

REAL ESTATE PURCHASE/SALE TRANSACTION BASICS

THE LAW OFFICE OF FRANK E. DESSO, P.C.

Address:
36 Mill Plain Road
Danbury, CT 06811

Phone: (845) 228-7040

Fax: (845) 228-7041

Email: deessolaw@gmail.com



IMPORTANT ITEMS TO KNOW ABOUT YOUR TRANSACTION

During your transaction, there will be many important terms and dates to be aware of. However, these are some of the basic points you should know, prior to entering into a real estate Contract. **This document is attached to and made a part of your Retainer Agreement with our office.**

What is an “on or about” closing date in New York?

The phrase “on or about” in your Contract typically refers to a flexible date by which the real estate closing is expected to occur. For example, if a contract states that the closing date is “on or about” a certain date, it means that the closing could happen on that exact date, before that date, or can be delayed for a certain period beyond that date, so long as the delay is “reasonable.” New York courts have interpreted a reasonable delay of the closing to be three to four weeks (thirty days) beyond the on or about closing date. However, determining what makes a delay “reasonable” is subjective and typically determined on a case-by-case basis.

This flexibility in closing allows for some leeway in scheduling and planning, as real estate transactions can be complex and involve various parties whose availability and readiness may not always align perfectly. It gives both the buyer and seller a reasonable window within which to finalize the transaction without being held strictly to a specific date.

If a party is unwilling to close within a reasonable time after the closing date, the attorney for the party wishing to set the closing can send what is referred to as a Time of the Essence Letter (“TOE Letter”) to the other party. A TOE Letter sets forth a new closing date, stating that “time is of the essence.” If the party receiving the letter does not close by that date, then they can be declared in default under the terms of the contract of sale.

“Real estate cannot be lost or stolen, nor can it be carried away. Purchased with common sense, paid for in full, and managed with reasonable care, it is about the safest investment in the world.” – Franklin D. Roosevelt

What is a survey and when should I order one?

While a survey is not typically required by a lender, a property survey is a highly recommended and important aspect of a real estate purchase. In general, a survey refers to the process of locating and measuring a property's boundary lines to determine the exact amount of land that a homeowner owns. A survey also locates and measures any easements or encroachments on a property. Typically, we recommend waiting to order a survey until your lender has issued a mortgage commitment letter and satisfactory appraisal to avoid unnecessary survey costs in the event you are denied your loan. However, it is also important to keep within the timeframe of your closing date. In order to avoid delay in closing, it may be necessary to promptly obtain a survey quote despite your lender not having issued a commitment or appraisal report. **During your transaction, you will be receiving correspondence from our office outlining your various options for having a survey completed.**



Title Search and Title Issues That May Arise

A title search is ordered by the Purchaser's attorney once a fully executed Contract of Sale is received from the Seller's attorney. The title search will take two to three weeks or longer, depending on the title company and location of the property. A title report will outline the conveyance history of the property and will reveal any marketability issues of concern. The municipal search is an additional search by the title company with the Building Department of the municipality in which the property is located. A municipal search will reveal whether there are any open building permits or violations on the property. It will also reveal whether the road on which the property is located is public or private. The title report will also contain a tax search, which will indicate the paid or outstanding taxes due on the property. Any taxes prepaid by the Seller will be adjusted as a credit to Seller at the closing, while any unpaid taxes will be adjusted as a credit to Purchaser. You will also be required to have title insurance on the property.

There are two types of title insurance: the owner's policy and the lender's policy. The owner's policy protects your property rights as the homebuyer, whereas the lender's policy insures the financial investment of the bank or lender. If you have any further questions on title insurance, please give our office a call.

Mortgage Contingency

If a Purchaser is seeking a mortgage in order to purchase the property, there will be a clause in the Contract or Purchaser's Rider making the deal contingent on the bank funding the loan. Typically, a mortgage contingency period will be around (30) thirty to (45) forty five days, depending on what has been agreed to in the Contract. Purchasers should diligently work with their lender during this time to provide them with all necessary documentation and information to approve their loan. Depending on what has been negotiated for in the Contract, a mortgage contingency is usually satisfied once the lender has issued a mortgage commitment letter and an appraisal report has been reviewed and approved by an underwriter for an amount no less than the Contract purchase price and absent of any major conditions or repairs. Upon expiration of the mortgage contingency period, an extension may be requested from the Seller allowing Purchaser more time to procure a mortgage. If the extension request is denied, Purchaser will have the ability to request cancellation of the down payment and reimbursement of their down payment. **IMPORTANT: The above is contingent on results of Contract negotiations and whether Seller has agreed to the standard/customary mortgage contingency terms. The above may not apply to your transaction if different terms were negotiated or if you have agreed to waive certain provisions in the Contract of Sale.**

SCHEDULING THE CLOSING

In real estate purchases involving a lender, the closing date is not scheduled until the lender has issued a "clear to close," which means that all conditions have been reviewed and approved with the underwriter. In cash transactions, a closing date is set once the title report and municipal search have been returned and Seller has either cleared any outstanding issues, or the title report was received absent of issues. The closing date must be mutually convenient for all pertinent parties, i.e. Purchaser, Seller, Purchaser's attorney, Seller's attorney, Bank Attorney, title company/closer, etc. A closing confirmation will be sent out upon confirmation from all parties as to their availability for a specific date and time. If you are a Purchaser obtaining a mortgage, your closing figures and final numbers may not be sent to you until we receive final figures from your lender and/or agreed upon closing statement from Seller's attorney, which can sometimes take up to the day before the closing to complete. Sellers will receive their final numbers once the Purchaser's attorney has agreed with calculated adjustments and numbers. **For both Purchasers and Sellers, our office will forward a closing statement, which outlines the purchase price, down payment, tax adjustments, pertinent credits, if any, closing costs, etc. as a result of the purchase/sale. Should you have any questions relating to this document upon receipt, our office would be happy to discuss the same and answer any and all questions you may have.**

WHAT DO I BRING TO CLOSING?

The most important item to bring to the closing besides yourself and any monies (via certified bank check or wire) due to Seller, is your **valid, unexpired photo identification**. Many closing documents will need to be notarized and therefore, a notary will require this documentation to verify your identification. We also recommend bringing a personal checkbook, in the event there are any additional fees to be collected at closing.