

Buying a House

Buying a house is one of the most important financial and emotional decisions you will make. It should be a happy and rewarding experience, so it is important to have someone looking out for you to help manage the stress that can come with this process. This pamphlet offers general information about the basics of buying a home and will help you understand how a lawyer can help you with the legal issues involved in your transaction. When buying a home, make sure not to sign anything until your attorney, the person trained to advise you, reviews and explains everything to you. By understanding the documents, you will be able to make informed decisions.

Who will be involved?

When you buy a home, you work with a variety of specially trained people. In many cases, the real estate agent will be your first contact, then your banker and a title agent. Add a lawyer to your team early in the process; a lawyer can help you understand the responsibilities these people have so you can determine whether you are being treated fairly.

The real estate agent's role

A real estate agent may represent the seller, the buyer or sometimes both. You must understand who the agent represents, and you may want to hire your own real estate agent to help you find and buy a house. Real estate agents are licensed and trained to understand market conditions and housing trends and should be familiar with the communities they serve. A well-trained real estate agent will listen and help you find a property best suited to meet your needs. Typically, the majority of the buyer's real estate agent's fee will be paid by the seller's agent. You may also be asked to pay fees to your agent. Ask the agent difficult questions before you hire the agent, such as what fees there will be for which services, and who will pay those fees. You must negotiate fees before you sign a contract.

Should I hire a lawyer?

With an investment of this magnitude, it makes sense to have a lawyer involved from the beginning of the

transaction, from signing an agency contract with a real estate agent through negotiating the agreement of sale, to reviewing the title work and perhaps attending settlement with you. Real estate transactions are filled with contracts and legal documents; your lawyer is the person best suited to review those documents with you. Some legal documents will be prepared by real estate agents, some by lenders, title agents or community associations. Your lawyer will be the one person on your team who has the skill, training and expertise necessary to explain the legal impact these documents may have on you. Your lawyer is ethically and legally bound to give you objective, unconflicted advice and loyalty in the transaction. In addition to reviewing the legal documents, your lawyer may also be able to give you valuable guidance in other aspects of the transaction. Your lawyer will be in the best position to help you only if you hire her/him before you sign any documents.

What expenses are involved?

Your lawyer can explain the expenses of buying real estate. Among them are:

- Costs of title examination and title insurance
- State and local transfer taxes
- Real property taxes
- Lender fees, appraisal fees, flood certifications and tax certifications
- Primary and mortgage insurance, escrow for taxes and homeowners' insurance
- Recording costs for the deed, mortgage and any other required filings
- And others

How can I locate a lawyer?

Visit the Pennsylvania Bar Association Lawyer Referral Service at <https://www.pabar.org/site/For-the-Public/Find-a-Lawyer>. Many counties have this same service at the local level.

What is the Agreement of Sale?

The foundation for buying or selling a home is the Agreement of Sale. It is the document that states the terms and conditions of the transaction. In most cases, a preprinted Agreement of Sale is used, and the agents

for the buyer and seller fill in the blanks. Even though this is a standard form, Agreements of Sale contain detailed legal language that is often technical and difficult to understand. Your lawyer is trained to explain these terms, as well as point out other factors that you should consider. For example, your lawyer will be able to explain the type of deed you will receive. The deed details the ownership of your property. If you need a mortgage, the agreement must be properly conditioned upon the type and amount of financing, with terms you are sure you can afford. Your lawyer can help to ensure there are no unnecessary or inflated fees charged to you, help you decide which inspections are necessary, and explain the risks and consequences of not completing the transaction. Other terms your lawyer will assist you to understand include:

- The dates and amount of payment required
- Settlement date
- Household items to be included in the sale
- A statement as to what happens if the property is damaged or destroyed before settlement
- Environmental concerns
- The consequences if the agreement is broken by either party

This list is not complete, but it shows how important it is to understand the Agreement of Sale before you sign it. Your lawyer will help you identify these and other details thoroughly so they do not become a problem later. Many times, buyers sign the Agreement of Sale without fully understanding its terms. Remember, once you sign a document, it is too late. Before signing, make sure you understand every word.

How should I obtain a mortgage?

When you borrow money to buy a house, you typically give the lender a mortgage, which gives the lender an interest in your home. In other words, the house is the collateral for the loan. Unless you are going to pay cash for your home, a financial institution will help you obtain a mortgage and show you the total cost for your home over the term of the mortgage. Your lawyer can help you understand the terms, conditions and fees associated with a mortgage so you find a loan that

best fits your needs. In general, the mortgage market is competitive. By shopping around for a mortgage, you may be able to save money. Your lawyer will be able to explain the process for obtaining a mortgage, help you understand the good-faith estimates provided by the financial institutions and explain the various legal concepts involved. Your lawyer can also help you understand alternative means of financing, such as seller financing or assuming the seller's current mortgage.

Why is a title search necessary?

A title search is critical because it is the only way for you to know what liens, easements or other claims may affect the property you want to buy. If you are borrowing the money from a financial institution, it will require you to purchase title insurance to protect the lender. The buyer has the right to select the title company and pay for the title insurance. The cost of the title search is included in the title insurance premium. Sometimes, a real estate agent will encourage you to hire the title insurance company affiliated with the agent's brokerage. When a title insurance agent examines title, the agent is only reviewing the search to identify things that may affect the title so a policy can be issued. Your lawyer is trained to identify issues that may affect how you want to use the property, things that may not impact the title or the title agent's ability to insure it. Settlement, where you actually buy the property, may be held by a title agent, who works for the title insurance company. Your attorney may be able to conduct settlement, however, and you should discuss this with your attorney early in the transaction. Who better to have examining all of the loan documents and other legal issues than your attorney, whose duty of loyalty is exclusively to you?

What must the seller disclose to you?

The Real Estate Seller Disclosure Law requires sellers to disclose "material defects" with the property, of which they have actual knowledge. This does not mean a seller must disclose everything he/she knows about the house. A material defect is a problem that would have a significant adverse impact on the value of the

property, or that involves an unreasonable risk to people on the property. That means there can be things wrong with the property that are not "material defects" that sellers do not have to disclose. The law requires a seller to complete and give buyers a disclosure form before the agreement of sale is signed. Sellers may be responsible for related damages if they fail to disclose known defects. This disclosure law applies to residential properties in most transactions, regardless of whether a real estate agent is involved. In most real estate transactions, real estate agents suggest using a detailed disclosure form that has developed over the years. In addition to the requirements of the Seller Disclosure Law, a seller is required to honestly answer any questions you ask about the property or the surrounding neighborhood.

When do I receive title to the property?

The final stage in purchasing the property is called the closing or settlement. The closing may be held in the title agent's office, at your real estate agent's office, in your attorney's office or at any mutually agreeable location. At closing, the terms of the Agreement of Sale will be completed, mortgage documents will be signed, the title insurance binder will be issued, the buyer will pay the purchase price and the seller will sign the deed. There are many documents to be signed and many others to be reviewed. Your lawyer should attend settlement with you and help you understand exactly what takes place.

This pamphlet has been made available to you as a public service of the Pennsylvania Bar Association.
Visit our website at www.pabar.org or call 800-932-0311 for a list of other pamphlets or to order additional copies.
Pennsylvania Bar Association
100 South Street, PO Box 186, Harrisburg, PA 17108
© Pennsylvania Bar Association
All Rights Reserved. REV 09/2020

Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referenced here.

Buying a House



Consumer Legal Information Pamphlets
by the
Pennsylvania Bar Association