

Legal Mistakes to Avoid

When Buying or Selling a Home



When you're buying or selling a home, there are many important legal issues, large and small, that you should be aware of. To begin with, residential real estate is not an uncomplicated process. When such a major investment is transferred from one party to another, even the subtle legal details need to be taken care of. If not they can turn into major problems if not handled correctly.

It is essential to be as informed as possible in order to properly protect yourself in the process of buying or selling a home. There are several issues that will certainly cost you if you are not properly informed. In this report, we identify 3 of the most common of these issues.

Because there are many legal issues to consider, your first step is to consider choosing reputable and experienced professionals to represent your interests. When selecting your real estate agent, ensure you find someone who has extensive experience with the process. They should also refer you to a local real estate lawyer who can ensure your interests are protected.

3 Legal Issues That Could Cost You Thousands

Following are 3 common examples of legal clauses that can work to your disadvantage if not worded correctly:

1. Survey Clause

Homebuyers have the right to have a survey clause added to the real estate contract on the home they wish to purchase. When this home is yours, you should be aware of the implications of this clause.

Evaluate each agent's responses to these 10 questions carefully and objectively. Who will do the best job for you? These questions will help you decide.

Your current survey may no longer be up-to-date if you have had a swimming pool built, or an addition added, since the survey was drawn up. If your survey is not up-to-date by these standards, the buyer may request an updated survey. The homeseller may be required to bear the cost to have a new survey prepared. The cost for this process typically runs anywhere from \$700 to \$1,000. This is \$700-\$1,000 less that you will net for your home.

An experienced real estate agent should provide you with a survey and it is up to the buyer to decide if the survey is acceptable.

Your agent should be able to advise you appropriately when dealing with this issue, but if you or your agent are unsure, you have the right to consult your lawyer before you sign the offer. Don't be afraid to take this important step, as thousands of dollars could be riding on the decisions you make at this point.

2. Home Inspection Clause

Some real estate transactions have fallen through because of the wording of the inspection clause. This clause previously stated that the buyer has the right to rescind their offer if they were dissatisfied with the outcome of a home inspection. In some cases, this was used unfairly against the seller when a minor repair issue would give a buyer a legal loophole to their change of heart. Meanwhile, the seller lost both time and money because of this technicality. First, they may have declined other offers (offers which may now be lost forever) in favor of the one which has now fallen through, and missed the opportunity for other offers

which might have come through during the current negotiations. Secondly, their home may have been unfairly labeled as a "problem house" which could cost them in terms of the dollar amount of subsequent offers. And thirdly, they then found themselves back on the market, incurring the inconvenience and additional carrying costs of having to market their property for a longer period of time.

This clause should read that the seller has the option to fix any items that the home inspection flags. This wording protects both the buyer and the seller. The buyer is assured that the home they are buying meets objective structural standards, and the seller is protected against the whim of a buyer who changes his/her mind.

Not all contracts will be written in this way. Make sure you are working with a lawyer experienced in real estate matters to ensure your interests are protected.

3. Swimming Pool Clause

If the home you are buying or selling has a swimming pool, there should be a specific legal clause which addresses this costly item. Some contracts are written to provide a warranty to the pool to survive closing. The broadness of this wording protects buyers, but is not necessarily in the best interest of sellers who might instead request that the clause be worded to indicate that, at the time of closing, they believe the pool to be in good working condition.

The existence of a pool in any home negotiation is certainly reason enough to ensure that you seek advice from a real estate professional and obtain legal counsel so that your interests are represented properly.

By being aware of these and other legal issues, and by seeking advice from an experienced real estate professional and obtaining legal counsel, you can protect yourself against unnecessary cost and potential hardship.