
**BAILLIE &
HERSHMAN P.C.**
—LAW OFFICES—

*The Most Frequently
Asked Questions About:*

**BUYING & SELLING
REAL ESTATE**

Quick answers to
your questions about
buying and selling a
home or other property.

Donald S. Baillie
Jay N. Hershman*
Timothy P. Kennedy
Ryan B. Corey†

ALSO ADMITTED TO PRACTICE IN:

* DISTRICT OF COLUMBIA

† NEW YORK

WHY DO I NEED AN ATTORNEY?

This is a question most people ask when they are buying or selling a house, especially if they are moving from another state where attorneys are not usually used for the purchase or sale of a residence. In Connecticut, it is customary for all parties to the transaction to be represented by an attorney.

The purchase of a house will require that you enter into a legally binding contract with the seller of the property. An experienced real estate attorney can help you understand how the contract affects your rights and what legal obligations it imposes on you.

The attorneys of BAILLIE & HERSHMAN and their staff along with your real estate agent will be responsible for keeping track of your transaction and bringing it to a smooth conclusion.

SHOULD I RETAIN A SEPARATE ATTORNEY OR USE THE LENDER'S ATTORNEY?

This is a decision you will be asked to make almost as soon as you sign a purchase contract and apply for a mortgage. The lender from whom you are seeking a mortgage may have an attorney to represent it in the closing transaction. Typically, that lender's attorney will also offer to represent you as the borrower for a small additional fee, as is often the case in Connecticut.

Sometimes, the lender will not have its own attorney. In that case, the attorney you select to represent you will also represent the lender in the preparation and execution of the mortgage documents.

WHAT IS A "TITLE SEARCH" AND WHY DO I NEED ONE?

A title search will reveal any liens, judgments, restrictions, easements or anything else that could delay or prohibit a property's sale. The actual search may be done by an attorney or a title searcher employed by the attorney who reviews all necessary records at the town clerk's office to be sure the property can be sold by its legal owner.

THEN WHAT IS TITLE INSURANCE?

Title insurance is offered by insurance companies to mortgage lenders, as well as to property owners to protect against losses that may result from defects in title. Title insurance is purchased at closing for a one-time fee and is required by almost all mortgage lenders. For a small additional fee you can purchase an owner's policy that will also insure your interest. This policy insures that a property is free and clear of liens, mortgages or other claims that would prevent it from being sold or from being used for its intended purpose.

WHO DO THE REALTORS REPRESENT, THE SELLER OR THE BUYER?

Historically, the realtor has represented the seller. This is because the realtor, as listing agent, has an agreement with the seller before a buyer is involved. More recently, the real estate industry has introduced "buyer brokers" who represent the buyer, and "dual agencies" where the broker represents both parties. Realtors should disclose, in writing, whom they represent, and the duties and obligations they have.

I'VE ALSO HEARD THE TERM "ADJUSTMENTS." WHAT ARE THEY?

Certain costs are required of a property owner (for example, property taxes, sewer and water charges, fuel and association dues). Adjustments are made at the closing so that the seller pays those costs up to the closing day, and the buyer pays them from the closing day forward.

IF I HAVE A LAWYER, DO I HAVE TO BE PRESENT AT THE CLOSING?

No. You can give your lawyer "power of attorney" to make decisions and sign documents on your behalf. However, many mortgage lenders require that the buyer be present at a closing. Sellers often sign their documents in advance of the closing and need not attend.

WHAT WILL HAPPEN AT THE CLOSING?

The "closing" is the actual purchase and sale of the property. Usually the real estate agents or brokers who brought the buyer and seller together will also attend. The closing will usually be held in the office of either the buyer's or seller's attorney or may be at the lender's or lender's attorney's office.

The seller must sign the deed and a conveyance tax return to the State of Connecticut, as well as an affidavit disclosing whether any repair or construction work has been done on the property and whether the seller knows of any disputes over the location of the boundaries or title to the property. Your attorney will review the deed and affidavit to be sure there are no problems with either.

The buyer must sign all of the mortgage documents, including the mortgage note and deed. You will also receive and sign a copy of the HUD-1 or RESPA form that discloses all of the financial aspects of the closing. In addition, you will have to bring to the closing the balance of the purchase price that is not covered by the mortgage money you are borrowing. Generally, you will be required to bring a certified or bank check for this balance.

All of the money due at the closing will be turned over to your attorney. All of your expenses of closing will be paid by your attorney from those funds, and the balance of the purchase price will be paid to the sellers.

THE CLOSING DATE

Your contract will contain a date for the closing. This date should be considered to be approximate. The actual date of the closing is a time that is agreeable with the buyer, the seller, and the lender and scheduled as soon as the buyer has been cleared to close. The actual date of closing may be a week or two earlier or later than the date in the contract. If it is essential to you to close on the date specified in the contract, you must tell your attorney immediately and seek his or her advice on what, if anything, can be done to assure a closing on that date.

If you are selling the residence you occupy to buy another, you will be expected to move out of the property you are selling by the date of that closing so that the buyers can move in on that date, if they so choose.

WHAT ELSE DO I NEED TO KNOW?

There will be many questions that arise over the period of time your closing is being put together. This pamphlet can't answer all of those questions or even anticipate what they might be. Fortunately, the attorneys and staff at BAILLIE & HERSHMAN, P.C. can address your questions and concerns as they arise. You need to communicate with them and rely on their advice, especially if problems arise.

Closings take time to put together. In a busy real estate market, it takes lenders longer to process mortgage applications and grant commitments to buyers, and buyers usually can't close without the mortgage funds to pay the purchase price. Again, you need to communicate to your attorney's office any problem that arises with your closing date as it is set. If you are trying to coordinate your sale of another property with the purchase of this property, you must make your closing attorney aware of that as well.

There are a few other considerations that may apply to you:

You will need to arrange with the appropriate utility companies for a transfer of service and billing into your name from the name of your seller on the date of closing. You will want a final meter reading by the electric and water companies, where available, so the seller can be billed. Once you have a firm closing date, you can and should schedule this.

You should also file a change of address with the post office as well as notify newspapers, magazines you subscribe to, credit card companies you use, and others of your address change.

CONCLUSION

Buying a home is most likely the largest investment you will ever make, so the process of buying or selling a home is not something you want to take lightly. At BAILLIE & HERSHMAN, P.C., we are experts in real estate law. We've handled literally thousands of real estate closings, some complex, others straightforward.

This pamphlet is offered free by BAILLIE & HERSHMAN, P.C. and is intended to provide general information to help answer some of the questions you may have about buying and selling real estate. Hopefully, it will help you feel more comfortable entering into this type of legal transaction. We also offer information on estate planning, business services and personal injury.

Of course, you may have additional questions that we will also be pleased to answer for you. For a free initial consultation, simply call (203) 272-7000. You can rely on the experts at BAILLIE & HERSHMAN, P.C., to help you with any of your legal matters. Trust in us.

BAILLIE & HERSHMAN P.C.

— L A W O F F I C E S —

WWW.BHHLEGAL.COM • INFO@BHHLEGAL.COM

290 Highland Avenue, Cheshire CT 06410

Phone: 203-272-7000 • Fax: 203-272-7100

FARMINGTON • NORWALK • WATERFORD • CHESHIRE