

## Time for Closing: 5:00 pm or 6:00 pm?



By Brian Madigan LL.B.

There used to be a time when agreements of purchase and sale provided that transaction must be completed prior to 4:30 pm on the date scheduled for closing. Now that we have an electronic registration system in place, that time should say “5:00 pm”, because that’s the last time permitted for registration.

Let’s have a look at the standard form agreement in use in Ontario:

“**2. COMPLETION DATE:** This agreement shall be completed by no later than **6:00 pm** on the 4th day of July 20xx. Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.”

So, there’s a time and a date and in the second sentence there are consequences. The purchaser basically has until 6:00 pm to complete the deal. The electronic registration system is still open, but just for searches until 8:00 pm; and as mentioned previously, 5:00 pm for registrations.

Obviously, this places a reluctant purchaser in a rather “crafty position”, by insisting upon closing after 5:00 pm but before 6:00 pm as specified in the agreement.

Litigation is expensive, and is not the appropriate avenue to determine the rights of the parties. The standard form should clearly be amended to say 5:00 pm. That will eliminate a possible objection by a crafty purchaser who simply wants to back out of the deal. It will also save the realtor the expense of litigation arising by reason of the “oversight”.

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