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RESIDENTIAL REAL ESTATE CLOSINGS:
WHAT A PURCHASER CAN EXPECT

Buying a home (whether it be a house, cooperative apartment or condominium unit) should be exciting, but it can also be stressful and overwhelming, especially if you are not prepared and do not know what to expect. Although every transaction is unique, this newsletter is meant to give a general overview of the process of buying a residential property.

The first step should be to honestly assess your financial status and determine a budget that considers the purchase price, as well as your closing costs and potential repairs. You should also consider what amenities you need and want in your new home. Based on your budget and priorities, you should narrow your search down to locations that would suit your needs. Early on in the process, you should find a realtor who specializes in the area where you want to live. The realtor can show you various houses, condominium units and cooperative apartments and can explain the costs and benefits to each type of ownership. You should see what is available and look until you find something you would want to purchase.

Once you find the property you want to buy, your realtor will help you make an offer to the seller. Your offer will include the price you want to pay, and it may ask the seller to include certain personal property in the sale and/or to make certain repairs or modifications to the property. Depending on the circumstances, you can make your offer contingent on obtaining financing and/or satisfactory engineer inspections of the home. The seller may accept or reject your offer, or may counteroffer for a higher price.

If you and the seller can agree on terms, the realtor will draft a memorandum of purchase and sale (also known as a term sheet) that summarizes the agreed-upon terms. The realtor will send the term sheet to the attorney for the buyer and the attorney for the seller. Within several days from receiving the terms, the seller's attorney will prepare a contract of sale and deliver it to the buyer's attorney. The contract will contain the agreed-upon terms and will outline the responsibilities and representations of the buyer and seller. Shortly thereafter, the attorneys will speak to their clients about the contract terms and will negotiate the specifics in order to best protect their clients.

While the terms of the contract are being negotiated, the purchaser should consult a mortgage broker and begin the loan application process. Many closings are delayed due to issues with the purchaser's financing, so this is something you want to start early and closely track throughout the process. A purchaser should also conduct due diligence before signing the contracts. Due diligence includes reviewing the building department file for violations and open permits affecting the property. A Purchaser should also consider conducting an engineer inspection to check the electrical, mechanical, HVAC, plumbing and other systems, as well as checking the roof and foundation, and checking for termites, radon and the existence of an underground oil tank. For more detailed information on purchaser's due diligence, see our Newsletter from October, 2009 posted on our website at www.dibbinilaw.com/newsletters.php.

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NEWSLETTER

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After the attorneys finalize the contracts, the purchaser will sign first and make the initial down-payment (usually 10% of the contract purchase price). The seller generally signs within a few days after the purchaser. Once all parties have signed, the parties are legally bound to the terms of the transaction. At this time, the attorney for the buyer will order a title search to see what, if anything, appears of record to affect title to the property. The attorney for the buyer may also order a survey to make sure there are no encroachments onto the property. Almost all contracts require a seller to deliver clear title, so if any title issues are uncovered by the title search or survey, the seller will be required to fix the title issues or refund the down-payment funds the Purchaser has paid.

During the time the parties are waiting for the title search to be done, the Purchaser should be in constant contact with the mortgage broker and/or lender to make sure the loan application is moving forward and to insure a mortgage commitment can be issued in the time frame allowed in the contracts. Generally, purchasers get 30-45 days from signing contracts to secure a loan. Most loan commitments are issued with conditions that must be satisfied by purchasers prior to the lender giving final funding approval. It is important that you and your attorney understand and address all conditions promptly.

Once the Purchaser's loan is cleared to close and the title to the property is clear, the parties will schedule a closing date and time that works for all the parties. Most residential transactions close within 60-90 days from contract signing, but timing depends on the facts and circumstances of the parties and each deal is different. Once a closing is scheduled, the attorneys prepare closing statements to detail the closing expenses of their clients. Closing costs for a buyer include title charges, bank fees, attorneys fees and varying other expenses depending on your situation. Please see our previous Newsletter from September, 2009 posted on our website at www.dibbinilaw.com/newsletters.php for more information on closing costs. As buyer's attorney, we will make sure you understand the costs, and know what checks and other items you need to bring to closing.

James G. Dibbini & Associates, P.C. has successfully performed thousands of residential real estate closings and we are familiar with a wide array of closing issues. We guaranty to provide you professional and prompt service on all of your real estate needs. For more information or to discuss the specifics of your situation, please do not hesitate to contact James G. Dibbini, Esq. at 914-965-1011 or jdibbini@dibbinilaw.com.

Our office also provides legal services in the areas of:

- Commercial & Residential Real Estate Closings
- Civil Litigation
- Landlord & Tenant Law
- General Business Law
- DHCR Representation
- Tax Certiorari
- Zoning Matters