

EXPECTED CLOSING COSTS ASSOCIATED WITH REAL ESTATE TRANSACTIONS IN THE BAHAMAS

McCartney's Legal Commentary

Purchasing property in The Bahamas for the inexperienced can be a daunting and confusing task, particularly when closing costs are involved. First time home buyers and even some foreign investors wishing to purchase real estate are always shocked at the additional or closing costs involved all throughout the transaction. I thought that it would be helpful to create a short summary explaining the average expenses involved in each transaction in order to assist those persons contemplating purchasing Bahamian real estate, here are the estimated expenses involved in the transaction, shown on the right hand side of the paragraph:

Fees Accumulated for Services Charged Prior to Execution of Conveyance

Once you have decided on the property that you wish to purchase, you should expect the following fees to be applied immediately once visiting your attorney.

- 1. Title Search Fees:** estimate legal cost: **\$250.00 - \$500.00**

Presently you will find that title searches are conducted by a search clerk, either acting in an independent capacity or employed by an attorney. Less often an attorney may personally conduct a title search, however regardless of whether the search is conducted himself or by an independent search clerk, the attorney is the individual responsible for determining whether the property is “free and clear of all encumbrances,” or in other words, should be good enough to purchase.

- 2. Down Payment for Purchase** estimate legal cost: **5% - 10%**

It is standard practice for most Vendors to request that a deposit be paid on the purchase of the property prior to transfer of property to the purchaser. The deposit is usually held, and in case of default of payment for the remaining amount this deposit may not be refunded.

3. Legal fees charged for drafting of Sales Agreement: estimate legal cost: **\$150.00 - \$500.00**

I do not consider this to be a common practice, however some Bahamian attorneys charge a fee for the drafting of a Sales Agreement (usually if the individual wants to sell the property or ‘the Vendor’). Nevertheless the majority of attorneys would not charge this amount upfront and in normal circumstances any fee charged for the drafting of the sales agreement would be included in the total legal fees.

Fees Accumulated for Services Charged Prior to Execution of Conveyance

Upon receiving approval by the attorney that the title of the property is free and clear and ready for purchase, the amount to be paid for the property is passed on from purchaser to vendor after executing the Indenture of Conveyance by either the purchaser (or both parties pending on the drafting style of the deed). The purchase price for the property will be accompanied by a number of additional fees which are normally disbursed by the attorneys involved in the transaction. These are described in the subsequent paragraphs below.

4. Stamp Duty estimate legal cost: ***See Chart Below**

Stamp duty are fees which are payable to the Bahamas Government upon the transfer of property from one entity to another. The amount of stamp duty charged is based on the cost of the property and in most cases, both the vendor and the purchaser may agree to equally contribute to payment for the stamp duty charged. The rate of Stamp duty charged can be seen in the chart below.

Land value	Stamp duty
\$ 0 - \$ 20.000	2.00 %
\$ 20.000 - \$ 50.000	4.00 %
\$ 50.000 - \$ 100.000	6.00 %
\$ 100.000 - \$ 250.000	8.00 %
over \$ 250.000	10.00 %

Stamp duty fees will be charged for other deeds, such as affidavits. These will usually cost in or around \$4.00.

5. Recording Fees estimate legal cost: **\$4.50 per page**

Recording fees are payable to the Bahamas Government once the conveyance documents and other deeds are ready to be recorded in the registry. Fees are charged per page, and normally make up the minority of fees charged.

6. *Legal Fees* estimate legal cost: **1.25% - 2.5%**

Both vendor and purchaser may be expected to pay that range of legal fees for services rendered by local attorneys. Upon transfer of funds from the attorneys for the purchaser to the attorneys representing the vendor, the respective fees are automatically withdrawn from the monies held, which is indicated by the vendor's attorney via invoice which includes all of the applicable fees to be paid by the purchaser.

7. *Real Estate Commission Fees* estimate legal cost: **7.0% - 10.0%**

Usually the real estate commission fees are arranged between themselves and the vendor which are then included in the terms and conditions of the Sales Agreement. Similarly to legal fees charged there is no set percentage charged and the commission charged is determined by the real estate agent and/ or the real estate company involved in the transaction.

8. *Fees Associated with Clearance of Encumbrances* *Determined by encumbrances

Usually the vendor will ensure that the property being sold is free and clear of all encumbrances and prior to the completion of the transaction, the attorney representing the vendor will usually deduct the amount totaling to the encumbrances which may inhibit the title for the property. Examples of encumbrances which may affect the title of property are listed below:

- Outstanding utility fees, (particularly water and electricity costs);
- Outstanding stamp duty fees;
- Outstanding Real Property Taxes;
- Costs of unrecorded documents
- Outstanding Fees as ordered by the Supreme Court of The Bahamas;
- Unsatisfied Mortgages;

- Unapproved Subdivision Approval by the Ministry of Works & Utilities;
- Unsatisfied Court Orders and Judgments;
- Previous purchases of the subject land which required approval by the Bahamas Investment Board, Central Bank, or any other relevant government agency;
- Any other circumstance which may affect the purchase of the property.

Fees Applicable to Foreign Purchasers

There are slight differences regarding the transactional procedures involved when the purchaser involved in a property transaction is a non – citizen of The Bahamas. Generally, foreigners will have to apply to the Bahamas Investment Board for approval during purchase of real estate.

9. Applications to the Ministry of Finance estimate legal cost: **\$125.00 – \$250.00**

During the property transaction, an attorney will make an application to the Ministry of Finance under the International Persons Landholding Act for approval to purchase property in the Bahamas on behalf of a non – citizen. This application is mandatory, the stamped approval for the purchase should be recorded in the registry of records, along with all other deeds and documents involved in the subject transaction.

10. Annual Homeowners' Residence Card estimate legal cost: **\$550.00 - \$750.00 +**

The application for the annual home owners' residence card is usually done simultaneously with the application to the Ministry of Finance under the International Persons Landholding Act. The homeowners' card is valid for one year, renewable on an annual basis, and is very useful when travelling to The Bahamas. This is received upon approval of the application under the International Persons Landholding Act.