consumers who could not

afford them. They were financed in no money down transactions. The more that were sold, the more that were built. Vast sections of the US, Florida in particular were overbuilt.

From an economic perspective, there was an over supply. But, you have to remember that the recent purchases were basically give-aways to people who would otherwise not qualify. When the prices declined, they simply walked away. They had no equity, so there was no reason to stay. This threw more houses into the supply side of the equation. The inevitable result: plunging prices. The collateral damage was to the banking industry and those who held the financing on these properties.

So far, with bank failures and bailouts, this will cost the US taxpayer about \$4 trillion dollars. A rescue plan is underway in advance of the US election.

You will also notice that the stock market has dropped about 20% taking it officially into bear market territory. However, you should also be aware of the fact that with any little bit of good news billions of dollars sitting on the sidelines is reinvested. This clearly demonstrates that there is a strong underlying sense of optimism and a significant potential demand.

The GTA Market

Canada's banks cannot lend on a first mortgage in excess of 75% of the value of a property without the mortgage being insured. Most mortgages are insured through CMHC. The qualifications for approval have been stringent. A no-money down program introduced earlier this year by CMHC has been cancelled. However, it was very difficult to qualify for that program when it was in force, and represents only a miniscule percentage of the total mortgage portfolios (less than 1/10 of one percent).

Consequently, the real estate market in the GTA is not subject to the same financial risks. The substantial overbuilding never took place.

The Real Estate Cycle

You need to know that there is a rather clear and predictable pattern and seasonal nature to the real estate market:

In any year, the market will increase from January to May when it will reach its height, then it will decline from June to August, increase slightly in September, and reach its height once again in October. Thereafter, the market will decline for the balance of the year.

This cycle repeats itself year after year.

ORES Index

I set up the ORES Real Estate Index last year. It is like the CPI (consumer price index) in the sense that it is designed to track values over a period of time.

The Index commenced 1 January 2004. All related prices were converted to 100, so everything to be compared would have a common starting point.

When you are looking at house prices for single family homes in the GTA, you will find the following:

123.60.....	31 August 2008
125.36.....	31 July 2008
131.53.....	30 June 2008
132.11.....	31 May 2008
132.24	30 April 2008
127.42.....	31 March 2008
127.86.....	29 February 2008
125.63.....	31 January 2008
126.31.....	31 December 2007
130.76.....	30 November 2007
130.98.....	31 October 2007
100.00.....	1 January 2004

This means that the average price for single family homes in the Greater Toronto area has increased 23.60% in 56 months. This works out to 5.06% annually. And, this performance is in the right range, that is about a 5% return measured over 20 year periods of time. In fact, there is over a thousand years of history to support that conclusion. The basic rule of thumb: the value of real estate will double every 20 years.

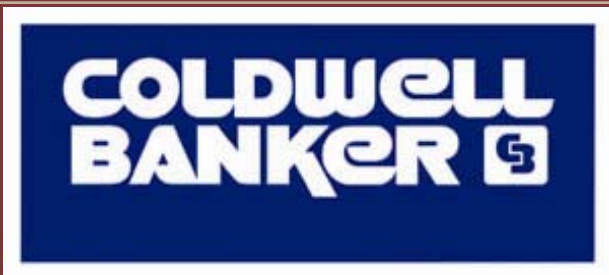
You will also see that the height of the market was reached in April 2008. And, the market has declined every month thereafter. This is just slightly off the predictable cycle.

The Opportunity

With troubled times comes opportunity. There are excellent values in the stock market for investment. There are also excellent opportunities in real estate market.

Muskoka offers properties right now at substantial discounts, and properties in the Windsor area have declined to 10 year lows. Most of the really good deals are outside of the GTA.

For those following the GTA market, you will just have to try to negotiate something now. The timing is excellent but the pricing will continue to be relatively stable because of the strong demand.



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Waterfront Property: Do You Own it?

If you are looking at waterfront property, you really want to know where your property ends and the lake begins. You definitely don't want a "gap".

So, where's the line?

First of all, you have to begin with the water. Let's assume that the body of water is sufficiently large that it is considered to be a navigable water. That basically means that it can accommodate boats, even very small boats. Obviously, this will include lakes, and numerous rivers, but certainly not all of the tributaries.

Second, you will have to figure out where the body of water ends. A larger lake or bay or navigable river will have fluctuations in terms of the level of water within it. However, the boundary is clearly defined. It doesn't move or go up and down with the water level or in and out as the waves roll in. It is a permanent, fixed location.

Third, you will have to locate the first sign of permanent vegetation. That is the line is the sand. That's the spot where the body of water ends and the land begins. Annual vegetation, being grass, weeds, and recurring growth is not a sufficient indicator. You need to find a tree, or a big bush that has been there for some reasonable period of time.

Fourth, once you have located this line of permanent vegetation, you need to mark out a continuous strip along the shoreline. This will represent the division between the body of water and the land. Basically, if you were on a beach in the Caribbean you would take a piece of tape and wrap it around all the palm trees closest to the water. This would provide you with the high water mark, and define the boundary.

Fifth, you need to measure a distance of one chain, or sixty six feet (66') from the boundary. This new strip of property will form a "road allowance" around the perimeter of the lake, river or other navigable body of water.

Sixth, you need to mark out the lots. Let's assume that they are two hundred feet (200') in depth, and one hundred feet (100') wide. Since the water body is irregular in shape, the frontages will never work out to exactly one hundred feet. The same thing will be true for the rear lot line. You may have some pie shaped lots and some reverse pies, but you will really never be able to lay out a plan of subdivision completely with the same sized lots.

Now, those 6 steps are all very nice assuming that you are the original surveyor. Most of Ontario was laid out in the middle of the 19th century, and many areas long before that. The important consideration to bear in mind is that the artificial boundary line doesn't move. It stays put, and it's really the first sign of permanent vegetation. The edge of the water is not the edge of the body of water. It's like a bathtub, sometimes it's filled and sometimes it's not. So, the liquid that you see is transient. It moves, it's there, then it's gone, but the legal boundary for the body of water (lake) will be the high water mark.

From the 1850's to present we have about 16 decades of changes. Some of the changes are man-made and some of the changes are natural. One thing for sure, it's not the same! Docks, breakwaters, decks, structures, buildings, reclaimed areas (filled with land) and excavated areas filled with water all change the original water's edge as found by the first surveyor. Again, we need to be reminded of the basic principle: the lake doesn't move. So, even after years of significant changes one still has to look back to the original survey prepared by the Province to get an idea of where to begin.

The location of the boundary could be changed by the Land Registrar or through a Court Order.

Let's have a look at certain popular areas, and the relationship between the land and the water.

Water Lots

It is recognized that there are certain areas which are truly part of the body of water, but it is advisable that they be placed in private ownership. In this circumstance, a grant of appropriate water lots, with all their attendant rights are provided to the owner. This person obtains "good title" to the property. A deed is registered in the Land Registry Office and the owner acquires suitable rights. The use may be limited to constructing docks or buildings and structures on top of piers etc. or utilizing the area as a marina. In any event, the owner can exclude others from trespassing and to all intents and purposes has all the legal rights that one would have with the ownership of land.

A good example of the use of water lots will be found in the area occupied by Ontario Place in Lake Ontario, and the area occupied by the Toronto Island Ferry at the base of Bay Street.

The Opened Road Allowance

You will come across many areas where the road runs right along the water's edge. This is an opened road allowance. It's just like all the other road allowances surrounding the perimeter of navigable waters, but this time there's an actual road. The Province or the municipality have constructed a highway within the road allowance. The normal width of a lane of traffic is 11 feet. This means that you need 22 feet for a highway with one lane in each direction. Since you are building it within the 66 foot road allowance, you will have to move it away from the water's edge in many cases. You will also want to generally keep it as straight as possible, otherwise it will not be useable.

An excellent example of this type of highway along a road allowance will be found in the Jackson's Point area on the south shores of Lake Simcoe. You will note in this area, that all the cottages are setback from the road, and that there may be some space between the travelled portion of the highway and the water's edge to have a small deck and a dock.



The Unopened Road Allowance

This is typical with smaller lakes. There is really no particular need to travel around the perimeter, so the 66 foot road allowance was never opened. This is absolutely ideal for cottagers, because this means privacy. No one is going to come along and set up tent between your property and the water.

Most of the larger lakes in Muskoka, including lakes Joseph, Rosseau and Muskoka have unopened road allowances. Many municipalities will permit the adjacent cottage owner to purchase the 66 foot unopened road allowance between the front of their lot and the lake.

However, sales have not been brisk. As soon as one neighbour essentially buys their 66 foot strip, then this prevents the municipality from ever constructing a real road. Nevertheless, there are some issues that should be noted:

- The dock
- The deck
- The boathouse
- The bunkie
- The shed
- The septic system
- The main cottage

Where are these structures?

Remember that years ago, people wanted to be as close to the water as possible. Also, they didn't like to clear much land. The buildings were often homemade and rather inexpensive. No one hired a surveyor. And, few knew of the related rules, regulations and laws pertaining to construction and ownership of waterfront property.

So, they built all these things wherever they wanted, just trying to keep away from the neighbours. They often thought that the lake was where the water was, and it moved in and out with the waves. They built the dock, deck and boathouse over the water. Now, we know that's way out in the lake, but they didn't think of that. They thought that it's convenient, and where else would you want to put a dock or boathouse anyways?

The Bunkie, the shed and the main cottage were next. Again, let's get the best views of the lake, so that means as close as possible. And, no one thought about a 66 foot road allowance. Remember that around some lakes, the first sign of permanent vegetation can be 100 to 150 feet from the water's edge. That's the high water mark. Plus another 66 feet before you get to the lot! But, that doesn't matter too much since everything has already been built.

Concerns

Over 7 or 8 decades properties values went from a few hundred dollars to hundreds of thousands of dollars. So, now it makes a difference! A mortgagee is not going to loan you any money for the cottage when it's sitting on the 66 foot road allowance (which you don't own) in front of your property. Fortunately, most of the value is in the lot, so it's possible that you still might qualify for enough money.

However as time goes by, it appears that many significantly valued buildings and structures sit on the lake, which is Crown lands, the 66 foot road allowance which is owned by the municipality and there is little left for the property that you actually own, except perhaps for the septic system.

The lot might be worth \$250,000, the main cottage might be worth \$150,000 and associated outbuildings and structures another \$25,000. So, where does that leave us? It probably means that you have \$175,000 worth of buildings not on your property. They are sitting either in the lake or on the road allowance in front of your property.

Once you know the rules, in order to create and maintain value in your cottage property you will want to ensure that the buildings are on your property, that they comply with the setbacks, and that you purchase the 66' road allowance. As for the dock and the boathouse, perhaps you can obtain a licence from the Province to permit it to remain.

Quickly to summarize, the lakes are Crown lands. They will be either under the ownership and control of the Federal Crown (the Great Lakes and the St. Lawrence River, or the Provincial Crown in terms of the smaller lakes. The sixty six foot road allowance will be Federal, Provincial or municipal. A few phone calls will provide you with an answer. Generally, developed areas with organized municipalities will have ownership vested in the municipality.

So, waterfront properties are fraught with issues and it's best to undertake your research before you buy.

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