

FRED AND ANNETTE REYNOLDS

Your Team For Results



A Legal Guide to Buying and Selling a Home

Prepared by the Law Office of Alice B. Taylor

Engaging a Broker

The Seller signs a Listing Agreement and other documents with a Broker.

Offers

The listing Broker presents the Seller with written offer(s) from prospective Buyers

Negotiation

The Seller responds to the offer(s). The Brokers facilitate negotiation until an agreement is reached or until a final offer is rejected by the Seller. Once the terms of an offer are acceptable, the Seller signs the offer, initialing all changes, and the agreement is binding. Counsel sometimes will review the offer. **Time is of the essence. Dates in the offer must be strictly followed and may only be changed by mutual agreement in writing.**

Purchase & Sale Agreement ("P&S")

The offer contains a date by which a mutually agreeable P&S must be signed. Any continuation of this date must be in writing.

Inspections

The offer includes firm dates by which the Buyer's inspections (structural and systems, pests, lead paint, radon gas and septic system) must be performed. Usually, the Seller is not present at inspections.

Inspection Results

An inspection report which reveals serious structural, mechanical or other major defects allows the Buyer to terminate the agreement. The Buyer may wish to negotiate price or request that the defects be repaired by the Seller. The Brokers usually facilitate

these negotiations. Modifications to the agreement must be in writing and included in the P&S.

Drafting/Reviewing the P&S

After the inspection results, the drafting and negotiation of the P&S and P&S Rider is coordinated between the listing Broker, Seller's Counsel, and Buyer's Counsel.

Negotiating/Signing the P&S

Once the Buyer, the Seller and their Counsel agree on a mutually satisfactory P&S, the Brokers will arrange for four originals of the P&S to be signed and initialed. The P&S is the most important document prior to Closing. It constitutes the final legal agreement between the Buyer and the Seller relative to the sale of the property.

Financing

The offer and P&S contain a date by which the Buyer must apply for and obtain a loan commitment from a lender. Although the Buyer may be prequalified or preapproved for a loan, the Buyer must complete all items to obtain a written loan commitment. The Buyer may be released from the P&S only if they are unable to obtain a loan commitment by the mortgage contingency date in the P&S and they provide timely written notice to the Seller.

Role of the Closing Attorney

Lender's Counsel (Closing Attorney) will order a Title search to determine the legal ownership of the property and outstanding liens or mortgages. He or she will order a certificate from the Town regarding real estate taxes. The Buyer pays for the Closing Attorney (even though the Closing Attorney

represents the Lender). The Closing Attorney certifies that the Buyer has good Title to the property, that the Mortgage and Deed are recorded, and that the loan documents are signed by the Buyer. If the Buyer is selling their current home prior to the purchase, Buyer's counsel will assist in making sure funds from the first sale flow properly to the purchase.

The Closing Schedule

Once Loan Documents are ready, the Closing Attorney will schedule a Closing at the time and place provided in the P&S, or another mutually agreeable location.

Role of Buyer's Counsel at Closing

Buyer's Counsel will review the DEED, will make sure all closing costs are reasonable and accurate and will explain the Settlement Statement (containing all charges of the sale) to the Buyer.

Final Walk-Through

The Buyer should inspect the property shortly before Closing to make sure that all promised Repairs have been completed and that systems are in the same working order as when the P&S was signed. The Buyer may request a holdback of funds if dissatisfied with items at the final walk-through inspection.

Closing or "Passing Papers"

The Buyer brings a Certified or Bank Check for the balance of the purchase price (not covered by their loan), their checkbook, an insurance binder, a paid insurance receipt and a picture ID. The Seller delivers the Deed and the Buyer executes the loan documents. The transaction is closed when the Closing Attorney records the Deed and Mortgage at the Registry of Deeds, pays off the Seller's outstanding liens or mortgages, pays the Brokers and delivers the net proceeds of the Seller.

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