



O'Donnell, Weiss & Mattei, P.C.

## Do I Need a Real Estate Attorney?

That is a common question attorneys hear from both buyers and sellers of real estate. In order to answer that question, we really need to look at your position... are you trying to sell your home on your own or, in the alternative, are you purchasing real estate?

While Realtors provide a wonderful service in pricing the real estate that you are trying to sell, expanding the publicity and exposure of your home through marketing tactics, and facilitating the transaction from finding a buyer all the way through and including settlement, more and more people are trying to sell their homes on their own in an effort to avoid the commission that is routinely paid to the realtors. If you plan to sell your house on your own, we recommend that you still engage a realtor before you begin marketing the property. You should pay a realtor or real estate appraiser to determine the value of your home, and to give you an opinion on what improvements/repairs, if any, should be done before showing the property potential buyers. It is not wise to rely upon your 'gut' feeling for the value of your home, what your neighbor sold a similar property for a couple of months ago, etc.

Once the appraisal is completed, it would benefit you to utilize the services of an attorney to educate you on the two (2) most important documents in the sale of real estate – the Seller's Property Disclosure Statement and the Agreement of Sale. The attorney will emphasize the need for you to fully disclose all defects associated with the property in the Seller's Property Disclosure Statement. The attorney will then review a standard Agreement of Sale so that you are fully aware of the terms and conditions that must be discussed with a potential buyer. Once you have accomplished the above, you can begin marketing your property on your own. Once you find a potential buyer, the attorney can help you negotiate the terms, discuss the pros and cons of the different contingencies requested by the potential buyer, help you prepare for settlement, and then attend the closing with you to make sure that you are maximizing the net proceeds that you are taking from the settlement.

If you are buying a property, regardless of whether the seller is using a realtor, we always recommend that you hire an attorney to represent your interests. Please remember that realtors, generally, owe a legal duty to the sellers, and not to the buyers. Remember also that realtors get paid by the sellers, in most cases, in the form of a commission that is a percentage of the sale price. As a result, the realtors have a duty to look out for the sellers' legal interests. Therefore, it is always a good idea for a buyer to be represented by an attorney. As a buyer, you should closely consult with your attorney regarding expected negotiating terms before beginning your search for a home, and before you begin negotiating for same, etc. The attorney can work with you in negotiating the terms of the Agreement of Sale, explaining same, discussing the pros and cons of each contingency, etc. Once the Agreement of Sale is signed, your attorney can help you find a mortgage broker, proceed through the inspection contingency, etc., and can also help you obtain title insurance, which is required to ensure the property is free and clear of any liens other than the mortgage you are using to purchase same. Finally, your attorney can attend settlement with you to explain the forms and expenses, verify calculations on the settlement sheet, etc., and generally be sure everything is in order.

The above briefly describes why buyers and sellers, alike, are best served by consulting with an attorney before marketing their home for sale, looking for a house to purchase, negotiating an agreement of sale, conducting settlement, etc.

*Call today and talk to one of our real estate attorneys  
(610) 323-2800*