



MODULE 1

INTRODUCTION TO REAL ESTATE LAW

OVERVIEW

This module introduces students to real estate law, and the terminology used in real estate markets. It invites students to examine the long-time debate between renting and buying a home. Students are asked to look at the comparative advantages and disadvantages of each type of real estate transaction. The module also introduces students to financial literacy in the context of real estate. Students are asked to complete their own budgeting exercise based on a variety of lifestyle choices to see which would be more affordable: renting or buying. This assists with students' understanding of financial planning required for real estate and contributes to their core competencies.

Learning Objectives

- To introduce students to the general areas covered by real estate law.
- To introduce students to the terminology used in real estate markets.
- To enhance students' understanding of the advantages and disadvantages associated with renting and buying in Canada.
- To develop students' financial planning competencies, including budgeting.

Materials

- Copies of *Renting vs. Buying* chart (one per student)
- Copies of *Budget Exercise* (one per student)
- Digital projector or computer with internet access (optional)
- Copies of *Real Estate Terminology* (one per student)

Teaching and Learning Strategies

1. Introduce thematic areas of the unit by having students consider what the role and value of real estate and housing is in our daily lives. Activate students' opinions on this topic by having them complete a line up activity with one or more of the following statements. Instruct students to stand in a line, listen to the statement and step forward if they agree and backward if they disagree. Ask students to give reasons for their opinions and discuss as a class.

- Everyone in Canada should have a legal right to have a roof over their head.
- You should be required to have a residential address in order to get a bank account.
- It is better to own a house than rent an apartment.

Explain to students that real estate plays a significant role in our daily lives. For example, it is very difficult to get a bank account if one does not have a residential address. Whether the roof is rented or purchased is a choice we have because of our property rights. The free economy is based on a good private property rights system, which permits individuals to create wealth and use it to create more. Investment is required to create something. The risk and reward system which property rights provides our society spurs



individuals to create. Property rights are not limited to real estate and the same principles can be applied to buying a car, a boat, etc. That we have the choice to buy or rent stems from our property rights, in that someone determined that if they created a property or housing unit, they could rent it or sell it to make a profit. To do so, they most likely had to commit their own property rights and pledge their assets to borrow money to make their project a reality. The fundamentals of real estate found in residential real estate remain true, and are a good training exercise for commercial, industrial or other real estate where you simply add more 000s to the purchase price or size to the land or building.

Highlight to students that this particular lesson will focus on the issue of whether buying or renting is better. Explain that there is no right answer, as it depends on the individuals and their circumstances. Buying creates forced savings and equity, and renting provides easier options to relocate for work or lifestyle decisions. Conclude this exercise by asking students to consider which option they would prefer and why.

2. Distribute the *Renting vs. Buying* chart to students. Explain that there are advantages to both renting and buying, and the choice often depends on a person's circumstances and preferences. Ask students to work in pairs to identify three comparative advantages for both renting and buying and record them in the chart provided. Take up the answers as a class.

3. Have students delve deeper into the merits of owning versus renting by showing them the following video clip, which captures this debate: *Is Renting Always a Waste of Money?* – <https://www.youtube.com/watch?v=KAMel4uHAFE>

Discuss the following as a group:

- Were you shocked by the numbers described in the video? If so, why?
- What are some of the advantages of renting and buying? What are the disadvantages of each?
- We often hear that the housing market has become unaffordable in recent years. After watching the video, do you think that home ownership will continue to rise in the long term, or do you think more people will be inclined to rent? Why?

Teacher's Key – Renting vs. Buying

Answers will vary. Some possibilities are as follows.

COMPARATIVE ADVANTAGES OF RENTING VS. BUYING

Renting	Buying
<ul style="list-style-type: none"> • GENERALLY CHEAPER • Rent payments are typically lower than mortgage payments/taxes/condo fees. • Avoidance of up front purchase costs like down payment, legal fees, and land transfer tax. • Avoidance of ongoing ownership costs like property taxes, repairs, condo fees and utilities, if included in the rent. • Although there is no requirement for home insurance, renters should get tenant insurance, but few do. • Money saved may be invested for higher rate of return than would be gained by buying and selling home. 	<ul style="list-style-type: none"> • INCREASE NET WORTH • Real estate typically appreciates in value over time, and hence an owner's net worth increases. • If the home is the principal residence and is later sold above the original purchase price, the net gain is tax exempt from (capital gains) tax. • Buying a home typically involves a mortgage, and is for most people a forced savings program (on money which would otherwise be misspent assuming it was not invested).
<ul style="list-style-type: none"> • LESS HASSLE • Usually limited or no responsibility for maintaining and repairing home – e.g. grass cutting, snow removal. 	<ul style="list-style-type: none"> • MORE CONTROL • An owner can decorate or make changes to the home at will (subject to government restrictions like building codes). • Flexibility to have pets, a garden, make noise, etc. (subject to restrictions like condo rules).
<ul style="list-style-type: none"> • MORE FREEDOM • Feeling of independence. • More discretionary income to spend on dining, travelling, consumer goods, and investing. • Ability to move easily to take a new job or pursue new experiences in different parts of the city, province or world. 	<ul style="list-style-type: none"> • MORE SECURITY AND ATTACHMENT • Feeling of security and pride that comes with ownership and being an established part of a community. • Freedom from eviction and a land owner's choices about the future use of the property.



4. Using a digital projector or computer with online access, review the Investor Education Funds' *Rent or Buy Calculator* with students, available here: <http://www.getsmarteraboutmoney.ca/tools-and-calculators/buy-or-rent-calculator/buy-or-rent-calculator.aspx#.VbfF9PIViko>. Explain to students that this calculator helps people decide whether it is better to buy or rent a home, based on the net investment gain that will result.

Emphasize to students that the relative financial benefit of renting versus buying depends on which assumptions a person makes about many elements, such as the annual appreciation of a home, the annual return on money invested (i.e., savings from not buying a house), rate of inflation, and a person's monetary discipline.

Complete the following scenario with students and calculate the results. As an alternative to the online option, distribute print copies to students and review the sample scenario in class.

SCENARIO - RENT OR BUY CALCULATOR

Renting

- **MONTHLY RENT PAYMENT**
 - Depends on location, type of property and the amenities provided – Google average rent for your area.
- **RENTAL DEPOSIT**
 - Typically, the amount of one month's rent.
- **YEARLY RENT INCREASE**
 - **2.0%** in 2016. In Ontario, the annual rent increase may be restricted by legislation. See historical Maximum Rent Increase Guideline: <http://news.ontario.ca/mah/en/2014/06/2015-rent-increase-guideline.html>
- **MONTHLY COST OF RENTER'S INSURANCE**
 - Tenants should have their own insurance, but most do not – use **\$0** for this exercise.
- **INVEST THE BUY-RENT DIFFERENCE:**
 - Choose "YES" for this exercise. If the tenant is not investing the difference, they miss out on the benefit of cheaper housing costs.

Buying

- **PURCHASE PRICE OF HOME**
 - **\$448,862.00**
 - Or Google the average home prices for Canada or the City.
- **DOWN PAYMENT**
 - **5%** is the minimum the government requires for a residential owner-occupied home (non-owner occupied properties - 20%).
- **AMORTIZATION PERIOD**
 - **25** Years
- **MORTGAGE RATE**
 - **2.69%**
 - Or, Google any Canadian bank website and select the current rate for the purpose of this exercise.
- **LAND TRANSFER TAXES**
 - E.g., **\$5,452.24** Ontario Land Transfer Tax (LTT) + **\$4,702.24** Toronto LTT, if applicable.
 - Or, visit www.landtransfertaxcalculator.ca and calculate the tax using their calculator based on the purchase price being used for this exercise.

MODULE 1

SCENARIO - RENT OR BUY CALCULATOR

Renting

- **YEARLY EXPECTED INVESTMENT RETURN**
- Use **2%** for this exercise; however, this fluctuates depending on the markets, and you can Google Canadian bank interest rates on savings.

Buying

- **YEARLY PROPERTY TAXES**
- **\$4,488.00**
- A good rule of thumb is 1% of the market value (i.e., purchase price) of the home, but it varies by municipality, property and tax year.
- **COSTS OF BUYING A HOME**
- Use **1%** for this exercise - All associated fees.
- **COSTS OF SELLING A HOME**
- Use **5.5%** for this exercise -- All associated fees, the most significant being the Real Estate Broker Fees.
- **AVERAGE YEARLY CHANGE IN HOME VALUE**
- Use **2.0%** for this exercise, or Google this information.
- **YEARLY HOME MAINTENANCE COST/CONDO FEES**
- Use **2%** for this exercise, but note it fluctuates based on age and type of property.
- **YEARLY COST OF HOME INSURANCE**
- Use \$1, 200 for this exercise, but note this fluctuates by location, type, and value of property, and the coverage requested.
- **MORTGAGE INSURANCE PREMIUM**
- Calculator automatically calculates this amount based on the amount of the down payment.
- **OTHER COSTS**
- Leave blank.
- **INFLATION**
- Use 2% or Google for the latest rate, different parts of the city, province or world.



5. A lot of people participate in the real estate market, some more aggressively than others. Explain to students that whether they rent or buy, it is advisable to draw up a budget in order to determine how much of a monthly mortgage payment or rent can be allocated to cover housing. Budgeting involves matching monthly take-home income, which is your income after taxes, and monthly expenses. Have students complete the *Budget Exercise* to determine if they will have enough money to balance their budget each month. In doing so, they should select a proposed occupation and location to live in Ontario. Ask students to use 30% of the income suggested as what is available for housing costs. Give them time to research housing prices (rented and owned) in the location they choose using newspapers and websites such as newspapers and/or Kijiji, Craigslist, and Realtor.ca. They should canvass the apartments available now in the area they want to live in and what they can afford. Have them complete the remainder of the budgeting exercise using the charts provided. This can be an individual exercise or, more realistically, a team exercise as it is very likely that for their first foray into the rental market, (for budget reasons) they will likely seek to share the rent and should experience the negotiation of finding suitable accommodation, based on location, tastes, and desires of each roommate.
6. Debrief as a class by discussing the questions provided. As an option, have students present their findings in class and discuss the search process, the availability of housing units acceptable to them, the compromises they made if done as a team/roommate exercise, and any lessons they learned or things that surprised them during the exercise.
7. Have the students gather an appreciation for the real estate market terminology by completing the worksheet *Real Estate Terminology* either in class or for homework. Take up the answers as a class.

Extension

Have students review the following video clip on the importance of calculating one's net worth:

How to Calculate Your Net Worth –

<http://www.theglobeandmail.com/report-on-business/video/calculate-net-worth/article24984924/>

MODULE 1

 Teacher's Key – Real Estate Terminology

Term	Definition
1. Agreement of Purchase and Sale (APS)	a) The contract which sets out the terms of the purchase and sale and binds the sellers and buyers. It starts as an offer to purchase and once accepted by the seller, becomes the APS. Some think of a counter-offer as a third step in concluding an APS, however, in law it is seen as simply a rejection of the offer and the presentation of a new offer, which can be accepted or rejected by the other party.
2. Appraisal / Appraiser	b) An assessment of the current market value of the property. An individual licensed to provide an opinion as to the market value of a property, although buyers and sellers often only rely on the real estate agent/broker for valuation information. The lenders typically will order an appraisal for financing purposes.
3. Appreciation	c) The increase of a property's value over time.
4. Balance Due on Closing	d) The amount of money that the buyer needs to pay the seller on closing, after the usual adjustments as determined on the Statement of Adjustments, prepared by the seller's lawyer for review by the buyer's lawyer.
5. Bidding War	e) Situation where more than one buyer wants the same property. The seller need not accept the first offer he/she gets and buyers will put in higher offers than other bidders to be the successful bidder. Although price is not the only variable which entices sellers to accept an offer, it often is the one item over which buyers will try to out-bid each other. This scenario is more common in large cities or in desirable areas.
6. Bridge Financing	f) Money borrowed against a homeowner's equity in a property, usually for a short term, to help finance the purchase of another property or make improvements to a property being sold.
7. Buyer / Purchaser	g) The person who is buying a property. Although purchaser is the more common term, buyer is the term used in the APS.
8. Chattels	h) Personal belongings which do not become part of the property, although they might be temporarily affixed to property or safely enjoy them. The seller takes these with him/her when he/she moves, unless the APS provides otherwise. Examples are: window coverings, fireplace grates, furniture, appliances (unless built-in), pumps or other equipment.
9. Closing or Closing Date	i) The date, on which the sale becomes final, the legal title is transferred, the seller delivers vacant possession to the buyer and the buyer takes possession and becomes responsible for the ongoing cost and maintenance of the property.

Teacher's Key – Real Estate Terminology

Term	Definition
10. Commission	j) The money paid to a real estate agent/broker for their efforts to bring a buyer and seller together. The commission is paid at the time of the closing. The seller is contractually obligated to pay the commission but buyers pay it or contribute to it as part of the purchase price.
11. Common Area	k) In a condominium there are three types of property: the units which are individually owned; common area which is jointly owned by all owners and to which they generally equally have access to (i.e. a pool); and, exclusive use common area which are restricted for use by one owner (i.e. balcony off a unit).
12. Conditions	l) An APS is binding on the parties subject to its terms and conditions. If one of the parties wants to provide an option to terminate the agreement, it must be stated in the agreement. We call these conditions. Examples might be a condition to obtain financing for the purchase; to obtain a building inspection satisfactory to the buyer; to sell the buyer's existing home; to confirm that the buyer will be permitted to add to, build or renovate the home as they intend. Failing any of these the buyer can terminate the agreement. It is important to not only state the nature of the condition but also what must be done by whom and by when. For example, a sample condition would be: The Buyer has 10 business days to satisfy herself that she can obtain financing for the purchase and failing her providing written notice to the Seller within the time specified, the Agreement of Purchase and Sale shall be null and void.
13. Condominium	m) A type of ownership which permits individual ownership and the sharing of common resources. In a residential structure, apartments or townhouses (units) are individually owned as pieces of real estate whereas the land and common facilities are jointly owned.
14. Condominium Corporation	n) Company which operates the condominium and manages the land for all the owners.
15. Consideration	o) This is a legal concept that is based on the fact that only bargains are enforceable. Voluntary promises might not be enforced. For an APS to be binding there must be value exchanged, typically an exchange of money. The deposit in an APS is most often the value which makes the APS enforceable. In law, a document under seal is binding and so if you look closely at the APS form provided; it has a "seal". Although this originally was a wax seal impressed on the document, the modern version of the seal is a simple circle or the word "seal".
16. Deed of Land / Transfer	p) The document which is signed by the seller and registered by the lawyer in the Land Registry Office to transfer the title to the property from the seller to the buyer. In actual fact, today, the seller no longer signs the transfer, but rather an Acknowledgement and Direction to authorise and instruct his/her lawyer to record the transfer in the electronic registration system presently used in Ontario.



Teacher's Key – Real Estate Terminology

Term	Definition
17. Deposit	q) The amount of money the buyer gives to the seller, his lawyer or agent when he/she signs the APS. It is said to represent a good faith gesture to show the seriousness of the buyer. If the buyer fails to purchase the property he/she generally loses his/her deposit.
18. Down Payment	r) The amount of money the buyers contribute to the purchase of the property on closing. This may be as little as the deposit, but generally includes further monies paid on closing to be at least 5% of the value of the property.
19. Due Diligence	s) This is the process during which the buyer will seek to satisfy him/herself that what he/she thinks he/she is getting or bargained for, is actually what he/she will get. Part of the process may be done by the buyer personally but generally the lawyer undertakes it on behalf of his/her client. The lawyer will search the title of the property to ensure the buyer gets a good and marketable title, subject only to known and agreed upon exceptions or limitations. The buyer needs to confirm financing is available and that insurance will be available at a reasonable cost. Some issues will need to be discussed to decide who undertakes them, such as possible renovations or additions to the property. These might be for the buyer or the lawyer to investigate.
20. Easement / Right of Way	t) A right held by a third party to use or pass over another person's property. Typically we refer to a right of way for a temporary and intermittent passage (i.e. a road or driveway) and an easement for a permanent use of part of the land (i.e. a cable, pipe or building).
21. Encroachment	u) An intrusion onto an adjoining property – such as a neighbour's fence, storage shed or overhanging roof line that partially (or even fully) intrudes onto another property.
22. Equity	v) The amount of his/her own money a buyer has in the property but over the years becomes the difference between what the property could sell for and how much the owner has left to pay on his/her mortgage(s).
23. Exclusive Listing	w) A listing which is exclusive to the broker and advertised within its own network only and not exposed on MLS.
24. Fees and Disbursements	x) Fees are what the lawyer acting for the seller or buyer is paid to undertake work on their behalf. Disbursements are the out-of-pocket costs the lawyer incurs on the seller's or buyer's behalf and for which the lawyer gets reimbursed by his/her client (i.e. search and registration costs).
25. Fixtures	y) Things which are affixed to the land and become part of the property, such as the house, a furnace, air conditioner, fireplace, light fixtures, etc.
26. Freehold	z) The legal terminology which indicates that a person owns the greatest interest possible in a property. Typically we simply call them an owner. Contrast this to a condominium where one simply owns one or more units and the freehold is owned by the condominium corporation.



Teacher's Key – Real Estate Terminology

Term	Definition
27. FSBO	aa) A term to represent an ever growing trend of "For Sale by Owner" where there is no agent/broker and instead the owner tries to sell the property using their own resources (sign on the lawn or the internet – Kijiji).
28. Guarantor	bb) A person who agrees to be legally responsible for paying another person's mortgage if the borrower defaults on the payments. A guarantor is only required by the lender in certain circumstances (e.g., the lender may need a guarantor for someone new to the work force and does not have much money saved or has no credit history).
29. Home Insurance	cc) This insures against the damage/destruction of the home because of something unexpected, like fire or other incidents such as burglary, and could be on an all-risks basis or a specified risks basis.
30. Inspection / Inspector	dd) The formal process to review and evaluate the state of the building on the property to estimate the amount and cost of any future work to maintain or repair. There is no licensing requirement as of now for inspectors and although a recommended step in the buying process, the results will depend on the quality and knowledge of the person doing the inspection and the report provided. Often the liability of the inspector is limited in the report to the amount paid for the report, when damages can be substantially more. Buyers often forgo an inspection or rely on family and friends to advise them, neither of which is recommended).
31. Insurance Broker	ee) An individual or agency that a buyer consults to determine the amount and kind of protection a homeowner should acquire. Buyers should consult their broker soon after signing the APS to discuss options, cost and the availability of insurance.
32. Land Transfer Tax	ff) A tax paid to the province on closing by the buyer, being a percentage of the purchase price. In the City of Toronto there is also an equivalent tax collected by the City. The rate depends on the value of the property; see Module 4 for a breakdown.
33. Land, Property, Home, House, Unit	gg) Interchangeable terms to mean a property being purchased or rented. Land and property are generally more generic, home/house more specific to a dwelling, and unit to a condominium property.
34. Lawyer for the Buyer	hh) The lawyer is responsible for assuring that his/her client receives good title. The lawyer searches title to the property, obtains information from the municipality and others, receives a survey of the property (if available), and advises the client as to the state of title before closing. The lawyer typically also acts for the mortgage lender. The mortgage lender is also interested in the state of title because it is advancing monies on the security of the land. The lawyer prepares various closing documents and registers the transfer/deed of land and the mortgage.

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 Teacher's Key – Real Estate Terminology

Term	Definition
35. Lawyer for the Seller	ii) The lawyer deals with any problems that the buyer's lawyer finds on the title that have to be dealt with before the transaction closes and arranges to pay off the seller's existing mortgage, if applicable. The lawyer prepares various closing documents and delivers the keys and the transfer/deed of land on closing in return for the purchase money.
36. Leasehold	jj) The legal terminology which describes the interest held by a person that is leasing/renting a property, typically from the freehold owner.
37. Lien	kk) A legal claim filed against a property to ensure payment of a debt.
38. Listing	ll) The agreement signed by the seller to authorise the agent/broker to sell the property. It will specify the period of time the property will be up for sale, the amount of the commission and any other terms. The agent/broker will add the details of the property for sale to MLS and the information summary is also called a listing.
39. Listing Agent	mm) Real estate agent who acts for the seller and advertises the property for sale, exclusively or via the MLS. RECO provides a Representation Agreement to be signed by the seller and buyer to confirm that the agent is working for either or both.
40. MLS	nn) The multiple listing system (MLS) is set up by local real estate associations (i.e. Toronto Real Estate Board) to promote the availability of a property. It was formerly periodic printed in books of listings but today is simply part of an online resource. The property must be listed with an agent/broker to be advertised on MLS.
41. Mortgage Broker	oo) An individual or agency which will match up a lender and a borrower. Buyers/borrowers can directly get a loan from a lender (i.e. bank, credit union, caisse populaire, mortgage company) or use this third party to find a loan with the most favourable terms. Although, brokers were only used for borrowers who had difficulty to obtain a mortgage, today, they are used by many, often for the benefit of simplifying the shopping for the best terms.
42. Mortgage Commitment	pp) The agreement that a lender gives to a borrower to commit itself to providing a mortgage. It states the amount of the loan, interest rate, term, amortisation period and other terms of the loan.
43. Mortgage/ Charge	qq) A loan registered on title providing the lender security for repayment with direct rights against the property in the event of non-payment, such that in the event of default the lender can sell the property to recover the money owed. Mortgage is the old terminology and Charge is the new term.

Teacher's Key – Real Estate Terminology

Term	Definition
44. Mortgagee / Chargee	rr) The person or entity lending the money and receiving the mortgage as security for its repayment. Mortgagee is the old terminology and Chargee the new term.
45. Mortgagor / Chargor	ss) The person borrowing money and giving the mortgage. Mortgagor is the old terminology and Chargor the new term.
46. Ontario New Home Warranty Program	tt) A statutory protection program administered by Tarion Warranty Corporation, a private corporation set up by the Ontario government. The <i>Ontario New Home Warranties Act</i> is designed to protect consumers buying new homes by ensuring that they get a quality home. All builders in Ontario must enroll every home in the program. The program provides protects for deposits, construction defects, closing dates and more. More information is available at www.Tarion.com
47. Real Estate Agent	uu) An individual responsible for bringing together a buyer and a seller in a transaction and traditionally was the avenue to expose properties to the market. Licensed by the Real Estate Council of Ontario (RECO) and formally called salespersons.
48. Real Estate Broker	vv) An individual or agency which is licensed to sell a home by bringing together a buyer and a seller for which the real estate agent works. Licensed by the Real Estate Council of Ontario (RECO) (e.g. ReMax).
49. Seller / Vendor	ww)The person who is selling a property. Although vendor is the more common term, seller is the term used in the APS.
50. Selling Agent	xx) Real estate agent who acts for the buyer and introduces buyers to properties for sale and generally drafts the offer to purchase. RECO provides a Representation Agreement to be signed by the seller and buyer to confirm that the agent is working for either or both.
51. Specific Performance	yy) The process by which a seller is forced by the courts to complete the deal which he/she had agreed to. If a seller does not complete a transaction and the buyer is not satisfied that money will compensate him/her adequately, the buyer can ask the court to order the seller to respect his/her deal on the basis that the property is unique and money, as damages, is not a good substitute.
52. Statement of Adjustments	zz) Documents which sets out in two columns the credits to the seller and to the buyer. Once both are totalled, the difference is called the Balance Due on Closing, typically an amount the buyer pays to the seller. This document should be reviewed and understood by both the seller and buyer before closing. Typically adjustments include the purchase price, the deposit, property taxes, rental income, if any, heating oil, if any. Water, gas and hydro are not typically adjusted as they are individually metered and billed to the party in occupation.

**Teacher's Key – Real Estate Terminology**

Term	Definition
53. Survey	aaa) A plan produced by a surveyor that sets out the boundaries of the land and locates the structures and important features in relation to the boundaries. Without a survey it is impossible to know where or if a structure (i.e. house) is actually within the boundaries of the land being purchased or mortgaged. Every buyer should get an up-to-date survey when they purchase or undertake any improvements to the land in order to ensure its location is in compliance with all municipal zoning by-laws and within the boundaries. Often, because of cost, parties will use an existing survey or obtain title insurance instead.
54. Tax Roll Assessment	bbb) All municipalities in Ontario raise money by taxing properties in their jurisdiction. The municipality maintains a list (tax roll) and each property is given a number (tax roll number). In order to calculate property tax, each property is given a value by the province (tax roll assessment), which value is often not equal to market value. Taxes are calculated by multiplying the tax roll assessment by the property tax rate – a number the city determines in its annual budget exercise.
55. Title Insurance	ccc) An insurance policy that protects home owners and lenders against losses related to the property. It provides coverage for fraud, forgery, missing heirs, unregistered easements and other issues that can affect rights of ownership. Traditionally, a lawyer acting for the buyer would provide his/her opinion to the buyer that he/she was getting a good and marketable title, subject to known and accepted exceptions and limitations. Today, it is more likely that instead of the opinion, the lawyer will purchase a title insurance policy for the buyer and lender as it provides broader coverage and indemnification than a lawyer's opinion would, such as coverage for fraud. Title insurance also provides a direct recourse for the insured instead of having to prove the lawyer's negligence. The policy replaces the lawyer's opinion but not the lawyer's other work.
56. Utilities	ddd) Term for the services provided to the property, such as, hydro, gas and water. Sellers typically close their account with the utility company and the buyers contact the utility company to create their own account.
57. Vendor Take-back Mortgage	eee) When the seller loans the buyer money to complete the purchase. The seller receives a promise to pay instead of cash on closing. This provides the seller with the same security that a traditional lender would have for its loan.
58. Zoning Regulations	fff) Strict guidelines set by municipal governments regulating to how a property may or may not be used, such as use, setback, height, density, etc.

**MODULE 1****INTRODUCTION TO REAL ESTATE LAW****RENTING VS. BUYING**

There are advantages to both renting and buying. The choice is not always a clear one and depends on a person's circumstances and preferences. Identify three comparative advantages for both renting and buying and record them in the chart below.

COMPARATIVE ADVANTAGES OF RENTING VS. BUYING**Renting****Buying**



BUDGETING EXERCISE*

Whether you rent or buy, it is advisable to draw up a budget in order to determine how much of a monthly mortgage payment/rent can be allocated to cover housing. Budgeting involves matching monthly take-home income, which is your income after taxes, and monthly expenses. Complete the budgeting activity below to determine if you will have enough money to balance your budget each month.

Step 1: Select an occupation from the list below and enter the average monthly take-home pay in the relevant section of Step 3. Target using 30% of your take-home pay towards housing costs.

OCCUPATION	AVERAGE MONTHLY TAKE-HOME PAY (after payroll deductions)
Service station attendants	1,546
Food and beverage servers	1,566
Bartenders	1,649
Hairstylists and barbers	1,662
Retail salespersons and clerks	1,762
Bakers	1,833
Outdoor sports and recreational guides	1,905
Receptionists and switchboard operators	2,079
Customer service representatives - financial services	2,173
Bookkeepers	2,401
Motor vehicle body repairers	2,415
Early child educators and assistants	2,421
Dental technologists, technicians & lab workers	2,442
Welders and related machine operators	2,463
Chefs	2,544
Truck drivers	2,588
Audio and video recording technicians	2,716
Secretaries (except legal and medical)	2,848
Paralegal and related occupations	2,936

* This exercise has been adapted from an online learning resource called 'The City: A Financial Life Skills Resource' developed by the Financial Consumer Agency of Canada (FCAC) and the British Columbia Securities Commission (BCSC), available here: <http://www.fcac-acfc.gc.ca/Eng/resources/educationalPrograms/Pages/Thecity-Lazoneun.aspx>.

MODULE 1

OCCUPATION	AVERAGE MONTHLY TAKE-HOME PAY (after payroll deductions)
Insurance agents and brokers	2,943
Graphic designers and illustrators	3,033
Family, marriage and other counselors	3,304
Plumbers	3,327
Web designers and developers	3,375
Authors and writers	3,561
Pursers and flight attendants	3,842
Sales, marketing and advertising managers	3,892
Computer programmers & interactive media developers	3,935
Dietitians and nutritionists	3,971
Secondary school teachers	4,011
Civil, mechanical, electrical and chemical engineers	4,033
Firefighters	4,070
Real estate agents and salespersons	4,117
Social workers	4,168
Industrial electricians	4,199
Registered nurses	4,206
Managers in health care	4,433
RCMP officers (after 36 months of duty)	4,612
Psychologists	4,732
Physiotherapists	4,893
Lawyers	5,106
Financial and investment analysts	5,282
Pharmacists	5,740



Step 2: Choose a location to live in Ontario. Your housing options and expenses will vary depending on which location you decide to live in. Consult newspapers and/or websites such as Kijiji, Craigslist, and Realtor.ca to determine how much your monthly housing expenses will be. Enter the amount appropriate for your area in the housing section. For all of the subsequent sections, estimates for urban and rural areas are provided as a guideline.

EXPENSES	YOUR BUDGET	ESTIMATED AVERAGE COSTS FOR ONTARIO	
		LARGE CITY	REST OF ONTARIO
		COSTS PER MONTH	
HOUSING			
At home with parents		172	170
RENTAL PROPERTIES			
One-bedroom apartment		1,040	597
Share two-bedroom apartment with roommate		586	373
Other:			
OWNED PROPERTIES			
Two-bedroom condo			
Three-bedroom house			
Other:			
TRANSPORTATION			
New car - Toyota Matrix		777	740
Used car - 2002 Chevrolet Cavalier		485	457
Public transit		120	65
FOOD			
Eat at home only		219	225
Eat at home and eat out occasionally		309	322


MODULE 1

EXPENSES	YOUR BUDGET	ESTIMATED AVERAGE COSTS FOR ONTARIO	
		LARGE CITY	REST OF ONTARIO
		COSTS PER MONTH	
UTILITIES			
Electricity		66	66
Heating - electric		110	110
Heating - gas / oil		45	65
TELEPHONE			
Cellphone (local)		45	45
COMPUTER			
Cost of Computer		90	90
Internet connection		35	35
CLOTHING			
Shop a little		43	42
Shop a lot		175	175
HEALTH CARE			
Medications and dental		28	36
Glasses / lenses		10	12



EXPENSES	YOUR BUDGET	ESTIMATED AVERAGE COSTS FOR ONTARIO	
		LARGE CITY	REST OF ONTARIO
		COSTS PER MONTH	
INSURANCE			
Medical premiums (if not under parents' plan)		-	-
New car - Toyota Matrix		30	25
ENTERTAINMENT			
Cable (basic)		32	32
Movies (and popcorn, etc.)		57	48
Rentals: video / DVD / games		30	30
Purchases: music		32	32
Purchases: video / DVD / games		19	19
Concerts and professional sports		45	45
Night clubs / pubs		65	65
RECREATION			
Sports fees / equipment		25	25
Lessons		15	15
Health club membership		45	38


MODULE 1

EXPENSES	YOUR BUDGET	ESTIMATED AVERAGE COSTS FOR ONTARIO	
		LARGE CITY	REST OF ONTARIO
		COSTS PER MONTH	
PERSONAL			
Haircut: man		20	15
Haircut: woman		31	28
Manicures, etc.		20	20
Makeup		25	22
Personal care (shampoo, soap, etc.)		15	15
Dry cleaners		20	15
Laundry at laundromat		20	20
EDUCATION (TUITION, FEES, BOOKS, ETC./ 12 MOS.)			
University		507	507
College / University College		417	-
Technical		200	200
OTHER			
Banking fees		15	15
Newspapers		22	15
Books / magazines		17	17
Religious / charity		5	5
Gifts		25	25
Pets		30	30



EXPENSES	YOUR BUDGET	ESTIMATED AVERAGE COSTS FOR ONTARIO	
		LARGE CITY	REST OF ONTARIO
		COSTS PER MONTH	
OTHER			
New furniture (averaged over year)		254	254
Used furniture (averaged over year)		100	100
Travel: low-cost vacation by car (save per month)		40	40
Travel: vacation including plane fare (save per month)		210	210
Enter any missing expenses directly here:			
TOTAL EXPENSES			

Step 3: Complete the chart below to determine whether or not your estimated income will be enough to cover your estimated expenses.

Your chosen career from Step 1	
Your monthly take-home pay from Step 1	
Total monthly expenses from Step 2	
Monthly Difference (Step 1 – Step 2)	

Discussion

1. Is your proposed income enough to cover your expenses? If so, what will you do with any remaining income? If not, how can you adjust your budget to make sure you have enough money each month? NB: All good budgets would also have provisions for creating a reserve for emergencies and creating a retirement fund.

3. What was the price difference in the housing options you researched? Did that affect your decision on which housing option to choose?

4. How did your lifestyle choices influence the housing choices you made?

2. Did you decide to rent or own? Why?

REAL ESTATE TERMINOLOGY

Match the following terms with the correct definition.

- Conditions • Agreement of Purchase and Sale (APS) • Appraisal / Appraiser • Title Insurance • Lien
- Mortgagee / Chargee • Lawyer for the Buyer • Balance Due on Closing • Lawyer for the Seller
- Bidding War • Real Estate Broker • Seller / Vendor • Selling Agent • Vendor Take-back Mortgage
- Zoning Regulations • Mortgage Commitment • Deed of Land / Transfer • Appreciation • Chattels
- Condominium Corporation • Bridge Financing • Freehold • Specific Performance • Buyer / Purchaser
- Down Payment • Closing or Closing Date • FSBO • Commission • MLS • Mortgage / Charge • Fixtures
- Mortgagor / Chargor • Common Area • Condominium • Utilities • Consideration • Due Diligence
- Easement / Right of Way • Survey • Tax Roll Assessment • Equity • Exclusive Listing • Guarantor
- Home Insurance • Inspection / Inspector • Insurance Broker • Fees and Disbursements • Listing Agent
- Land Transfer Tax • Land, Property, Home, House, Unit • Leasehold • Deposit • Listing
- Mortgage Broker • Ontario New Home Warranty Program • Real Estate Agent
- Statement of Adjustments • Encroachment

Term	Definition
1.	ll) The agreement signed by the seller to authorise the agent/broker to sell the property. It will specify the period of time the property will be up for sale, the amount of the commission and any other terms. The agent/broker will add the details of the property for sale to MLS and the information summary is also called a listing.
2.	tt) A statutory protection program administered by Tarion Warranty Corporation, a private corporation set up by the Ontario government. The Ontario New Home Warranties Act is designed to protect consumers buying new homes by ensuring that they get a quality home. All builders in Ontario must enroll every home in the program. The program provides protects for deposits, construction defects, closing dates and more. More information is available at www.Tarion.com
3.	fff) Strict guidelines set by municipal governments regulating to how a property may or may not be used, such as use, setback, height, density, etc.
4.	d) The amount of money that the buyer needs to pay the seller on closing, after the usual adjustments as determined on the Statement of Adjustments, prepared by the seller's lawyer for review by the buyer's lawyer.
5.	bbb) All municipalities in Ontario raise money by taxing properties in their jurisdiction. The municipality maintains a list (tax roll) and each property is given a number (tax roll number). In order to calculate property tax, each property is given a value by the province (tax roll assessment), which value is often not equal to market value. Taxes are calculated by multiplying the tax roll assessment by the property tax rate – a number the city determines in its annual budget exercise.
6.	n) Company which operates the condominium and manages the land for all the owners.

MODULE 1

Term	Definition
7.	rr) The person or entity lending the money and receiving the mortgage as security for its repayment. Mortgagee is the old terminology and Chargee the new term.
8.	h) Personal belongings which do not become part of the property, although they might be temporarily affixed to property or safely enjoy them. The seller takes these with him/her when he/she moves, unless the APS provides otherwise. Examples are: window coverings, fireplace grates, furniture, appliances (unless built-in), pumps or other equipment.
9.	s) This is the process during which the buyer will seek to satisfy him/herself that what he/she thinks he/she is getting or bargained for, is actually what he/she will get. Part of the process may be done by the buyer personally but generally the lawyer undertakes it on behalf of his/her client. The lawyer will search the title of the property to ensure the buyer gets a good and marketable title, subject only to known and agreed upon exceptions or limitations. The buyer needs to confirm financing is available and that insurance will be available at a reasonable cost. Some issues will need to be discussed to decide who undertakes them, such as possible renovations or additions to the property. These might be for the buyer or the lawyer to investigate.
10.	vv) An individual or agency which is licensed to sell a home by bringing together a buyer and a seller for which the real estate agent works. Licensed by the Real Estate Council of Ontario (RECO) (e.g. ReMax).
11.	k) In a condominium there are three types of property: the units which are individually owned; common area which is jointly owned by all owners and to which they generally equally have access to (i.e. a pool); and, exclusive use common area which are restricted for use by one owner (i.e. balcony off a unit).
12.	yy) The process by which a seller is forced by the courts to complete the deal which he/she had agreed to. If a seller does not complete a transaction and the buyer is not satisfied that money will compensate him/her adequately, the buyer can ask the court to order the seller to respect his/her deal on the basis that the property is unique and money, as damages, is not a good substitute.
13.	m) A type of ownership which permits individual ownership and the sharing of common resources. In a residential structure, apartments or townhouses (units) are individually owned as pieces of real estate whereas the land and common facilities are jointly owned.
14.	f) Money borrowed against a homeowner's equity in a property, usually for a short term, to help finance the purchase of another property or make improvements to a property being sold.
15.	o) This is a legal concept that is based on the fact that only bargains are enforceable. Voluntary promises might not be enforced. For an APS to be binding there must be value exchanged, typically an exchange of money. The deposit in an APS is most often the value which makes the APS enforceable. In law, a document under seal is binding and so if you look closely at the APS form provided; it has a "seal". Although this originally was a wax seal impressed on the document, the modern version of the seal is a simple circle or the word "seal".



Term	Definition
16.	p) The document which is signed by the seller and registered by the lawyer in the Land Registry Office to transfer the title to the property from the seller to the buyer. In actual fact, today, the seller no longer signs the transfer, but rather an Acknowledgement and Direction to authorise and instruct his/her lawyer to record the transfer in the electronic registration system presently used in Ontario.
17.	mm) Real estate agent who acts for the seller and advertises the property for sale, exclusively or via the MLS. RECO provides a Representation Agreement to be signed by the seller and buyer to confirm that the agent is working for either or both.
18.	r) The amount of money the buyers contribute to the purchase of the property on closing. This may be as little as the deposit, but generally includes further monies paid on closing to be at least 5% of the value of the property.
19.	i) The date, on which the sale becomes final, the legal title is transferred, the seller delivers vacant possession to the buyer and the buyer takes possession and becomes responsible for the ongoing cost and maintenance of the property.
20.	t) A right held by a third party to use or pass over another person's property. Typically we refer to a right of way for a temporary and intermittent passage (i.e. a road or driveway) and an easement for a permanent use of part of the land (i.e. a cable, pipe or building).
21.	u) An intrusion onto an adjoining property – such as a neighbour's fence, storage shed or overhanging roof line that partially (or even fully) intrudes onto another property.
22.	v) The amount of his/her own money a buyer has in the property but over the years becomes the difference between what the property could sell for and how much the owner has left to pay on his/her mortgage(s).
23.	dd) The formal process to review and evaluate the state of the building on the property to estimate the amount and cost of any future work to maintain or repair. There is no licensing requirement as of now for inspectors and although a recommended step in the buying process, the results will depend on the quality and knowledge of the person doing the inspection and the report provided. Often the liability of the inspector is limited in the report to the amount paid for the report, when damages can be substantially more. Buyers often forgo an inspection or rely on family and friends to advise them, neither of which is recommended).
24.	x) Fees are what the lawyer acting for the seller or buyer is paid to undertake work on their behalf. Disbursements are the out-of-pocket costs the lawyer incurs on the seller's or buyer's behalf and for which the lawyer gets reimbursed by his/her client (i.e. search and registration costs).
25.	y) Things which are affixed to the land and become part of the property, such as the house, a furnace, air conditioner, fireplace, light fixtures, etc.

MODULE 1

Term	Definition
26.	z) The legal terminology which indicates that a person owns the greatest interest possible in a property. Typically we simply call them an owner. Contrast this to a condominium where one simply owns one or more units and the freehold is owned by the condominium corporation.
27.	hh) The lawyer is responsible for assuring that his/her client receives good title. The lawyer searches title to the property, obtains information from the municipality and others, receives a survey of the property (if available), and advises the client as to the state of title before closing. The lawyer typically also acts for the mortgage lender. The mortgage lender is also interested in the state of title because it is advancing monies on the security of the land. The lawyer prepares various closing documents and registers the transfer/deed of land and the mortgage.
28.	bb) A person who agrees to be legally responsible for paying another person's mortgage if the borrower defaults on the payments. A guarantor is only required by the lender in certain circumstances (e.g., the lender may need a guarantor for someone new to the work force and does not have much money saved or has no credit history).
29.	cc) This insures against the damage/destruction of the home because of something unexpected, like fire or other incidents such as burglary, and could be on an all-risks basis or a specified risks basis.
30.	w) A listing which is exclusive to the broker and advertised within its own network only and not exposed on MLS.
31.	eee) When the seller loans the buyer money to complete the purchase. The seller receives a promise to pay instead of cash on closing. This provides the seller with the same security that a traditional lender would have for its loan.
32.	ff) A tax paid to the province on closing by the buyer, being a percentage of the purchase price. In the City of Toronto there is also an equivalent tax collected by the City. The rate depends on the value of the property; see Module 4 for a breakdown.
33.	gg) Interchangeable terms to mean a property being purchased or rented. Land and property are generally more generic, home/house more specific to a dwelling, and unit to a condominium property.
34.	a) A term to represent an ever growing trend of "For Sale by Owner" where there is no agent/broker and instead the owner tries to sell the property using their own resources (sign on the lawn or the internet – Kijiji).
35.	ii) The lawyer deals with any problems that the buyer's lawyer finds on the title that have to be dealt with before the transaction closes and arranges to pay off the seller's existing mortgage, if applicable. The lawyer prepares various closing documents and delivers the keys and the transfer/deed of land on closing in return for the purchase money.



Term	Definition
36.	jj) The legal terminology which describes the interest held by a person that is leasing/renting a property, typically from the freehold owner.
37.	ddd) Term for the services provided to the property, such as, hydro, gas and water. Sellers typically close their account with the utility company and the buyers contact the utility company to create their own account.
38.	a) The contract which sets out the terms of the purchase and sale and binds the sellers and buyers. It starts as an offer to purchase and once accepted by the seller, becomes the APS. Some think of a counter-offer as a third step in concluding an APS, however, in law it is seen as simply a rejection of the offer and the presentation of a new offer, which can be accepted or rejected by the other party.
39.	q) The amount of money the buyer gives to the seller, his lawyer or agent when he/she signs the APS. It is said to represent a good faith gesture to show the seriousness of the buyer. If the buyer fails to purchase the property he/she generally loses his/her deposit.
40.	nn) The multiple listing system (MLS) is set up by local real estate associations (i.e. Toronto Real Estate Board) to promote the availability of a property. It was formerly periodic printed in books of listings but today is simply part of an online resource. The property must be listed with an agent/broker to be advertised on MLS.
41.	ee) An individual or agency that a buyer consults to determine the amount and kind of protection a homeowner should acquire. Buyers should consult their broker soon after signing the APS to discuss options, cost and the availability of insurance.
42.	pp) The agreement that a lender gives to a borrower to commit itself to providing a mortgage. It states the amount of the loan, interest rate, term, amortisation period and other terms of the loan.
43.	qq) A loan registered on title providing the lender security for repayment with direct rights against the property in the event of non-payment, such that in the event of default the lender can sell the property to recover the money owed. Mortgage is the old terminology and Charge is the new term.
44.	g) The person who is buying a property. Although purchaser is the more common term, buyer is the term used in the APS.
45.	ss) The person borrowing money and giving the mortgage. Mortgagor is the old terminology and Chargor the new term.
46.	b) An assessment of the current market value of the property. An individual licensed to provide an opinion as to the market value of a property, although buyers and sellers often only rely on the real estate agent/broker for valuation information. The lenders typically will order an appraisal for financing purposes.

MODULE 1

Term	Definition
47.	uu) An individual responsible for bringing together a buyer and a seller in a transaction and traditionally was the avenue to expose properties to the market. Licensed by the Real Estate Council of Ontario (RECO) and formally called salespersons.
48.	ww) The person who is selling a property. Although vendor is the more common term, seller is the term used in the APS.
49.	j) The money paid to a real estate agent/broker for their efforts to bring a buyer and seller together. The commission is paid at the time of the closing. The seller is contractually obligated to pay the commission but buyers pay it or contribute to it as part of the purchase price.
50.	xx) Real estate agent who acts for the buyer and introduces buyers to properties for sale and generally drafts the offer to purchase. RECO provides a Representation Agreement to be signed by the seller and buyer to confirm that the agent is working for either or both.
51.	l) An APS is binding on the parties subject to its terms and conditions. If one of the parties wants to provide an option to terminate the agreement, it must be stated in the agreement. We call these conditions. Examples might be a condition to obtain financing for the purchase; to obtain a building inspection satisfactory to the buyer; to sell the buyer's existing home; to confirm that the buyer will be permitted to add to, build or renovate the home as they intend. Failing any of these the buyer can terminate the agreement. It is important to not only state the nature of the condition but also what must be done by whom and by when. For example, a sample condition would be: The Buyer has 10 business days to satisfy herself that she can obtain financing for the purchase and failing her providing written notice to the Seller within the time specified, the Agreement of Purchase and Sale shall be null and void.
52.	zz) Documents which sets out in two columns the credits to the seller and to the buyer. Once both are totalled, the difference is called the Balance Due on Closing, typically an amount the buyer pays to the seller. This document should be reviewed and understood by both the seller and buyer before closing. Typically adjustments include the purchase price, the deposit, property taxes, rental income, if any, heating oil, if any. Water, gas and hydro are not typically adjusted as they are individually metered and billed to the party in occupation.
53.	aaa) A plan produced by a surveyor that sets out the boundaries of the land and locates the structures and important features in relation to the boundaries. Without a survey it is impossible to know where or if a structure (i.e. house) is actually within the boundaries of the land being purchased or mortgaged. Every buyer should get an up-to-date survey when they purchase or undertake any improvements to the land in order to ensure its location is in compliance with all municipal zoning by-laws and within the boundaries. Often, because of cost, parties will use an existing survey or obtain title insurance instead.



Term	Definition
54.	e) Situation where more than one buyer wants the same property. The seller need not accept the first offer he/she gets and buyers will put in higher offers than other bidders to be the successful bidder. Although price is not the only variable which entices sellers to accept an offer, it often is the one item over which buyers will try to out-bid each other. This scenario is more common in large cities or in desirable areas.
55.	ccc) An insurance policy that protects home owners and lenders against losses related to the property. It provides coverage for fraud, forgery, missing heirs, unregistered easements and other issues that can affect rights of ownership. Traditionally, a lawyer acting for the buyer would provide his/her opinion to the buyer that he/she was getting a good and marketable title, subject to known and accepted exceptions and limitations. Today, it is more likely that instead of the opinion, the lawyer will purchase a title insurance policy for the buyer and lender as it provides broader coverage and indemnification than a lawyer's opinion would, such as coverage for fraud. Title insurance also provides a direct recourse for the insured instead of having to prove the lawyer's negligence. The policy replaces the lawyer's opinion but not the lawyer's other work.
56.	kk) A legal claim filed against a property to ensure payment of a debt.
57.	oo) An individual or agency which will match up a lender and a borrower. Buyers/borrowers can directly get a loan from a lender (i.e. bank, credit union, caisse populaire, mortgage company) or use this third party to find a loan with the most favourable terms. Although, brokers were only used for borrowers who had difficulty to obtain a mortgage, today, they are used by many, often for the benefit of simplifying the shopping for the best terms.
58.	c) The increase of a property's value over time.

