

# **“Why Every Home Buyer Needs a Real Estate Attorney”**

By: Federal Title & Escrow (Washington, D.C.)

Buying a home for many people may at first appear to be a fairly simple matter but once a person has experienced the process of buying a house they quickly learn that there is more involved than simply finding the right property, signing the purchase and sale agreement and then proceeding towards closing.

There are many different steps involved in buying, selling and financing a home, and many buyers often experience uncertainty or even fear during the purchase process. However, an experienced Florida real estate lawyer can carefully guide the buyer through the entire purchase process and look out for the buyer's best interest. The following describes the various steps in the purchase process and how a Florida real estate attorney customarily assists the buyer during each step.

## **Pre-contract Negotiation**

Although engaging the services of a real estate lawyer is not absolutely necessary during the pre-contract negotiation phase of a real estate purchase transaction, it can be helpful for the buyer to speak with attorney if the buyer has any questions regarding the purchase price and any tax-related issues that the buyer may be concerned with.

Speaking with an experienced Florida real estate attorney about the buyer's concerns and questions during the pre-contract negotiation phase will give the buyer the opportunity to address a situation prior to the buyer being bound to a contract to purchase a home and will provide comfort to the buyer regarding certain questions that the buyer may have about the pending home purchase.

## **Contract of Sale**

Although in Florida many residential purchase contracts are standard form contracts with "check the box" options such as the FAR contract and the FAR/BAR contract, a contract of sale is not a simple document and should not be viewed as such.

It is critical for a Florida real estate attorney to be involved during the preparation of the contract of sale to properly advise the buyer before the buyer becomes forever bound by the terms of the contract. A Florida contract of sale contains many different details associated with the purchase of the home and although the real estate agent is normally the person who prepares the contract of sale, the buyer's attorney is the one who will sit down with the buyer to explain everything the buyer will need to know about what the buyer is signing and what it means for the buyer.

A real estate contract of sale usually includes many important factors such as: what real and personal property are included in the sale, the purchase price, the amount of the deposit which is to be paid, where same will be held in escrow and what the provisions of the escrow are, how many days the buyer has to obtain a loan commitment and what happens in the event that the buyer is unable to obtain a loan commitment, what will happen if any damages to the house are present or any major repairs are required, the requirement of a clear title in order for closing to occur and what will happen if there is an issue that cannot be cleared on the title, when the closing date is scheduled to be, what happens if the seller is not ready to close and the buyer is, the allocation of closing costs and expenses, and many other important matters to consider.

An experienced Florida real estate attorney's involvement during this stage to explain the details, requirements and repercussions of the numerous contractual considerations is extremely valuable.

### **Status of Title**

In order to close on a property it is necessary that there be a clear and marketable title. A title search report is ordered from a title insurance company and will list any violations or title clouds against the seller and the property the buyer is purchasing.

Violations against the seller customarily include judgments and the title clouds that may show up on a house are lis pendens, liens, judgments and fines for municipal code violations.

An experienced Florida real estate attorney will review the title search report and the information contained therein to make sure the status of the title is clear before moving forward with the purchase of the home, and will take all necessary actions in order to clear any title clouds prior to closing.

### **Survey**

Although almost always required by the buyer's lender when the buyer is financing his or her purchase, even in all cash transactions it is essential that a survey is ordered for the property and carefully reviewed prior to closing.

Knowing where the property lines are and the existence of any encroachments is extremely important when buying a home. A survey will assist to determine whether everything that the buyer is purchasing is within the property lines. The buyer's real estate attorney will order a survey for the buyer and have it certified to the buyer.

The buyer's real estate attorney will explain all of the findings of the survey and will be able to answer any questions that the buyer may have regarding the items depicted on the survey.

### **Closing**

The final step in every real estate purchase that the buyer's real estate attorney will be heavily involved in is the closing of title. Closing is where the deed to the property is signed and delivered to the buyer transferring ownership of the property to the buyer.

Having an experienced Florida real estate attorney present at closing will ensure that all of the closing documents are accurate and properly executed.

The buyer's real estate attorney will answer any questions the buyer may have which relate to the purchase transaction and/or the closing documents. Finally, the buyer's real estate attorney will make sure that the buyer's purchase funds go to the right place.