

Selling Your Home: A Legal Checklist



Resolve any financial obstacles before you sell

If your property has incurred any sort of debt, encumbrance or lien, you will need to take care of them before settling with your buyer. These obstacles can arise any number of ways:

- Federal, state or local tax liens
- Civil court judgments
- Missed child support or spousal support payments
- Failure to pay homeowners association dues
- General unpaid debts



Gather important documents

- Deed
- Evidence of encumbrances, liens, judgments, etc.
- Surveys
- Appraisals
- Documentation of major repairs, damage or improvements
- Any agreements made between tenants or cohabiting partners
- Comparable sales in the area (if available)
- Any agreements made between you, as the seller, and your real estate agent (if applicable)
- Copies of restrictive covenants imposed up upon the community





Draft a home sale agreement, if needed

If you're unmarried and have a domestic partner, consider drafting a home sale agreement to protect both parties. Otherwise, if the deal or the relationship fails, the court will only be able to help the party named on the deed as the owner.

- Encourage open communication
- Establish clear contract terms that determine the profit division after the sale — especially if one partner is not on the deed
- Review the current financials of the property, including outstanding mortgage debt, asking price and the bottom line offer
- Discuss the ownership expectations of both parties, including mortgage payments, home improvements, sweat equity and upkeep
- Have an experienced real estate attorney draft a home sale agreement that addresses all agreed-upon terms



Get joint tenants on the same page

If you inherited the property with several family members as joint tenants, the ownership structure of your property might limit your options for selling.

- Gather consent from all owners on how to split the net proceeds
- If everyone can't agree, divide the property in your state's court of equity

In divorces where the property is owned through joint tenancy or tenancy by the entirety, both owners must:

- Mutually decide to sell the marital home
- Sign the transfer deed over to the new buyers
- Agree to split the proceeds