

# **Why You Should “Close” the Sale or Purchase of Your Property with an Attorney**

## **INTRODUCTION**

According to the American Land Title Association, in 2005 title problems were found in 36 percent of all residential real estate transactions (new and resale homes, and refinances), up from 25 percent in 2000. For most people, their home is their single largest investment, and many people will only sell or buy property a few times in their lives. Clearly then, home ownership is a serious undertaking, and considering that title problems are found in 1/3 of all transactions, the condition of the property's title, and making certain that the property is free and clear of all liens and encumbrances, is crucial.

## **WHY USE AN ATTORNEY TO CLOSE YOUR TRANSACTION?**

The answer to why you need an attorney is easy to understand by asking yourself a simple question: "Who at the closing table is loyal to you?" Also, consider the motivation of a title company that is simply selling you a title policy. Does a title company have any motivation to solve any problems with the title? Or are any problems identified more likely to show up as exceptions to the title coverage. Review part B of a title policy. Everything there is an exception. And what are some of these exceptions? Do you understand the legal affect of these exceptions?

## **ONLY ATTORNEYS CAN GIVE YOU LEGAL ADVICE REGARDING YOUR TRANSACTION**

Only attorneys can give you legal advice regarding questions such as whether holding property in both spouses' names is a good idea for you, what makes a property's title defective, and whether you have to tell a potential buyer about your leaky roof.

Before the closing, only an attorney can provide legal advice regarding the following:

- The legal documents related to the transaction, including title policies, deeds, mortgages, and closing statements
- The income, estate, and gift tax consequences to the buyer's estate
- The exception to the tile policy
- Probate issues
- The parties' legal rights and obligations
- Preparation of a bill of sale to cover personal property
- Your liability if assuming an existing mortgage or taking subject to an existing mortgage
- Alternative means of financing including seller financing, private lenders, lease-options, and chattel mortgages
- Pre-closing liability for fire and other casualty to the property

- The status of the title to the property and the appropriate legal remedies to clear title defects
- Unrecorded municipal liens, including sewer and special assessment liens
- Building code compliance and unrecorded fines
- Zoning and other restrictions on the use of the property
- How title should be taken and the creation of corporations, partnerships, or trusts to take title

At closing, your attorney will check every detail, making sure the transaction occurs the way that you agreed, and that you will get marketable title. This is the most critical part of all, and your attorney's participation is important in helping you protect your investment and your financial security. A real estate attorney has the ability to look out for your interests and insure that you are getting what you have bargained for as either buyer or seller.

### **DOES IT COST MORE TO CLOSE WITH AN ATTORNEY RATHER THAN A TITLE AGENT?**

If you choose Merideth Nagel, P.A. to issue your title policy, you will get legal services and a title policy for about the same cost as if you use a lay title agency to secure a policy. Whether or not a separate attorney fee will be charged depends on the way the transaction is structured. Usually, if an attorney acts as the settlement agent, the only fees involved will be the state-promulgated title insurance premium and the charges for the related title services as set by the marketplace. *This is the same pricing structure charged by non-lawyer title insurance agencies.* Therefore, for the same cost, the consumer gets all the title insurance and settlement services, the lawyer's advice on legal matters relating to the transaction, and the benefit of his/her fiduciary duty.

In more complex circumstances, when legal services are necessary for probate, quieting title, and the like, services that non-lawyer title insurance agents cannot provide, fees can range from a few hundred to a few thousand dollars depending on the nature and severity of the issue.

### **WHY CLOSE WITH MERIDETH NAGEL, P.A.**

At Merideth Nagel, P.A., the closing team can assist you in your transaction from start to finish, not only providing you with an effortless closing experience *but doing so at the same or better cost as with a non-attorney title agent.*

Ms. Nagel and her staff of paralegals have over twenty-five years of legal and closing experience and are committed to providing you the best service possible in an atmosphere where you can be comfortable. No transaction is too big or too small for Ms. Nagel and her team, and each transaction, no matter the dollar amount, receives the same meticulous attention to detail. Ms. Nagel and her staff strive to provide you the confidence and peace of mind you deserve throughout the entire closing process, including negotiating

and explaining the contract, the figures on your closing statement, and the results of their thorough title examination.

Ms. Nagel is also frequently engaged to review the title commitment and other documents prepared by someone else, only charging a moderate and reasonable fee depending on the complexity of the transaction.

If you're considering buying or selling a home, please consult with your lawyer. If you do not have a lawyer, please consider contacting our offices at the number listed below. We look forward to working with you!

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This pamphlet provides general information. This pamphlet does not provide legal advice about specific legal problems. Let us advise you about your particular situation. The hiring of a lawyer is an important decision. Let us provide you with free information concerning our experience and qualifications.