

## PURCHASING A VACATION PROPERTY

# Paradise or Nightmare?

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Janet had planned to spend her retirement years as a proud cottage owner in beautiful Muskoka. She had plans to renovate, extend and winterize the old cottage, replace the dilapidated dock, and do some landscaping. She and her husband, Jim, had bought the cottage without doing any of the investigations that are critical with the purchase of a cottage. She is paying for that now.

Her first problem was in getting building materials to the site. The normal route to the cottage was by water, but the materials had to be trucked in. The nearest road was at the back of the property, but the only access was through the neighbour's property, for which she required permission. The neighbour, fearing truck damage, was reluctant to give it. In addition, Janet wanted to have vehicular access to the property, and found that she had to purchase a right-of-way from the neighbour to allow this. She also had to apply for Planning Act permission from the local municipal Committee of Adjustment. This involved paying for the application, survey plan and municipal road widening in order to obtain the access!

Next, she learned that the applicable zoning bylaw would not permit year-round occupation of the cottage; she would have to apply for a rezoning or minor variance to amend the existing 'seasonal use' provision. The zoning by-law also would not allow the size of addition she wanted to construct, nor would the current septic system and water well be adequate for her future use of the property; in fact, both of these systems had to be replaced.

What next? Janet did not obtain a survey at the outset. After closing, she was stuck with the responsibility of drilling a new well, repositioning the existing back yard shed and demolishing her boathouse—all because these structures were found to be encroaching onto her neighbour's lands.

To top it off, when Janet attempted to replace her existing dock, she found that it had been constructed on Crown land along the shoreline. She would have to purchase the frontage from the government before she could do anything further with the dock. The



retaining wall she wanted to construct along the shoreline would also disturb a fish habitat, so those plans had to be shelved as well.

Finally, it had always been her intention to keep the cottage within the family so that it could be enjoyed for many years to come. After Jim's untimely death, Janet decided to add her adult son on title with her as a joint tenant. This was done partly to avoid paying land transfer tax, probate fees and burdening her estate with the payment of capital gains tax. Sadly, Janet's son also predeceased her and she was left owning the cottage with her daughter-in-law, with whom she never got along.

As this example shows, purchasing a cottage or vacation property involves more legal issues than does the purchase of a regular residential property. Lawrence's Real Estate Group has developed special expertise in the purchase of vacation property and can help ensure that your cottage purchase turns out to be a dream, not a nightmare.



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