

STATE REAL ESTATE REAL N REGENERATION R

Lawyers aren't ready to give up on the real estate marketplace just yet. Despite growing competition, lawyers, law firms, law societies and technology companies across Canada are using focused, innovative approaches to ensure homeowners understand the unique value lawyers bring to real estate transactions.



R real estate lawyers aren't running for cover, but even those with plenty of files in their in-basket are uneasy about how the residential property market has changed in recent years.

In most parts of Canada, they've had to retrench to purchase-and-sale transactions, losing the bread-and-butter work of mortgage refinancing. They've been caught between the banks, demanding streamlined paper flow and lower costs, and the title insurance companies, wielding competitive pressure through economies of scale.

But real estate lawyers are fighting back by emphasizing their value to home buyers and sellers, networking with realtors and mortgage brokers, and deploying new technological solutions to stay competitive. Tim Kennedy of Ottawa's Low Murchison sums up the real estate practitioner's role in the modern real estate marketplace as the "quarterback" in any transaction.

"That's where the future lies, if the conveyancing bar is to stay alive," Kennedy says. "Don't forget your role: you're the legal advisor. You're the person who deals with the bank, the real estate agent, the homeowner and the building inspector. ... People don't get to us soon enough."

TIM KENNEDY

Low Murchison, Ottawa

"Real estate lawyers may have an inferiority complex. They need to brag to the public about their skills."

« Les avocats en droit immobilier ont parfois un complexe d'infériorité. Ils doivent faire étalage de leurs habiletés auprès du public. »

Kennedy, who moved to Ottawa last December after practicing in New Brunswick, aims at this innovative goal through traditional methods of networking. "I rely on a couple of real estate agents, mortgage brokers and a banker. I've just gone through word-of-mouth and been involved with a couple of local organizations."

Once clients walk through his door, his emphasis is on service. "My philosophy is that I want you to leave here happy, relaxed and that it was a good experience," Kennedy says. "Real estate lawyers may have an inferiority complex. They need to brag to the public about their skills."

Spreading the message

It may be challenging for a solo or small-firm real estate practice to do that kind of bragging, marketing the lawyer's value to homebuyers and sellers. But TitlePLUS, the title insurance company created and owned by Toronto-based indemnity company LAWPRO, has the resources to do just that.

TitlePLUS recently carried out an advertising campaign to raise buyers' awareness of the legal risks in home purchases and the critical role a real estate lawyer can play in the process. Advertisement tag lines included: "Congratulations on the purchase of your new condo. Too bad someone else owns it."

Kathleen Waters, Vice President of TitlePLUS and a real estate lawyer herself, says the campaign's key message was to encourage people to use a real estate lawyer, "that it's the best way, in combination with TitlePLUS insurance, to protect themselves in their transactions." The campaign also featured the launch, on the TitlePLUS website, of a Real Simple Real Estate Guide, which explains the lawyer's role.

The marketing campaign, which included print and radio ads in 11 media markets in Ontario in May and June, followed the results of a Decima Research poll that showed only 10% of recent homebuyers in Ontario thought their lawyer could advise them on matters such as mortgages and title.

In other words, says Waters, "only 10% saw their lawyer as having any role beyond being a paper pusher. Only about 1% thought the lawyer might know anything that could save them money."

Nonetheless, she adds, nearly all consumers in purchase-and-sale transactions in Ontario still use the services of a



TONY SPAGNUOLO

Bell Spagnuolo, Port Moody, B.C.

"We look at everything through a client's eyes — how they would want a conveyance to go, not how a lawyer would want it to go."

"Nous adoptons la perspective du client et non celle de l'avocat. C'est au client de déterminer comment le transfert de titre doit se dérouler."

brokers and developers, rather than directly targeting homebuyers. "We don't advertise in newspapers or on billboards," Spagnuolo says.

"A billboard would cost us \$1,500 a month. Thousands of people would drive by and see it, but only four or five might be in the market for a new house, and they're going to work with a realtor [anyway]. If we can go to the realtor and build a relationship and convince the realtor that we should get that file, it's a more efficient use of our time and money."

lawyer, because of the mortgage document. But the real estate bar shouldn't be complacent, Waters says. "If people don't understand why they're [using a lawyer], there's the opening for them potentially to be diverted to a different system."

Building a brand

The law firm of Bell Spagnuolo gets consumers' attention by emphasizing that its multiple offices in the lower B.C. mainland specialize almost entirely in real estate law. "We're not the typical suburban law firm," says president Tony Spagnuolo.

"We have a single focus. Real estate is 95% of our revenue. We'll do 7,000 conveyances this year." There are firms that do many more, he agrees, but "those are law firms controlled by title insurance companies. And those are mostly [refinancing] packages. As far as conveyancing around buying and selling [is concerned], I'm pretty sure we'd be the largest in the country."

Spagnuolo has been using his background in marketing for the past dozen years to build his firm's brand. "There's no magic sales pitch. There's no magic website," he says. "It's all part of the overall philosophy and position-

ing of the firm. We treat ourselves more as a business than a law firm. We look at everything through a client's eyes — how they would want a conveyance to go, not how a lawyer would want it to go."

To stay attuned to client interests, Bell Spagnuolo asks its clientele to complete a ten-question survey on its website. It also offers homebuyers of Asian origin the opportunity to deal with a Korean-speaking lawyer or with paralegals fluent in Hindi, Punjabi, Mandarin and Cantonese.

While Bell Spagnuolo is committed to pleasing its public, it confines its advertising efforts mainly to realtors, mortgage

Spagnuolo personally appears before gatherings of realtors, mortgage brokers and developers four to six times a month, speaking on legal topics and keeping his firm's brand squarely in front of them. The firm has built a database of more than 3,000 of these key "influencers," sending them regular updates electronically.

"It's quite helpful [in marketing us], but that, by itself, would not be enough to sustain a real estate law firm," Spagnuolo notes. "You still need to deliver, to close the deals on time, to have all the other things that go with it. You also have to have the staff trained properly. It's not enough to be a good conveyancer; you also need to have the right kind of service."

Increased efficiency

Service becomes especially important in a busy market. In Winnipeg's recent property mini-boom, real estate lawyers have had more work than they can handle, says Jeff Shypit of Robertson Shypit Soble Wood, one of the largest real estate practices in Manitoba. Lawyers have held their own in purchase transactions, "although there may be a threat down the road."

The outlook for refinance work isn't so promising for lawyers, Shypit acknowledges: the Winnipeg bar has "lost a good part of the market to title insurance firms and other providers." Some lawyers, he adds, believe that "refinancing is largely gone and is not easily coming back."

To offset that trend, the real estate bar is looking to the Western

IMMOBILIER : les avocats contre-attaquent

En dépit d'une concurrence croissante, les juristes mettent en œuvre des approches ciblées et innovatrices pour faire comprendre leur contribution unique aux transactions immobilières.

Coincés entre les banques, qui exigent une circulation plus efficace des documents et des coûts réduits, et les économies d'échelle proposées par les compagnies d'assurance-titres, les juristes en droit de l'immobilier ont été largement évincés du marché lucratif du refinancement hypothécaire, et doivent aujourd'hui se rabattre sur les transactions d'achats et de ventes de propriétés.

Mais les juristes du secteur immobilier contre-attaquent, individuellement et collectivement, en cherchant à démontrer leur importance aux vendeurs et acheteurs, en réseautant avec les courtiers en immeubles et les courtiers hypothécaires, et en déployant de nouvelles solutions technologiques pour demeurer concurrentiels.

Selon Tim Kennedy, du cabinet Low Murchison, à Ottawa, l'avocat joue désormais le rôle de « quart-arrière » dans toute transaction immobilière. « N'oubliez pas votre rôle, dit-il. Vous êtes le conseiller juridique. Vous êtes la personne qui communique avec la banque, l'agent d'immeuble, le propriétaire et l'inspecteur domiciliaire... Les gens ne nous consultent jamais trop tôt. »

Lorsque les clients viennent à son bureau, il met l'accent sur le service. « Ma philosophie est la suivante, précise-t-il. Je veux que vous quittiez le bureau heureux, relaxe, et que votre expérience ait été agréable. Les avocats en droit immobilier ont un complexe d'infériorité. Ils doivent faire publiquement l'éloge de leurs habiletés. » Ce type de marketing peut paraître intimidant pour un avocat exerçant seul ou dans un petit cabinet mais il peut profiter de l'aide d'entreprises qui ont les ressources requises pour y arriver.

TitlePLUS a récemment lancé une campagne publicitaire visant à sensibiliser les acheteurs aux risques inhérents à l'achat d'une maison et au rôle vital joué par l'avocat. Un des slogans se lit comme suit : « Félicitations pour l'achat de votre nouveau condominium. Dommage que quelqu'un d'autre en soit propriétaire. » Le message clé encourage les gens à utiliser les services d'un avocat en droit immobilier en combinaison avec l'assurance *TitlePLUS* « C'est le meilleur moyen de se protéger dans le cadre d'une transaction immobilière », affirme Kathleen Waters, vice-présidente de *TitlePLUS*.

La campagne réalisée en mai et en juin 2006, qui comprend le lancement d'un manuel de base de l'immobilier sur le site Web de *TitlePLUS*, donnait suite à un sondage Decima démontrant qu'à peine 10 % des propriétaires ontariens croyaient que leur avocat pouvait les conseiller en matière d'hypothèques et de titres. Cela signifie, selon Me Waters, que 90 % voyaient leur avocat essentiellement comme une personne payée pour compléter une formalité. « Seulement un pour cent des répondants croyait que leur avocat aurait pu savoir quelque chose qui leur aurait fait économiser de l'argent », ajoute-t-elle.

Pourtant, la quasi-totalité des consommateurs ontariens consultent un avocat lorsqu'ils vendent ou achètent une propriété. Les avocats ne doivent toutefois pas tenir ce marché pour acquis. « Si les gens ne comprennent pas pourquoi ils ont recours à un avocat, ils pourraient un jour être détournés vers un système différent », croit Me Waters.

Dans l'Ouest canadien, pour protéger leur marché des actes de cession lors de ventes

et d'achats, les barreaux ont mis en œuvre en 2001 le *Western Law Societies Conveyancing Project* pour améliorer la productivité des avocats. Surnommé « le Protocole », ce projet n'a pas encore le soutien entier des banques mais ses avantages sont indéniables puisqu'il permet à un vendeur de recevoir toutes les sommes dues à la date de possession. En ce moment, le vendeur reçoit une partie des fonds à la prise de possession et le reste quelques semaines plus tard, après l'enregistrement de l'hypothèque.

Le Protocole comporte un avantage majeur, estime Jeff Shypit, avocat au cabinet immobilier Robertson Shypit Soble Wood, à Winnipeg. En remettant tous les fonds à la prise de possession, la vente s'effectue en une seule étape et l'avocat n'a pas à se pencher deux fois sur le dossier. C'est bien plus efficace. Si tous les prêteurs, y compris les banques, adoptaient cette façon de faire, « nous aurions des transactions plus fluides et nous aurions moins de travail à faire lors de chaque transaction », croit-il.

Pour venir en aide aux juristes de l'immobilier qui doivent tenir tête à leurs puissants concurrents, Maurizio Romanin (cofondateur de *TitlePLUS*), a lancé le logiciel LDD (*LawyerDoneDeal.com*) à la fin des années 90. Ce logiciel de gestion de dossiers, de production de documents et de traitement de transactions permet de réduire la paperasse et comprend une interface entre avocats et banques. La profession juridique, croit Me Romanin, démontre ainsi à l'un de ses plus importants clients — le secteur financier — qu'elle peut être novatrice, efficace et prometteuse. ■

— Pierre Allard