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THE CLOSING PROCESS

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What is a closing and what does the closing attorney do?

What an exciting time! You are thinking about purchasing a home. Moving forward, you will be working closely with your Realtor, the lender, and closing attorney. While the roles of the Realtor and lender might be obvious, you may have no idea what the closing attorney does. In a nutshell, the closing attorney is the quarterback for the entire transaction. The closing attorney works with the buyer and seller, both Realtors, and the lender. Having a great closing attorney (who has an amazing team of paralegals) is critical to ensure a seamless transaction. Below is a brief outline of the role of the closing attorney throughout the closing process (and more specifically, it is the way my firm handles each and every transaction).

Congratulations! You are under contract

First your Realtor will send the executed Purchase and Sale Agreement to my firm and the lender. Your Realtor will then coordinate with my firm and the seller's agent to schedule a closing time convenient to both parties. Generally, the date of the closing is the date set forth in the contract that was agreed to by both parties. While I wish I could say that every closing happens on the original scheduled closing date, unfortunately some do not. Closings that do not close on time are delayed for a variety of reasons. Some are delayed because the buyer didn't provide the lender information it needed in a timely fashion. Other closings are delayed because of a title issue (discussed in more detail below). The bottom line is that the closing cannot occur until the lender is ready.

I will be calling you to introduce myself

Shortly after receiving the contract, I will be calling you to formally introduce myself, provide you my cell phone number, find out whether you will be in town for the closing and mention a few other things. I provide you my cell phone number so you can feel comfortable calling me directly if you have any questions throughout the closing process. Moreover, I believe having a relationship with the closing attorney prior to the closing alleviates some of the stress a buyer naturally feels on the day of closing.

The Title Search

Once we receive the contract, we order the title search (and usually receive a title request from your lender within a week or so after receiving the contract). A title search is a 50 year review of all of the records recorded at the county courthouse relating to the property you are under contract to purchase. The title search takes about a week to come back from the title abstractor. Once the title search is delivered to us, I review it to ensure that the person who

signed the contract as the seller is in fact the person who has the right to sell you the property. In addition, the search tells me whether there are any open loans, outstanding taxes, liens, etc. relating to the property. Many items listed in the title search relate to the current seller such as his or her open mortgage or property taxes currently due.

Title Defects

While most of the titles I review have no issues and show nothing that would prevent the seller from selling you the property, I do encounter titles that have what is called a “title defect.” A title defect is something in the chain of title that prevents the seller from selling you the property. Don’t be alarmed, most of the title defects that I see can be resolved prior to closing. The most important thing to note in this instance is you want to make sure you are working with a closing attorney that will order the title search early enough so he or she has time to (1) resolve any title defects and (2) inform all parties of the issue early on in the process.

We send a title report to your lender

Next, we submit a report to your lender stating that the title is clear or sets forth any issues that will need to be resolved before closing. This report is called a title commitment. While the lender will be asking you for a number of items in connection with the loan underwriting process, the title commitment is the most important piece of information the lender needs from the closing attorney to move forward in the loan process.

Obtaining information from the seller and seller’s agent

At the same time we are reviewing the title and drafting the commitment, my staff is working very closely with the seller and the seller’s Realtor to obtain all of the items we need from them for closing. For example, if the seller has a mortgage on the property, we must get the seller’s loan information in order to obtain a loan payoff. Also, if the property you are buying is part of a homeowner’s association we contact that association to find out any and all fees associated with the transfer of title. Some associations ask us to collect certain dues or fees at closing from the buyer that relate to moving into a specific community.

The Closing Disclosure

Once we have reviewed title, submitted the title commitment, and obtained all of the pertinent information from the seller needed for closing; we wait for the lender. Usually three to five days before the closing date, the lender asks us to assist in creating the Closing Disclosure (CD)

(formally known as the HUD). The CD is a document that sets forth all of the costs and fees associated with your purchase. It also includes the purchase price, loan amount, interest rate and your monthly mortgage payment, among other things. Once finalized, the lender will send the CD to you to acknowledge receipt. This must be completed by the lender and sent to you for review no less than three (3) business days before the closing. While you include the day of closing as one of the three days, you do not count the day you receive the CD.

Circulation of the Settlement Statement

Once the CD is finalized and sent to you by the lender, we will email you and your agent a document called an "ALTA Settlement Statement". The settlement statement sets forth all of the figures relating to the closing for both buyer and seller. The figures on the settlement statement generally match what was shown on the CD. When we email you the settlement statement we will let you know exactly how much money you need to bring to closing to purchase the home, if any. This amount you need to bring to closing should not be a surprise to you as a similar estimate should have been provided to you from your lender at the beginning of the loan process. I can tell you, however, in most instances the estimate from the lender and what you actually have to bring to closing are not the same. The lender doesn't know everything about the property you are purchasing up front necessarily (i.e., the actual cost of the homeowner's insurance, the exact fees associated with a particular homeowner's association, etc.).

How do you get the money you need to purchase the home to the closing?

If you are required to bring money to closing (which might relate to a down payment you are required to make or closing costs you are responsible for), we will let you know whether you can bring a personal check to closing or if you will be required to wire the money to my law firm. If the amount needed is \$1000.00 or less you can bring a personal check on the day of closing. If you are required to bring more than \$1000.00 those funds will need to be wired to my firm prior to closing. Generally, to wire funds you must walk into your bank to initiate the wire. Most financial institutions (not including USAA) will not allow you to wire through your online bank account. The wire should be sent to my firm no later than 24 hours before closing (in a perfect world). Any funds you send to my firm are held in my firm's escrow account. The escrow account is an account that is maintained by my law firm, but only holds money that is not the firm's (i.e., the lender's money, the money you wired for closing, etc.). Our firm's escrow account is also monitored by the State Bar of Georgia.

The Closing

And finally the day of closing has arrived! On the day of closing you and your Realtor will come to my office to sign the closing documents we receive from your lender. Unless the lender or Realtor asks you to bring something specific to closing, you only need to bring a current driver's license. If you do not have a current driver's license please contact our office before closing to obtain approval to use another acceptable form of identification. You may also want to bring a personal check to closing as sometimes the final figures that we provided to you end up adjusting ever so slightly. These minor adjustments are made by the lender. At the closing I will go over the settlement statement in detail to ensure that you understand the entire transaction. Next we will discuss and sign all of the other loan documents. As long as you have a great Realtor and lender, there shouldn't be any surprises at this time. The actual closing itself only takes about 30-45 minutes. We have complementary beverages and lots of chocolate for you to enjoy during the closing. Once we are done signing, you receive the keys and you are a homeowner.

I hope this information helps put you at ease and sheds lights on my role throughout the closing process. If you have any questions please feel free to call or email me anytime.

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