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Real Estate Review

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April Housing Market

The Toronto Housing market as well as the rest of the GTA is certainly strong. There are several factors:

- A good economy
- Low unemployment
- Low interest rates
- Relatively stable prices

The actual number of transactions that were undertaken in April amounted to 9,452 which was the highest single month in recorded history. This speaks to the demand and the relative value perceived in the marketplace.

I am going to provide you with some basic average house prices:

- January 2006 \$ 332,687
- April 2006 \$ 366,683
- January 2007 \$ 353,724
- April 2007 \$ 379,025

The percentage increases to April 2007 are as follows:

- January 2006 13.92%
- April 2006 3.37%
- January 2007 7.15%

So, for someone who purchased a property in January 2006, they would have seen an appreciation amounting to almost 1% per month. However, the market dipped in 2006 after it reached its April high. If you bought in April last year, and you took stock of things one year later you would have seen a 3.37% increase in value, just slightly ahead of inflation.

But, if you waited and bought in January of this year, you would already have experienced a 7.15% gain.

You do have to appreciate that these are just numbers. They are simply statistics. If the right property becomes available, then that is the time to buy it. The longer term numbers usually demonstrate that it is the longer term appreciation in values that is the key to winning in the real estate business.

BUY? SELL? HOLD?



Top 7 Ontario Locations

The other day I published the Top 10 Ontario Towns. However, you will notice that there was something in common:

All areas were either:

- Toronto itself
- The GTA (as in the 905 area), or
- Within 60 minutes drive of Toronto



Where is the best deal in Ontario for office space, industrial warehouse space, condominium apartment, townhouses, student housing and recreation properties?

My responses are predicated upon the total rate of return (income and capital appreciation upon the original investment) measured over a period of 5 years.

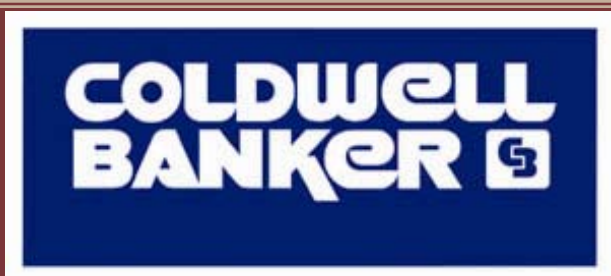
Some basic items that you need to know:

- The GTA is moving faster to the north and west than it is to the east.
- Mississauga has the greatest number of new head offices of any City, and that trend will continue
- Brampton, just to the north of Mississauga has the closest industrial lands available to service the GTA
- Barrie is still under-serviced when it comes to restaurants (land is still inexpensive compared to the GTA)
- Condominium apartments are everywhere in Toronto, there are few in Brampton, and the land is so much cheaper (so, watch for them)
- Townhouse developments need a larger footprint than apartments, Ajax still has lots of opportunity
- You must remember that the two major university towns are London (Western) and Kingston (Queen's), they are the best places by far for student housing
- Caledon is very close to the GTA and has lots of land available for recreational property development; in my view these properties it out perform Muskoka, Haliburton, Collingwood or the Land o' Lakes over the next 5 years

You can find a more detailed explanation published on my daily blog.



“How would you like a Free cottage in Muskoka”—View now at <http://OntarioRealEstateSource.blogspot.com>



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Undivided ownership

Joint Tenancy: Estate Problems

By Brian Madigan

While there are some advantages to joint tenancy, there are also some problems. The primary advantage is the ease of administration of a deceased's estate. It is simple and uncomplicated, nothing more than the registration of a death certificate is required to effect the transfer.

However, with joint tenancy there are two presumptions that need to be considered:

1) the presumption of a resulting trust, and
2) the presumption of advancement.

Resulting Trust

If one party transfers property to another gratuitously, then the law will assume that the transfer was intended as a trust and not as a gift. The person holding title would now do so, for the benefit of the transferor as Trustee and not for themselves on their own account. So, the transfer was for "legal title" only and not "beneficial title". This is only a presumption. It can be satisfied if the contrary intention can be proved. The obligation would be upon the recipient to satisfy a Court that there was truly a "gift".

Advancement

There is another common law doctrine that needs to be considered. In fact, it conflicts with the resulting trust doctrine, or perhaps it could be considered as an amendment or qualification. It is the doctrine of the "presumption of advancement". It was developed several hundred years ago to support gifts made by fathers to their children. It was presumed that the father would have a legal obligation to support the child and would therefore have intended the transfer as an outright gift. So, the principle of advancement could be used to defeat the principle of the resulting trust in such circumstances.

As time went by this doctrine was extended to include wives and others who were dependent upon the grantor.

Modern legal jurisdictions all recognize that this doctrine is antiquated. In some cases, it has been abolished, reduced or modified by the Courts or by legislators.

The problem is that in Ontario, it's still here.

So, let's look at a rather common situation. An elderly parent holds title to the family house. The children have all grown up and moved out. Eventually, it seems reasonable to undertake some sort of estate planning. This usually involves a Will, Powers of Attorney, beneficiary nominations, and possibly the transfer of the family home. So, someone comes up with the bright idea that the title should be conveyed to the parent and one of the children in "joint tenancy". This will eliminate probate fees on the value of the house and might eliminate the need for probate altogether.

Let's assume that Joe (the father) conveys the title to Maureen, his daughter in joint tenancy. But, Joe has two other children, Robert who is a workaholic and Jennifer who lives in the United States. There is no question that Maureen is the one who is called upon to look after dad's daily needs, groceries, housekeeping, trips to the doctors etc.

This can't go on forever, and it doesn't. Joe dies. So, who gets the property?

Maureen claims it's hers. It was in joint tenancy. Robert and Jennifer say it should be split three ways. They claim the doctrine of resulting trust should apply. Maureen is presumed to be a Trustee and dad the beneficiary. Maureen counters with the doctrine of the presumption of advancement. She is a child of Joe, and he must have intended to provide her with an additional benefit. After all, she was "the one" caring for him. And, so it goes. In fact, basically all the way to the Supreme Court of Canada.

All these issues are presently before the highest Court in Canada for consideration and resolution. The Court has reserved judgment in *Pecore vs. Pecore, and Brooks, Estate Trustee vs. Saylor*.

In the meantime, while we are awaiting a decision, there is some guidance from the Ontario Court of Appeal. That Court said that you have to look at the whole of the evidence. Look at the bank accounts, look at other relevant factors and make a determination about Joe's true intention as demonstrated by his behaviour. Only, if you can't figure it out, apply the two legal doctrines. That seems to make sense. But, let's wait to see what the Supreme Court of Canada says before we draw any unnecessary conclusions.

One word of advice while we're waiting: **document dad's intentions!**

Condominiums: From Ancient Rome!

By Brian Madigan



As just about everyone knows condominiums had their origins in ancient Rome. In fact, you can find that type of reference on just about one half of the brochures for new condominium developers.

So, I suppose the question is: *is this true?* Did condominiums come from ancient Rome? Well, perhaps it's half true. The word "condominium" is a Latin word. However, it is like the word "webominium" which means that you own a small part of a larger website. Now, when it comes to the Romans they didn't really have webominiums or for that matter condominiums either.

Since so many people simply *KNOW* that it's true, why do I say otherwise?

In 1961, Charles Ramsey commented on new trends in Co-Op's, and he wrote the following:

"There has recently appeared in the United States a new word to describe an ancient concept of ownership of real property. The word is "condominium," and while it is new to us in the sense that it is not found among the pages of our numerous treatises on the law of real property, the concept of property ownership to which it pertains is literally as old as the hills—the hills of ancient Rome, where it is said to have had its beginning."

You might think that Charles Ramsey was a Professor of ancient history at Harvard or Yale. But, you'd be wrong. Mr. Ramsey was a Clerk (title officer) for the Chicago Title Company and he was asked by his employer to write a short pamphlet about condominiums. Like most people, he thought that the word "condominium" sounded rather like a Latin word. Not being much of a scholar, when it came time to quoting his source he simply commented "where it is said to have had its beginning." So much for historical scholarship!

As time went by, the Chicago Title Company underwrote condominium title policies, their pamphlet was widely distributed and Mr. Ramsey was promoted. Within a few short years he became known as an expert in the field. And, because he was such an expert, no one challenged his theories about ancient Rome. He made speeches about condominiums and began to add some embellishments to the story, but again he never provided any sources.

However, you really should know:

- There were no condominiums in ancient Rome
- There was nothing like the horizontal ownership of real property
- No Latin scholars have found original sources to support the theory
- This type of property ownership was not used in the middle ages when Roman Law was the trend in Europe

So, the interesting question remains: Is this false advertising?

Want to Buy a Business?

Metal Fabrication \$3.145 million
Hair salon \$55,000
Bakery \$375,000

Cottage Properties

Call me for a referral to
a trusted local agent

Refinancing,

preferred rates from
institutional and private lenders

If you're considering a move, it would be my pleasure to provide you with a complimentary Market Evaluation of your home.

Sorry no recipes!

A young lawyer asked the Mayor of a small town whether the town was large enough to support a lawyer.

The Mayor replied "there's not enough business for one lawyer, but there's probably enough for two!"



If you are interested in receiving new listings by email for an area of interest to you, please contact me.

Check out my daily real estate blog at

<http://OntarioRealEstateSource.blogspot.com>

For over 70 articles on real estate, finance and advice for the homeowner including four articles on Title Fraud visit:
www.OntarioRealEstateSource.com