



Buying A House

by John D. Whitaker

Purchasing a house will be the largest single transaction most of us will make in a lifetime. It never ceases to amaze me how many people buy houses without a clue as to the importance of the documents they must sign to make the deal. I want to talk a little about some of the more important documents, but if you get anything out of this article I hope it would be that if you don't understand something, don't sign it. A competent real estate lawyer can save you a lot of trouble if you ask them to review the deal before you bind yourself to any specific terms. It is a lot easier to avoid a bad deal than it is to get out of one. Each real estate deal is different, and you should never rely on the presumption that a purchase offer you signed when you bought your old house will work the same way as the one you are using to buy the new house.

First, when you buy a house directly from the seller without professional help chances are good that the deal will go bad. There are lots of things that can complicate a deal, and they don't get better with age. It can be very helpful to have someone looking for the problems you didn't even know might exist.

If you are working with a real estate sales person you should find out who they represent in the deal. When you first engage a broker, you will be asked to sign a broker disclosure form. This document tells you who they are representing. In most deals the realtor is a seller's agent or intermediary. This means that they are not working for you and are not looking out for your interests. This is a little strange as you spend a lot of time with the sales person when you are looking at houses. After a while you can develop a trusting relationship with them. This may be the way you feel, but the documents you sign where this is disclosed will prevail if there is a problem. When you are asked to sign something, just ask "who are you representing in this deal?" You should never rely totally on the realtor in any event. Most real estate professionals are good and competent at what they do, but they don't get paid until the deal closes. This can create a conflict of interest that might jeopardize your best interest.

When you find a house you like, you will be asked to sign a



purchase offer. This document sets forth the terms of your offer. If the seller accepts your offer you will have a binding contract. Among many other things, the purchase offer sets the price, deadlines for the completion of inspections and sets the closing date. If you agree to complete the inspections by a certain date, make sure they are completed by that date. If there is a problem with the property inspection, make sure you notify the seller consistent with the deadlines you agreed to follow in the contract. If you don't object to the problems your inspection discovers, you may wind up waiving the problems and can be forced to buy the property as-is.

The seller will provide a property disclosure statement where they must disclose problems with the house. Read this disclosure carefully for what the seller says, and also look for what they don't say. If something is left blank in the disclosure ask about it, and ask that the answer be provided in writing. If the seller does disclose a problem like a history of water in the basement, make sure you have an engineer take a look at it. The seller usually provides title insurance. Title insurance will disclose whether the seller has good title and whether there are liens of record on the property which could interfere with your getting good title at the closing. Before the closing, the title company will provide a title commitment. This document will show you what the title company discovered about the property by researching the title. This is a very important document, and you should obtain, read and fully understand every document that has been listed as an exception in the commitment.

Most people must borrow money to buy a house. When you do, you will be asked to sign a note and mortgage. These documents comprise your agreement with the lender. These documents can be very complicated and have terms that you never dreamed were part of the deal. Read this document carefully as well.

At the closing, the seller will sign the deed. This is the instrument that transfers ownership to you. Make sure you read this to see if there are conditions in the deed language that you did not expect.

I don't want to sound untrusting, but over the years I have tried a number of cases involving real estate deals that went bad. I remain an optimist, but I always cut the cards.