



MARKET COMMENTARY

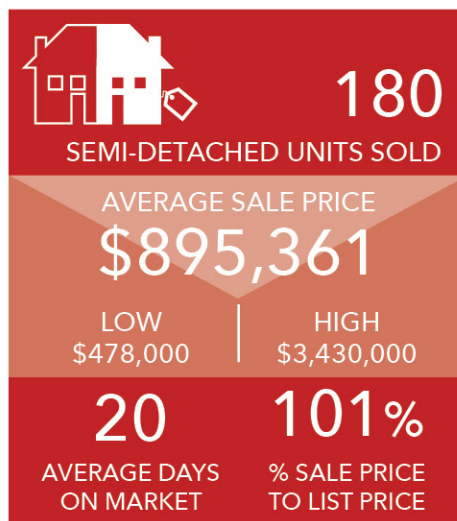
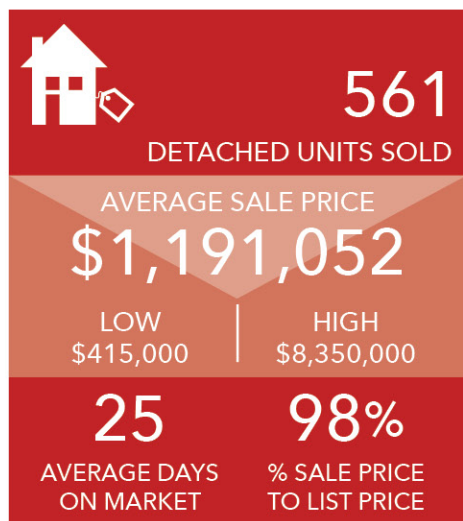
SEPTEMBER 2017

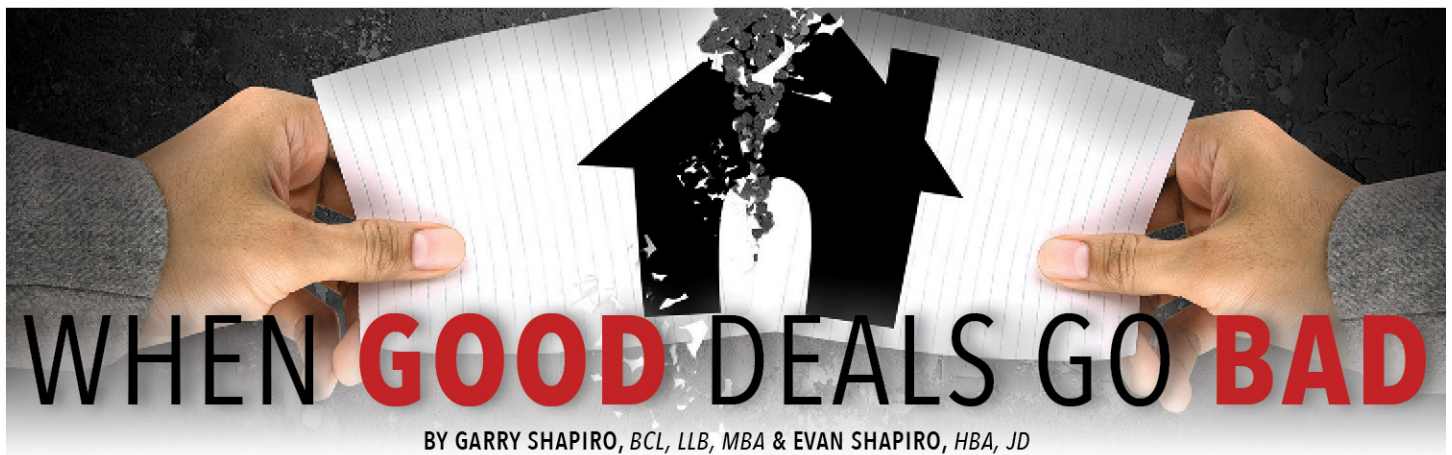
TREB has released its market data for August, and the 6,357 sales reported represent a 34.8% decline in year-over-year sales. While the average sales price of \$732,292 represents a 3% annual increase, average prices continue to show a downward trend, falling 1.9% from July. While this is the fourth straight month-over-month decline in average price, it is the lowest month-over-month reduction since Ontario introduced its Fair Housing Plan in April.

Though the average price increased only 3% year-over-year, the MLS Home Price Index (HPI) Composite Benchmark, which is a more accurate reflection of real inflation, was up 14.3% from last August. This discrepancy suggests fewer luxury homes were sold this year compared to last, and a look at the numbers supports that. In August 2016, 863 detached homes were sold in the 416 for an average price of \$1,206,637.

This August, 561 detached homes were sold in the 416 for an average price of \$1,191,052. Year-over-year, this is a 34.8% drop in sales volume and a 1.2% drop in the average price of detached homes in the 416.

Despite the downward trend in average sales price, and the fact that sales were down for all major housing types in August compared to last year, prices seem to be stabilizing. The 1.9% month-over-month decline in average price is so low that it's more a reflection on the type of house sold than the average value of property sold. Furthermore, total new listings in August were down 6.7% year-over-year. This is the first time since February where new listings were lower than the previous year. The glut of listings that have come to market since March has had a significant impact on prices, and if these begin to taper off, TREB suggests that we can expect more balanced conditions moving forward.





WHEN **GOOD** DEALS GO **BAD**

BY GARRY SHAPIRO, BCL, LLB, MBA & EVAN SHAPIRO, HBA, JD

Even when an Agreement of Purchase and Sale is signed, and conditions waived, there's no guarantee the transaction will close. Sometimes, a good deal goes bad, and buyers and sellers need to be aware of their rights and obligations.

PROPERTY APPRAISAL

In overheated or declining markets, the appraised value of a property may differ from the purchase price. But lenders advance funds based on their appraisal, which can lead to a financing shortfall. In such cases, Buyers must source an alternative source of funds to close.

BUYER'S REMORSE

In a declining market, Buyers may have second thoughts; but, if all conditions are waived, and the deal is binding, the Buyer is legally obligated to complete the transaction. If they fail to do so, they may lose their deposit and be held responsible for the Seller's damages (i.e. an award of money to compensate the Seller for losses incurred due to the Buyer's breach).

BUYER'S INABILITY TO CLOSE

If a Buyer cannot close, the Seller has the right to claim forfeiture of the Buyer's deposit in addition to commencing litigation claiming damages. To mitigate against their damages, the Seller would need to relist the property for sale. Practically speaking, the Seller cannot automatically obtain the Buyer's deposit monies; they need either a mutual release or a Court order authorizing the release of funds. In terms of damages, the Buyer's exposure to liability can

be substantial, as they're responsible for all losses flowing from their breach, including any reduction in the sale price of the home and losses incurred by the Seller if they were relying on the closing funds to purchase another property.

SELLER'S INABILITY TO CLOSE

If a Seller cannot close the transaction, the Buyer has the right to commence litigation claiming damages or even specific performance (i.e. a Court order requiring the Seller to complete the transaction).

GOING TO COURT

Although parties may have a strong legal position to advance in Court, they should be mindful that litigation can be costly, time consuming, and stressful. Even if a party succeeds in Court and obtains judgment, that judgment still needs to be enforced. There can be considerable costs and risks in going to Court.

Of course, there is much more to consider when real estate transactions fail to close as per the Agreement, including negotiating Extensions and Releases. Regardless of your situation, in uncertain real estate markets, Buyers and Sellers are encouraged to work with knowledgeable and experienced mortgage brokers, real estate agents, and lawyers who have been through both rising and declining markets.

Shapiro Real Estate & Business Lawyers | 416.224.0808 | garryshapiro.com

WHAT'S HAPPENING SEPTEMBER 2017

SEPT 7 TO 17 TORONTO INTERNATIONAL FILM FESTIVAL (TIFF)

The world's largest public film festival screening over 300 films from around the world in venues across the city.

Sept 23 to 30 THE INVICTUS GAMES Taking place in state-of-the-art venues across Toronto with 550 competitors from 17 countries.

Sept 24 THE WORD ON THE STREET FESTIVAL An street fair celebrating the written word and championing literacy.

Sept 28 to Oct 8 EDIT: The Expo for Design, Innovation & Technology An ultramodern world where design, innovation and technology are the solutions to today's greatest challenges.

SEPT 30 NUIT BLANCHE A contemporary art event that magically transforms Toronto's streets and parks into an artistic playground.



#1 Independent Brokerage in Toronto*
416.441.2888 | www.harveykalles.com

*DOLLAR VALUE OF ALL MLS LISTINGS SOLD (SOURCE: IMS 2016)
OVER \$2.795 BILLION IN SALES VOLUME, 2016

OFFICES

CENTRAL | 2145 Avenue Road Toronto
MIDTOWN | 532 Eglinton Avenue West Toronto
BLOOR WEST | 2316 Bloor Street West Toronto
MUSKOKA | 1A Lee Valley Drive #6 Port Carling
LAKE OF BAYS | 191 Mt Pleasant Court Huntsville

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