

Frequently Asked Questions-Sellers

Pre-Contract

What information and paperwork should I provide to my Attorney?

Answer:

1. **Information Needed-** Provide the following information:
 - a. **Legal names-** Have you been known by any other legal names in the past 10 years?
 - b. **Pending Town Approvals for improvements-** Are there any Town Approvals that you are working on?
 - c. **Mortgage information-** Details concerning your Mortgage(s) (including any Home Equity loans). Provide the Lender's name, phone # and your loan #.

2. **Paperwork Needed-** Provide the following paperwork:
 - a. **Deed-** This document will have your name and your original Seller's name on it. It might have a "metes and bounds" property description on it (i.e. "Start at X point, 30.15 feet to the east").
 - b. **Survey**
 - c. **Title Insurance Policy**

Contracts

We have reached an agreement with the Buyers. What is our next step?

Answer:

1. **Preparation of Contracts-** Your Attorney prepares Contracts and sends them to the Buyers' Attorney.
2. **Contract Signing & Downpayment Provided-** Once the Attorneys finish negotiating the legal aspects of the Contracts, the Buyers will sign and provide a check for the Downpayment.
3. **Contracts Signed by Seller-** You will sign the Contracts and return a fully signed copy of the Contracts to the Buyers' Attorney.

What is the Downpayment?

Answer: The deposit that the Buyers provide when they sign the Contracts.

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How much is the customary Downpayment?

Answer: Typically 5%-10% of the sales price. However the parties can negotiate and agree to less. The amount of the Downpayment is not necessarily tied into the Mortgage amount, since it is just the security/deposit that the Seller collects to make sure that the Buyers do not default under the Contract.

What is an appropriate time frame for Contracts to be prepared by my Attorney?

Answer: Contracts should be prepared within 3 business days from the date your Attorney receives all relevant information.

If I am removing anything attached to the Property, do I have to mention it?

Answer: Yes. If you are removing anything attached to the Property (including appliances, light fixtures, window treatments, etc.) you have to specifically state that it is being removed. Otherwise it will have to stay. Most Buyers expect items to be included unless told otherwise (even if the items are not specifically mentioned).

When is the Contract "Locked in"?

Answer: Once you have signed the Contract and returned it back to the Buyers' Attorney, all parties are fully bound to the terms of the Contract.

What is a typical Closing Date?

Answer: Typically ~60-90 days from when Contracts are fully signed, but it can vary depending on both parties' needs.

Are Closing Dates in Contracts firm?

Answer: No. Normally it is an approximate "On or About" date. Often (but not always) Closings are usually within ~15-30 days of the "approximate" date stated in the Contract. However, everyone usually works together to close on a convenient date. Avoid making firm plans with movers, etc. until the Title and Mortgage are both fully clear. If you are unsure, you should speak with your Attorney.

Pre-Closing

Do the Buyers lose the Down payment if they cannot get a Mortgage?

Answer: Not Usually. Typically, Contracts allow the Buyers to receive their Downpayment back if they cannot get a Mortgage in a specified period of time (usually ~45 days after Contracts are fully signed).

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Who pays for the Title Search, Title Insurance and Survey?

Answer: The Buyers. The Sellers will typically have to pay a Transfer Tax (.4% of the sales price) and some smaller fees to pay off their Mortgage.

When is the best time for the Buyers to perform the "Walk Through" Inspection?

Answer: Typically, the day before the Closing is best. This will allow more time to remediate and investigate any issues.

Closing

What is a Closing?

Answer: The day when the Sellers provide the Buyers with the Deed and the keys to the Property.

When can a Closing be scheduled?

Answer: A Closing can typically be set within one week (depending on availability) of the following being in place:

1. Title is fully clear
2. Bank is "Clear to Close"- The Buyers' Bank notifies the Buyers that they are "clear for closing" (this is different than the Buyers receiving a commitment letter); and
3. The Parties are ready to close

What is an "On or About" Closing date?

Answer: Most of the time a Contract provides for an approximate Closing Date. This is different than a target date. Typically, the parties must close within a "reasonable" period of time after the date stated in the Contracts. Usually there can be up to a 30 day window, but that is not guaranteed and should not be counted on. Often, additional considerations can lead to an earlier or later time frame.

Where will the Closing take place?

Answer: Typically at the Bank's Attorney's office located in the county where the Property is located.

Other than taxes, what else am I reimbursed for?

Answer: You will be reimbursed for the following (if applicable): 1) Fuel Oil; 2) Propane; 3) Common Charges; 4) Water; and 5) Other payments made in advance.

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Once the Closing is arranged, what do I do?

Answer:

1. **Provide Mortgage Payoff Information to your Attorney-** Your Attorney will arrange for paying off any outstanding Mortgages. Provide the name and phone numbers of your bank(s) and your Social Security #s. This includes Home Equity Loans.
2. **Fuel Tank-** If there is a fuel tank on the property, you will need your servicing company to do a tank reading within ~10 days of the Closing. This reading should state the amount of fuel remaining in the tank, the price per gallon and the total value of the fuel in the tank.
3. **Water Meter-** If the premises are serviced by municipal water, you will need to provide proof at the Closing that all charges are paid up-to-date. This will require that the meter be read prior to the Closing. At the Closing, you will need to present the final bill or proof that the final bill was paid in advance of the Closing (bill stamped "PAID" by municipality).

When do I have to be out of the house?

Answer: At the time of the Closing unless the parties agree otherwise. Sometimes Sellers put their belongings on the moving truck prior to their sale and bring the truck to their new house after the Purchase Closing. Another option would be to have a short term lease agreement with your Purchasers or Sellers to allow you to stay or move in early.

When do I cancel my Insurance and Utilities?

Answer: After the Closing has occurred. You can also coordinate the transfer of the utilities to the Buyers instead of cancelling them.

Do I have to attend the Closing?

Answer: Not usually. However, a "Power of Attorney" will need to be drafted and signed before the Closing, and you will have to be available for contact at the time of the Closing

What is usually not included in my Attorney's fee?

Answer: The fee generally does not include uncustomary work such as leases, powers of attorney (*see above*), escrow agreements, previous deals, properties in foreclosure and non-local Closings.

What happens with my Credit Line Mortgage/Home Equity Loan?

Answer: It will have to be paid off at the time of the Closing. Also, you will need to "freeze" the account prior to Closing.

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IF YOU ARE BUYING A HOUSE ALSO:

Will I be able to use the Down Payment provided by my Buyers for my Purchase?

Answer: No. That money will be held in escrow until your Sale closes.

Can I take out a home equity loan against my present home so I have money for a Downpayment?

Answer: Maybe. However most banks will only provide the loan if your home has not been listed for sale yet.

How will I transfer the money that I receive from my sale to my Purchase?

Answer: If you are Closing on the same day, we would probably have your Buyers make their checks directly to your Seller.

If my Sale does not complete, will I still be responsible to Purchase?

Answer: Typically yes, unless you have negotiated a "Sale Contingency" on your Purchase.

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Seller's Checklist

#1 NEGOTIATION & INSPECTION WITH AGENT

- Discussed Approximate Closing Date
- Discussed Attached Items that are Included and Excluded in Sale-Such as Appliances, Window Treatments, Air-Conditioning Equipment, Etc.
 - ☞ Doesn't Include Personal Property (Furniture, Pictures, Table Top Microwaves, etc.)
 - ☞ All Attached items are assumed included unless you say otherwise
- Inspection Completed by Buyer
- Negotiated Repairs or Credits (if any)

#2 INFORMATION FOR ATTORNEY

- Retained Real Estate Attorney
 - Provided Attorney with Information
 - Current Mortgage Information- Details Concerning Existing Mortgages (including home equity loans with no balance). Includes Lender's name, phone # and loan #.
 - Town Approvals- Are there any approvals that you are working on?
 - Other Names- Have you been known by any other names in the past 10 years?
 - Notified Attorney of What Repairs or Credits will be done or given
 - Provided Attorney with Papers
 - Deed- Has your name and your original Seller's name on it. It includes a "metes and bounds" property description on it (i.e. "Start at X point, 30.15 feet to the east")
 - Survey- If you have one
 - Copies of Title Insurance Policy- If you have one
- If a Condominium/Homeowners Association- Provide:
- Prospectus/Offering Plan with Bylaws
 - Common Charge and Assessment information

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#3 CONTRACT SIGNING

- Contract Sent by Seller's Attorney to Buyer's Attorney
- Contract Signed by Buyer
- Contract Signed by Seller

#4 BEFORE CLOSING SET

(☺ *Within 1 Month After Contracts are Fully Signed*)

- Notified Post Office of New Address
- Contacted Movers/Truck
- Initiated Repairs- If Required
- Initiated Town Approvals- If Required
- Initiated Cleaning-Includes crawl spaces, sheds, etc.

#5 CLOSING

(☺ *At least 7 Days Before Closing*)

- Arranged Fuel Reading-To be brought to Closing
- Arranged Final Water Reading +Paid Receipt Dated within ~1 week of Closing
- Contacted Phone, Cable and Electric Companies
- Finalized Movers/Truck Arrangements

(☺ *Day of Closing*)

- Finished Cleaning and Vacating- Property has to be cleaned and vacant before the Closing
- Brought Items to Closing
 - Proof of Repairs; Fuel Reading
 - Paid Receipt for Water; Driver's License or Other Photo ID
 - Keys and Garage Door Openers

(☺ *Immediately After Closing*)

- Contacted Utility Company(s)-Don't Turn off Power until After Closing!
- Contacted Homeowners Insurance Co.-Don't Terminate Insurance until After Closing!

IMPORTANT DATES

- 1) (____/____/____) Approximate Closing Date- Date is in the Contract
- 2) (____/____/____) Actual Closing Date- Arranged with Attorney

Hiring a Qualified Attorney

Choosing the right professionals to represent and guide you is very important.

Attorney:

- **Should perform work in a timely manner**
 - ✓ Many Real Estate deals can be lost if the Attorney does not prepare or review Contracts promptly.
 - ☞ **Minimum:** Contracts prepared or reviewed within 3 business days
 - ☞ **Better:** Contracts prepared or reviewed within 2 business days
 - ☞ **Cory A. Levine, P.C.:** Contracts prepared or reviewed within 1 business day
- **Should be an experienced Real Estate Attorney**
 - ✓ An experienced Real Estate Attorney will be best at resolving important issues amicably, creating solutions quickly and protecting clients.
 - ✓ An experienced Real Estate Attorney's familiarity with the some of the other professionals involved (including the other Attorneys, Lender and Real Estate Agents) is also very helpful.
 - ✓ An Attorney who is very active will probably have the strongest relationships.
 - ☞ **Minimum-** Experienced in 1,000 real estate closings
 - ☞ **Better-** Experienced in 2,000 real estate closings
 - ☞ **Cory A. Levine, Esq.:** Experienced in 6,000+ real estate closings
- **Should be a "Transactional" Attorney**
 - ✓ A Transaction Attorney will be more focused on amicable solutions. Avoid Attorneys who seem litigious or whose primary source of income is from litigation.
 - ☞ **Cory A. Levine, P.C.:** A "Transactional" law firm.
- **Should discuss issues prior to your appointment to sign Contracts**
 - ✓ This way time is saved and you don't have to make another appointment if there are issues that the attorney needs to examine. New or forgotten questions can still be asked later but it is best to resolve as much as possible early.
 - ☞ **Cory A. Levine, Esq.:** Encourages that all issues be discussed promptly.

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- **Should send a copy of the fully signed Contracts to your Real Estate Agent**
 - ✓ A Real Estate Transaction should be a "team" effort and your Attorney should work well with all of your professionals.
 - ✓ The Real Estate Agent is usually instrumental in initiating and structuring the transaction. Having a copy of the Contract helps your Agent to assist you throughout the transaction.

👉 *Cory A. Levine, P.C.:* Sends copies of fully signed Contracts to Real Estate Agents
- **Should be properly staffed with professionals who are familiar with Real Estate**
 - ✓ Ask if the staff is familiar with Real Estate. Avoid Attorneys who seem understaffed or whose staff will be unable to answer many of your Real Estate questions.

👉 *Cory A. Levine, P.C.-* The entire support staff does Real Estate
- **Should be familiar with the area of the subject property**

👉 *Cory A. Levine, P.C.-* Frequently performs closings in Putnam, Westchester and Dutchess Counties
- **Should encourage you to ask questions and returns phone calls promptly**
 - ✓ You should not be expected to be an expert in this field.
 - ✓ The right professional will recognize that your questions will lead to a smoother transaction.

👉 *Cory A. Levine, P.C.-* Strongly encourages questions and returns calls promptly