

Presenting the Real Estate Closing Process

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First Time Homebuyer in 2019 – City of Rochester

What is a Contract?

- Offer
- Acceptance
- Consideration



Special Terms for Real Estate?

- Agreement **MUST** be in **writing** and **signed**.

Why use the GRAR contract?

1. It is well developed
2. It protects both sides
3. It is recognizable in the community



Think of the 5 W's

- Who – buyer & seller
- What – address of property & items being sold
- When – What are your deadlines? Mortgage Loan Commitment and Closing Date.
- Where – Closing usually takes place at the bank lawyer's office
- Why – because you want to buy a house! (not exactly in the contract)
- How much? Purchase price, deposit amount, loan amount, seller concessions

The “Basement Bar” Issue



If you are not sure if it is built-in or “affixed” to the house, then you should identify it in the contract

Attorney Approval

- Agents write contact – subject to attorney review & approval
- Generally 3 days
- Can approve / disapprove based on any reason
- Key is to make sure that you understand the terms you have agreed to

How Many Times Do I Get to See the Property before closing?

- You can visit an open house with your agent as many times as the seller will allow.
- Once under contract, you may visit the house one time for an inspection if your seller agrees. You will hire a professional to check for mechanical issues/foundation issues/ or general upkeep concerns.
- Within 48 hours of your closing you should have a walkthrough to make sure everything is as expected (no broken windows/leaks, etc).

Caveat Emptor & Merger Doctrine

- Important legal terms: Caveat Emptor means “Buyer Beware”
- Merger Doctrine means: all contract terms “merge” with the deed

- If you have any objections to the property you must raise them before closing. You cannot later identify defects of title or with the property except for cases of “fraud” – (very hard to prove fraud)

What Do I Get At Closing?

Deed:

Think of a deed is like a receipt.



Keys:

Remember it is a good idea to change your locks! You don't know who else may have copies of your keys

When is the House Mine?

When you sign the contract you become the “equitable” owner. Title has not yet passed to you, but you have certain rights to the property over other people.

Once you leave the closing room – having signed all of the bank forms and the seller is paid – you become the “legal” owner of the property. You can now access and use the property.

The deed will then be recorded in the County Clerk’s Office, either that day or the next day. You will then be the “record” owner. This is the most secure ownership, putting the world on notice that the house is yours.

Now How to Pay for It



You will need a Mortgage (and Homebuyer Grant) issued by your bank to come up with the bulk of the funds.

You will then need to bring a certified or cashier's check from your local bank for the remainder/down payment.

Your initial earnest money deposit is applied to your purchase costs.

Paying Back the Loan

You will sign a Loan Note, which is your obligation to pay the money back. Think of an “IOU”. Normal loans are paid over 15 or 30 years, but can be paid off early if you set aside additional money.

You will also sign a Mortgage, which creates security – or collateral – of the house you just purchased against the loan you just borrowed.

How buying a house compares to other purchases

- Have you bought a car recently? The dealer will let you drive away with the car if you sign a promissory note. They retain a “Security Agreement”. If you don’t pay on the debt, your car can be repossessed by the dealer or lender.
 - That is called a Secured Transaction
- Have you used a credit card recently? You may leave the store with the product you purchased without paying for it, and the credit card company loans you the money until your next statement comes out. But if you do not pay on the credit card bill the lender cannot take the product you just bought, they can only pursue the monetary debt.
 - That is called an Unsecured Transaction

Security of the Mortgage

For your house transaction, it is more similar to your car purchase because the bank holds a “lien” or “mortgage” on the home.

If they did need to collect on your debt, the process of foreclosure is a completely different process than repossession and follows a different set of rules.

Closing Costs

- In addition to the money that you pay to the seller, you will also have to pay “closing costs”. This is a general term that usually means:
 1. Loan Origination Charges / Financing Fees / Appraisal fee
 2. Pre-paying a year of homeowner insurance
 3. Pre-paying the current month of interest on the loan
 4. Funding an escrow account for taxes & insurance
 5. Attorney fee
 6. Title Insurance (one time fee - different from property/hazard insurance)
 7. Recording Costs of the Deed & Mortgage

What does your lawyer do for you?

- Contract Review & Approval
- Review your Title Abstract to make sure you are getting a good product
- Keep timelines of closing
- Attend Closing with you – make sure you know what you are signing
- Provide a closing statement to account for your costs & expenses
- Obtain a Final Title Insurance Policy – after the closing we do one more step to ensure your ownership is secure

Recap of some Key Terms

- Contract date – the date you signed
- Contingencies – what must be done before we can close
- Commitment date – your deadline to receive a “Mortgage Commitment Letter” from your lender
- Commitment Letter – the bank’s approval of your loan to move forward into the review process and providing an interest rate
- Clear To Close – when the bank has received all of your paperwork and the lawyer’s paperwork they will “clear” the file, allowing you to go to closing.
- Closing date – the target date to close the deal – this is not set in stone until later on

Recap of Legal Documents

- Contract
- Deed
- Loan Note
- Mortgage