



REAL ESTATE PLANNING *Guide*

RUSSO LAW GROUP, P.C.

Estate Planning, Elder Law & Special Needs



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REAL ESTATE - SALE OR PURCHASE OF RESIDENCE

CONSULTING WITH AN ATTORNEY

There are many factors that must be considered when selling and purchasing real property. If you are considering or have decided to sell or purchase real property, you should consult with an experienced real estate attorney who will guide you as to how to approach the transaction. People have different motivations and reasoning behind purchasing and selling real property, but each circumstance warrants a thorough review and proper planning. It is essential you understand both the logistics and implications of the transaction. The average real estate transaction takes approximately 2 to 3 months from the date the contract is signed by the Buyer and the Seller until title closes. Having an attorney early in the process will help set up a roadmap for the transaction. At the end of this guide, there is a table that helps outline the transaction and the estimated time frames you could expect.

WHAT TO DO WHEN SELLING

If you are selling a home, it is important that you plan in advance. The process involved does take time, so you should know in advance what your timeline is and have an appropriate action plan. If you are looking to purchase a residence elsewhere, you will have to coordinate the sale and purchase to be in close proximity, especially if you require the sales proceeds to fund the purchase.

Documentation: In order to make the process of selling as smooth as possible, you must compile all information required for and relevant to the sale. This includes all certificates of occupancy (“COs”) for all work done to the property, disclosing to your attorney whether any COs are missing, or whether any work was done without a permit, a survey if you have one in your possession, and any documentation pertaining to an open or satisfied mortgage. The more prepared you are, the easier the transaction. It is important to speak with your attorney to understand what you have and what you need, and if you are aware of certain issues from the beginning, it will provide you with the opportunity to address any known issues and negotiate for them in the contract.

Real Estate Broker: Once you have planned when the right time to sell is and you have collected all the relevant documentation and consulted with your attorney as to a plan of action, you should hire an experienced realtor to help you assess the market value, determine a sales price, and list and advertise the house for you. Unless you know someone personally who is willing to purchase your home, it is beneficial to hire an experienced realtor to assist you in advertising and locating a purchaser for the property. While realtors are entitled to a commission for their services, such fees are paid only if the deal is successful, and it gets paid at the end from the sales proceeds. It will also save you time and aggravation as you will not be required to do the work by yourself.

Repairs and Curb Appeal: Before the house is listed with a realtor, however, you want to check your house for quick and easy repairs. It is advantageous to fix the small things that help appeal to buyers. You may also want to do some other renovations, make cosmetic touch-ups, and improve your curb appeal to make the house more intriguing to prospective buyers. The goal is to allow prospective purchasers to envision your property as their future home. However, you must consider whether you capitalize on the work you are doing. You do not want to incur the cost and labor in managing renovations if you cannot reasonably expect an offer that proves the work to be.

WHAT TO DO WHEN PURCHASING

As a purchaser, you will have to consider what to do about your current living arrangements. If you are a homeowner, will you have to sell your current property before you purchase a new one? If you are renting, do you have a written lease and is it set to expire? Are you aware of how you must provide notice to your landlord? If you have inherited real property either through a trust or someone's estate, are you aware of how the real property should be administered, and have you acquired the requisite authority to take such action?

If you require financing, have you consulted with a lending institution or mortgage broker to obtain a mortgage pre-approval? Do you know your price range? Do you know the geographic location you wish to move to? Have you narrowed your search of what you are looking for?

Once you have the above in order, it would be useful to acquire the assistance of an experienced realtor to conduct a search using your specific criteria. It does not cost you any money to use a realtor as it is the seller's responsibility to pay realtor fees. Thus, it makes sense to allow a professional to help you find the right property.

Since timing is essential, it is important you consult with your attorney to help you create a road map and provide you with a list of action items to ensure the process remains manageable and the least stressful.

WHAT HAPPENS AFTER THERE IS AN ACCEPTED OFFER

After an offer has been agreed to the seller's attorney will prepare the contract of sale in accordance with the negotiations. The seller's attorney should contact their client to review the terms of the sale and make sure all the specific details are reviewed and addressed. The purchaser's attorney will then review the contract terms, consult with their clients, and negotiate the terms accordingly. Once the terms have been finalized, purchaser will sign the contract and submit a down payment, which will be held by Seller's attorney until closing. A deal is considered to be officially in contract once the contract has been executed by both parties, and the seller's attorney has returned a copy of the fully executed contract to purchaser's attorney and has deposited the down payment into escrow.

WHAT HAPPENS AFTER CONTRACT IS SIGNED

Once the parties are in contract, the purchaser will apply for a mortgage (if the purchaser requires financing), apply for a title search and perform their due diligence by means of inspections, if negotiated for and if not already performed. If the inspections prove satisfactory, once the title report is generated, the Seller's and Purchaser's attorneys will work on addressing and resolving any title exceptions and defects. After both the lender and title have issued their approval of the file to close, the parties will work together to coordinate a mutual closing date. The seller's attorney will then prepare the deed and necessary transfer documents and calculate all relevant adjustments that should be factored into the sales price.

WHAT HAPPENS AT CLOSING

The purchaser will be entitled to a final walk through to ensure that everything is in the condition it ought to be in and address the same if it is not. Therefore, by the time the parties reach the closing table, all issues, adjustments, and credits should have been addressed and resolved. The parties and their respective attorneys will attend the closing, along with title and a representative of purchaser's lender if applicable, to execute all necessary transfer documents, affidavits and to exchange the sales proceeds for the keys to the property, thereby finalizing the sale.

Each attorney will provide their clients with a closing statement outlining the figures and fees associated with the sale containing photocopies of all relevant documentation in connection with the sale.

LEGAL SERVICES

It is our goal to provide you with the most comprehensive legal counsel available. We will work diligently toward that goal. We are sensitive to the financial concerns of every real estate transaction. For that reason, it is important that both counsel and client work together toward the common goal of closing title. Please advise us of any potential issues, such as a lack of a Certificate of Occupancy or work done on the premises without a Permit. Knowing the issues in advance will allow us to orchestrate and execute an action plan to remove any impediment to closing, or to address the same in negotiations. We will diligently provide you with the highest level of Professional Service at the greatest value for your money.

Average Closing Timeline for Residential Real Estate



NOTE: The above is merely informational and not legal advice. This guide was published in August 2023 and based on New York law. You should contact us for any changes or updates in the law or long term care planning. Future changes in law may render the above information inaccurate. If you have any questions regarding this guide, please do not hesitate to call RUSSO LAW GROUP, P.C. at (516) 683-1717 or contact us at www.VJRussoLaw.com.

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