

Mechanics of a Real Estate Transaction

by Gary Villnow

Although real estate transactions may vary depending on each individual situation, most follow the same basic procedure and contain the following attributes:

1. Contract.

Most real estate transactions commence with the buyer and seller negotiating the price to be paid for the real estate and the terms and conditions upon which the sale and purchase will be made. The negotiations may be made orally, but in many cases they are reduced to writing through the use of documents called Offers to Purchase and Counter Offers. These documents collectively form a contract which is binding on the buyer and the seller. In Wisconsin, all contracts for the sale and purchase of real estate must be in writing or they are void and unenforceable.

2. Disclosures and Contingencies.

At or around the time the contract is signed, the owner of the real estate to be sold will make disclosures to the buyer about the condition of the property to be sold. The disclosures include a written report completed by the seller called a Real Estate Condition Report. This report includes a list and explanation of any defects in the property which are known by the buyer to exist on the property. The contract may also call for the sale to be contingent upon the inspection of certain aspects of the property. For example, the contract may state that the buyer is not obligated to close the transaction unless items like the well, septic system, and well water are inspected and found to be in proper operating condition. The sale may also be contingent upon the buyer being able to receive financing to purchase the property.

3. Title Work.

Prior to the closing of the sale, the seller will provide the buyer with some form of title evidence regarding the property. The title evidence discloses the condition of the title to the property including all liens, encroachments, easements, and other restrictions and condition of record that may affect title to the property. The title work will also provide the seller with some direction as to how to deal with the conditions affecting title so that the buyer will purchase the property with a clear title.

4. Closing.

After all disclosures are made, the contingencies cleared, and the title work completed, the parties are able to proceed to closing. At closing, the purchase price and all closing costs will be paid and the buyer will receive a deed to the property. In most cases the seller will be responsible for the costs of the title work and a transfer fee due to the state. The transfer fee is calculated based on the value of the real estate transferred. Additionally, the real estate taxes for the year in which the closing takes place will be pro-rated to the date of closing.

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