

Subject Clauses

The purpose of a subject clause contained in an offer to purchase is to set out a specific condition that must be fulfilled before the sale can go through.

One common subject clause you might encounter is one in which the buyer makes the sale conditional upon their finding the exact amount and type of financing which will enable them to purchase your home. Remember that, if you accept an offer that contains a subject clause, you are effectively taking your property off the market for the period in which the purchasers are attempting to meet the conditions they have set. For any subject clause set, an agreed upon time for the condition to be met is specified in the offer to purchase, this is usually between 7 to 10 days.

If any one of the conditions (subject clause) contained in the offer to purchase cannot be met, after every reasonable effort has been made to do so, the contract becomes void and ends, and there is no legal obligation for the buyer to complete the purchase.

Some of the more common Subject Clauses are:

- Financing
- Building Inspection
- Sale Of Buyers Home
- Title Search
- By-Laws (for strata properties)
- Strata Council Minutes (for strata properties)

As a seller, you may wish to accept an offer containing a subject clause (e.g., subject to the buyer selling their own home) yet still leave yourself free to consider other offers and continue marketing your property, just in case the buyers are unable to remove the condition.

You can do this by having the buyer agree to insert a "Time Clause" in the contract. A time clause will permit you to require the buyer to remove all subject conditions, within a short specified time period (usually 24-48 hours) if you receive another offer that you would like to accept.

If the buyer does not remove the conditions within that time, the conditional contract comes to an end and you are free to proceed with the second offer.

Do you know all of the pros and cons of using a "Time Clause Form" in a Contract? WE DO!

For assistance in selling your home, contact:

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