

WHAT SHOULD I KNOW ABOUT BUYING A HOME?

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Starting the Process

Buying a home is the most important financial decision most people make in their lives. The experience should be pleasant and rewarding. A lawyer can assist you with the complex legal matters involved in purchasing a home. The number one rule in approaching the purchase of your new home is that you should not sign anything unless your lawyer has explained to you the terms and meaning of the document. A good real estate lawyer is trained to advise you and is the only party involved in your transaction whose sole role is to protect your interests.

The Professionals

When buying a home, you will come into contact with a variety of professionals. Usually, a real estate agent will be your first contact. Then you will have contact with your lawyer, Lender and title insurance company. (See our additional article pertaining to title insurance on this website). You should be aware of the function of each of these professionals to determine whether you are being treated in an appropriate fashion.

Why a Lawyer is Necessary

Your lawyer should participate in all phases of the transaction to assist you in dealing with all the parties. The lawyer can assist you in selecting the other professionals and more fully explaining their functions. Frequently, in residential transactions, there are legal documents prepared by the real estate agent. Remember that the agent is usually being paid by the Seller. In most cases, the agent does not represent you. There are exceptions to this rule such as a Buyer's Broker, but you should always remember that the compensation of the realtor almost always comes from the Seller.

ANY DOCUMENT THAT REQUIRES YOUR SIGNATURE SHOULD BE REVIEWED BY YOUR LAWYER. The review by your lawyer should be completed regardless of what the document is or how someone else describes it to you.

The Realtor

Unless the property you are seeking to purchase is for sale by the owner (FSBO), you will usually first deal with the real estate agent. Realtors are trained to help you determine your needs and show you homes that fit within them. The agent and his or her broker are licensed by the Commonwealth of Pennsylvania. Although the agent has certain obligations of fair-dealing and is a professional, they are still usually paid by the Seller. Unless you have hired a Buyer's Broker, the Seller's Agent responsibility is to protect the Seller's interest. This does not

change even if there is more than one agent involved. The agent usually only receives their commission if you buy the property and a closing occurs.

The Lender

Unless you are purchasing the property for cash, a Lender will assist you in obtaining a mortgage. They will show you the interest rate and cost of the financing over the life of the mortgage. Generally, you should make inquiry of several Lenders to determine what kind of financing programs they have available.

A mortgage is a loan which uses real estate as collateral for the repayment. Your lawyer can assist you in obtaining a mortgage to fit your needs. The mortgage market is fiercely competitive. This means that by shopping for a mortgage, you may be able to save a significant amount of money.

Your lawyer will explain not only the procedures for getting a mortgage, but also the legal documents that you need to sign at closing. There are other creative ways to finance a property with which you should consult with your lawyer.

The Title Officer

In most parts of the Commonwealth of Pennsylvania, closings are conducted by a title officer. The title officer is a representative of a title insurance company who conducts the closing for your new home. In some areas an attorney will act as the closing agent.

The title insurance company examines the title of the property prior to settlement. They determine the legality and sufficiency of the title.

After the search is done, your lawyer should examine it to determine that you will receive proper legal title to the company. Remember, only a lawyer is qualified to evaluate the legal implications which may arise as a result of the title examination. We generally recommend title insurance. Title insurance is underwritten by large insurance companies which guarantee that you are receiving valid title from the prior owner. Although some people consider purchasing real estate without title insurance, it is generally not recommended. In addition, if you finance the property through a Lender, they will generally require title insurance.

The Agreement of Sale

The most important document when purchasing a home is called the Agreement of Sale. The Agreement of Sale sets forth all the terms and conditions of your purchase. In the purchase of an existing home, realtors generally use a pre-printed form for the Agreement. The precise terms are added by filling in the blanks on the form. The Agreement of Sale often contains detailed legal language. The legal language is often hard to decipher without the trained-eye of a lawyer. If you are considering buying new construction, the contract is more

complex. Only a lawyer is trained to explain the far-reaching legal implications of the Agreement of Sale to you.

Of course, the Agreement of Sale provides important terms, including, but not limited to:

- The total amount of the purchase price.
- The date within which settlement must occur.
- A description of personal property which is included in the sale.
- A description of who bears the risk of loss if the property is destroyed or damaged prior to closing.
- Damages available if the Agreement of Sale is breached by either the Buyer or the Seller.
- Mortgage financing contingencies.
- Resale of an existing home contingencies.
- Inspection contingencies for structural, mechanical, HVAC, termite, radon, lead paint, water and sewer systems.

The above list is not complete, but it indicates how important it is for you to review the document with your lawyer prior to signing the Agreement. Once you sign, changes cannot be made without the express voluntary permission of the other party. That is precisely why it makes good sense to consult with a lawyer prior to signing the Agreement.

Other Expenses Involved in the Purchase

Your lawyer will explain to you the cost and expenses involved in a closing that are in addition to the purchase price. They include:

- The cost of title insurance.
- Pennsylvania Realty Transfer Tax.
- Points and other Lender's charges.
- Proration for real estate taxes and other items already paid for by the Seller.
- Homeowner's Insurance and Escrow requirements.

The lawyers at Friedman, Schuman, Applebaum, Nemeroff & McCaffery, P.C. have collectively represented thousands of residential buyers of homes. We also represent buyers in the acquisition of new construction. Please feel free to contact Kerry Scott Schuman, Esquire at 215-635-7200, facsimile, 215-635-7212, or email, kschuman@fsalaw.com should you have any questions.

Legal Disclaimer

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