

Town Topics, October 13, 2004 Legal Forum: "Buying and Selling a Home: The Benefits of Legal Representation" by Allison S. Zangrilli

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When buying or selling a home, the benefits of legal representation are well worth the cost. Considering the potential pitfalls, federal and state laws involved, and the strict legal and contractual obligations placed on the parties, one of the wisest decisions a party to a real estate transaction can make is to seek competent legal representation.

- **Your Attorney Represents Your Interests.** Your attorney will be the only professional involved in the transaction whose sole purpose is to protect your interests. Neither your real estate agent nor title agency can offer you legal advice.
- **Your Attorney Negotiates on Your Behalf.** The contract of sale sets forth the rights and obligations of the parties and is the most important document in the real estate transaction. Your attorney will propose changes to the contract in your interests, identify potential problems with the transaction, and know how to respond to changes requested by the other party. You must have an attorney review the fully signed contract and disapprove of the same in writing within three business days or the contract becomes binding as written. Once the contract is finalized, the buyer will obtain inspections of the property, such as structural, radon, termite, septic, lead paint, and well testing. Your attorney will assist you in negotiating items of concern revealed by the inspections.
- **Your Attorney Keeps You Informed and Facilitates Closing.** Throughout the transaction, your attorney will answer your questions, offer legal advice, and keep you informed of time frames, inspection obligations, problems with title, and other issues affecting closing. Your attorney will ensure that all open judgments and recorded liens are properly cancelled, and explain the property survey, which may reveal an encroachment onto the property that the seller should remove, or other restriction of which buyer should be aware. At closing, your attorney will review and explain all of the relevant documents including the deed, affidavit of title, mortgage package, and Settlement Statement which sets forth closing costs. The attorney will also review and/or prepare any other documentation required, such as a use and occupancy agreement or escrow agreement. Your attorney will assist in negotiating any last minute items of concern revealed by the walkthrough inspection, and ensure that all legally required certifications and approvals are produced. In addition, your attorney will attend to post-closing items such as the recording of the deed and mortgage, transmittal of loan pay-offs and release of any escrows held at closing.
- **Your Attorney Keeps the Transaction on Track.** Legal representation from the beginning of the transaction helps to ensure that deadlines will not be missed, laws will be complied with, and the appropriate inspections and certifications will be obtained in a

timely manner. Costly disputes and delays are more likely to arise when one or both parties is unrepresented.

- **The Cost of Legal Representation.** Buyers and sellers, and those re-financing, should remember the old adage “you get what you pay for.” Attorney fees in a residential real estate transaction or re-finance will vary. Considering the long-term financial effects of your transaction, engaging an experienced attorney with a reputable law firm to represent you will be money well spent and will protect your interests, avoid delays and expenses, and make your real estate transaction a more pleasant experience.