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What are the steps in a residential real estate transaction?

Q: My husband and I are considering putting our house up for sale, can you give us an overview of what to expect?

A: Selling or purchasing real property can be one of the most significant transactions in your life. Below are the basic steps of a residential real estate transaction.

As the seller, your first decision is whether to list your property with a real estate broker. If you decide to do so, you will first need to sign a listing agreement. Although most sellers do not ask an attorney to review the listing agreement, it can be beneficial to do so. The broker will help you establish a sales price, stage and show the property.

Once you receive an acceptable offer on the house, you and the purchaser provide contact information for yourselves and your attorneys. Next, the broker provides the attorneys with a memorandum of sale listing all the details in the contract of sale, including the sales price, down payment amount, mortgage amount, and closing date. If there is no broker involved, you and the purchaser would have to provide this information to the attorneys.

The purchaser will schedule an inspection of the property. At that point the purchaser may insist on certain repairs. If you agree to any repairs, they are added to the contract. You are tasked with giving your attorney the deed, survey, previous title policy and any certificates of occupancy. If you are unsure if you have certificates of occupancy for all improvements you've made over the years, you should request this information from the municipality ahead of time.

Your attorney will draft the proposed contract of sale and provide it to the purchaser's attorney. This means you have entered the contract negotiation stage. Once you reach an agreement, the purchaser signs the contract and provides the down payment check and you sign the contract. After your attorney provides the signed contract to the purchase, you are "in contract." The purchaser's attorney will then order a title report. It is your responsibility to clear any title issues, as governed by the contract.

In the meantime, the purchaser should work with his or her bank to provide the necessary documentation for a mortgage commitment. Once title is clear and the purchaser's bank is ready to proceed, you are ready to schedule a closing date. The attorneys prepare a closing statement listing the monetary adjustments and checks. Your attorney will prepare the new deed and transfer documents. Finally, all parties (or their attorneys-in-fact) attend the closing to complete the sale.

Complex issues may arise during a sale, so you should retain an experienced real estate attorney to represent you.

- Melissa Doris, Esq. and Nancy Burner, Esq.