

the property; such liens can usually be addressed by producing the title policy you received when you purchased the property.

SCHEDULING CLOSING.

After the buyer's attorney receives the title searches, he/she will submit it to the buyer's mortgage lender with a request for a closing date. This date must also be coordinated with your attorney. Do not assume that the date on your contract will be the closing date; rather, it must be scheduled by the attorneys for both parties. You should stay in frequent communication with your attorney to help schedule a closing date that is agreeable to all parties. Generally, closing must occur within ten days to two weeks after the date indicated in the contract, unless an amended date is agreed to by the parties. If the contract indicates that the closing date is "time of the essence", then closing must occur on that date or the non-performing party will be in breach of the contract. In all other cases, if one party refuses to close by the agreed upon date, then at that time, the other party may make time of the essence for a date no sooner than ten days to two weeks later, or such other time frame as may be considered reasonable under the circumstances.

As a seller, you will need to provide a certificate of occupancy (if required in your town) and a certificate of fire code compliance. If your inspections for these items are delayed, or if reinspections are needed, please keep your attorney informed, so that we can work out a realistic closing date with the buyer's attorney. You must also provide us with a completed seller's information sheet advising the name, address and phone number for all your mortgages and lines of credit, along with account numbers, so that loan payoffs can be obtained in advance of closing. At the closing, the buyer's attorney will pay off your loans out of the proceeds of sale. All your other closing costs,

including attorneys fees, taxes, realtor's commissions, recording charges and the realty transfer fee will also be paid, so that you will receive a check for the net proceeds of sale.

CLOSING ON YOUR PROPERTY

Shortly before the closing (usually, earlier that day) the buyer will have a "walk through" of the property to verify that the property is in acceptable condition. All appliances and mechanicals should be in working order, all agreed-upon repairs should have been performed, and there should be no observable leaks. At the walk through, the property should be vacant and broom clean. Please make sure not to discontinue any utilities before closing; otherwise the buyer will not be able to do a proper walk through and may require an escrow at closing, or even postpone the closing.

Closing usually occurs at the office of the buyer's attorney. A completed closing is generally considered to be evidence of the buyer's acceptance of the property; therefore, any walk through issues will be negotiated at that time.

At the closing, you will sign your deed and other closing documents, and will receive an attorney trust check for the net proceeds of sale.

AT FELLEN & FELLEN, LLC, we believe that communication is the key to a successful deal. We are always available to our clients to guide them through the home-buying process. Unlike other law firms, which pass their real-estate clients off on a paralegal, at Fellen & Fellen, your attorney works with you every step of the way, and phone calls are returned promptly. Because we are attorneys, you can trust us to give you unbiased advice. Most contracts result in a closing, but sometimes, issues arise that can be difficult for a buyer to wrestle with. You can rely on our experience in guiding you through the tough choices, so that you end up with the home of your dreams. We look forward to working with you.

Expert Advice—Personal Service

Selling a Home in New Jersey



Selling a home can be easy, if you have the right advice. At Fellen & Fellen, LLC, we are here to guide you through the process.

FELLEN & FELLEN, LLC
ATTORNEYS AT LAW

200 Craig Road
Manalapan, NJ 07726

Phone: 732-431-0473

Fax: 732-780-3533

E-mail: fellenlaw@optonline.net

THE FIRST STEP: GOING TO CONTRACT.

If you have listed the property with a realtor, the buyer's agent will present a standard-form contract when making an offer on the house. The Contract should contain the pertinent terms of your deal, including the price, the amount of the mortgage, the closing date, the items of personal property and fixtures that are included and excluded in the sale. The contract should also include time frames for mortgage approval, and inspections. You can have your agent negotiate modifications to these terms, and when you come to an understanding with the buyer, you can sign the contract with your realtor, who will deliver a signed copy to the buyer's agent.

If you are selling the property without a realtor, we can prepare the contract for you. In that event, the contract will not be signed until it is fully negotiated with the buyer's attorney, in the same way Attorney Review takes place with a realtor's contract, as set forth below.

ATTORNEY REVIEW

Once the parties have received a copy of the fully signed realtor's contract, you enter the period of time known as Attorney Review. By law, both the buyer and the seller have three business days to have their attorney review the realtor's contract. If the attorney wishes to change any part of the contract, he or she must write a letter "disapproving" of the contract within the three-day period. This letter has the legal effect of cancelling the contract. However, through the attorney's disapproval, the finer points of the contract are negotiated, as well as any other concerns of the parties. The attorneys will prepare an addendum to the contract incorporating all the negotiated changes. Once the addendum

is signed, the contract is reinstated (as amended) and is binding on the parties.

During Attorney Review, your attorney will explain the terms of the contract to you, and answer any questions you may have. Make sure to raise any concerns you have about the sale, and any special issues or problems which may be unique to the property and may need to be included in the contract. Tell your attorney if there is a swimming pool or other unusual structure on the property, if the property is heated by oil, and if there is a septic system. If the property has well water, you will need to order water potability tests. You should also tell your attorney if you will be purchasing another property, for which you may want the closing to coincide with the closing on your sale.

A common misconception is that the Attorney Review process must be completed within three days. This is not true; rather, it must be initiated, by way of an attorney disapproval letter, within three business days. Thereafter, there is no specified time period for completion of the Attorney Review negotiations, although it is usually preferable to complete the process as quickly as possible. During Attorney Review, the contract is terminated, so the parties are free to walk away from the deal, and sellers can entertain other offers on their house. However, conclusion of Attorney Review is noted by the signing of the binding contract addendum.

THE MORTGAGE AND HOME INSPECTION CONTINGENCIES

The contract will typically provide that the sale is contingent upon the buyer obtaining a mortgage loan commitment within a certain time frame, and upon satisfactory home inspections. If the buyer is legitimately denied a loan commitment, he/she will have the right to terminate the contract and receive a refund of the purchase deposit.

The buyer has the right to have the home inspected at the buyer's expense to identify any structural, mechanical or

environmental defects in the property. Although the contract will provide that the sale is "as-is", if the inspection reveals any of the aforementioned defects, and if the seller refuses to correct those defects, the buyer will have the right to terminate the contract and receive a refund of the deposit. This is not to say that the buyer may cancel if there are any cosmetic defects or if the mechanical systems are aging; rather, these items merely need to be in working order. Repairs for any defects discovered during the home inspection will usually be negotiated by the attorneys.

In addition to the buyer's home inspections, some municipalities require a certificate of occupancy for a sale of a home; in those cases, the seller must make application with the township for a certificate of occupancy inspection. Any items discovered which do not comply with the building code will have to be repaired. Further, New Jersey law requires that all Sellers order and comply with a fire-code inspection, which will require functioning smoke detectors and carbon monoxide detectors, as well as fire extinguishers.

TITLE SEARCHES AND SURVEY.

The buyer's attorney will order title searches and a survey. If you can provide the title policy and survey you received when you purchased the property, this can expedite the title search process and possibly save the buyer some money. Frequently, the buyer's attorney will request these items.

The title search will reveal any liens and encumbrances against your property, which will need to be addressed for closing. These will include your mortgage, home equity line of credit (which is also a mortgage), homeowners association, and any judgments against you. Sometimes, the search reveals liens pertaining to the previous owner of