

Why you are reading this guidebook:

Buying or selling a home can be one of the most important financial and lifestyle-changing decisions in your life. It is important to work with trusted legal counsel to help guide you through the process to avoid many of the pitfalls that could impact your transaction.

This guidebook seeks to provide you with an overview of the steps in a standard real estate transaction.



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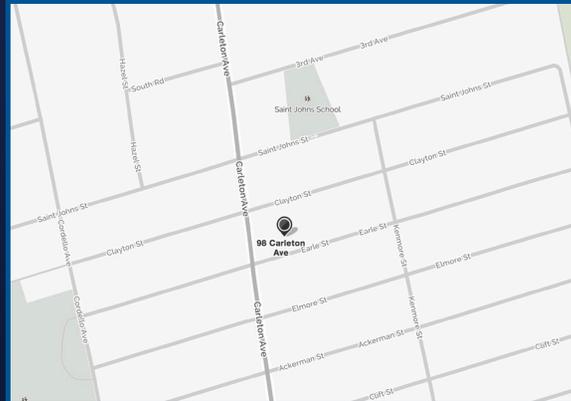
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This guidebook is for informational purposes. Since individual situations and legal issues vary, it is important to contact an attorney to discuss your specific legal situation.

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Real Estate Steps to Buying or Selling a Home

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Steps to Buying and Selling a Home

Deciding to Purchase a Home

A prospective buyer must first determine where and what type of home they want to purchase and what they can afford. One of the first steps in this process is to contact a bank or mortgage broker to review your finances and provide you with a mortgage commitment or pre-approval letter. Real estate agents and sellers sometimes require this letter prior to showing you a home.

Using a Real Estate Agent

Buyers should know that in most instances a real estate broker works for the seller. The broker's job is to bring buyer's to see the seller's home to sell it. The agent receives a commission on the sale of the home (the commission is negotiable and typically is between 2 - 6% of the purchase price).

When a buyer finds a home on which they wish to make an offer, the broker usually serves as an intermediary to negotiate the price and other items of the sale. At a minimum, from a buyer's perspective, it is imperative that binders are made "subject to attorney approval" or state that "this is not a contract for the sale of the property." At the time the binder is signed, a buyer should be provided with a New York State Property Condition Disclosure Statement under New York State law. If one is not provided to a buyer, in most cases the seller is to be given a \$500 credit at closing.

The Inspection

Buyers should consider having the home inspected by an engineer or home inspector prior to signing a contract. The inspection will cover structure, plumbing, wiring, appliances, heating and other systems for defects and needed repairs. The inspector should also provide a termite and pest inspection and report. The buyer can use this information to decide if they want to proceed or to negotiate more favorable price terms prior to signing a contract.

The Real Estate Contract

The next step in a home purchase is to sign a formal contract of sale. Typically, the seller's attorney prepares a contract that includes the description of the property, as well as any personal property included in the sale.

This document is then reviewed by the buyer's attorney, who will work with the seller's attorney to negotiate changes to the contract. One important condition that a buyer might want to include in the contract is making the purchase contingent upon obtaining financing. Upon execution of the agreement, the buyer will also be required to provide a deposit. While negotiable, this is usually between 2 - 5% of the purchase price.

Obtaining Financing

Most home buyers finance 80% or more of their purchase price. You will be provided a good faith estimate by your loan officer detailing your closing costs and giving you an estimate of the amount of money you will need to bring to the closing table. Some of the important questions to be discussed with your lender include: how many years is your mortgage; what is the interest rate; is the loan fixed or adjustable; can it be prepaid; is taxes and insurance included in your mortgage payment; and, what happens if you make a late payment? Your attorney should be able to assist you in understanding these important questions.

Title Insurance

The buyer's attorney will order a title search from an abstract or title company. The title will search property records to determine that the seller is the owner of the property, and will determine whether any liens or encumbrances that have been placed on the property. The title company will also determine: whether the deed correctly describes the property; problems with adjoining owners or prior owners; the existence of any easements, covenants, or other restrictions. The title company will attend the closing, clear (with the assistance of the attorneys) any objections to title, make arrangements to pay off existing mortgages, file required documents (including mortgage satisfactions, deeds, and tax documents) and insure title for the purchaser and the lender.

Zoning

An attorney should also be knowledgeable about zoning restrictions and requirements. For instance, you may want to build an in-ground pool, or want to know if a Certificate of Occupancy is required for a shed. You may also want to know if part of the home can be rented, or if it can be converted to a commercial property. Your attorney will know what types of permits are required and what other legal requirements must be met.

The Closing

Once the mortgage company has provided its commitment, and title objections are cleared, a closing will be scheduled. At attendance at the closing will be the buyers and sellers, their attorneys, an attorney representing the lender, a title closer, and the real estate agents to the transaction.

The seller's attorney ensures that the sellers receive the money they are entitled to. The buyer's attorney makes sure that the purchaser gets good title to the home, that the loan documents are in order, and explains all of the terms of the loan and purchase to the buyers. After the closing, attorneys for both parties must prepare and send closing statements to their clients for forwarding to their accountants.



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