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Who you need on 'your side'

By MARLENE MARSHALL

Spring is finally here, and with it come more open houses and people seeking to buy or sell a home. So, for the next several columns, I'll provide you with legal insight that should be considered when buying and selling a home. This week's focus: who you need on "your side."

Buying and selling is a process - sometimes a lengthy one - that involves, among other things, negotiation, a contract and a closing. It's arguably the most important financial decision that people make in their lives. A real estate agent or broker is typically the primary authority that most buyers and sellers rely upon to help them navigate this process. However, many people don't realize that there should be another professional involved to complement the agent's efforts: an attorney.

Agents and attorneys differ in responsibility and expertise. An agent's primary goal is to facilitate the sale of a home. To do so, an agent handles all non-legal aspects of the transaction, such as marketing properties and coordinating the efforts of all involved. For home buyers, especially first timers, a realtor brings peace of mind to the transaction. For sellers, a realtor brings greater exposure to prospective buyers, as well as an understanding of the process. Overall, agents are expert managers and they complete the valuable "gruntwork" of most home sales.

An attorney's primary goal is to protect their client's interests. One way he or she can do this is by altering the sale contract that puts the wheels in motion. Most buyers and sellers of single-family homes, whether they realize it or not, use a standard purchase and sales agreement (a template

contract) prepared by the Rhode Island Association of Realtors. It is designed to expedite the process, but it is not always ideal for two reasons. The first is that it is designed to be fair for both parties - the buyer and the seller. How does this address your position as one or the other? It doesn't. Secondly, each home sale is not the same and should not be treated as such. An attorney can draft and insert "language" into the agreement that is specifically designed to benefit YOU.

Should you wish to proceed with signing a standard purchase and sales agreement, just be aware that it is a legally binding document. The Rhode Island Association of Realtors recognizes the legal obligations created when this document is executed. That is why the final words of the standard purchase and sales agreement state, "THIS IS A LEGAL DOCUMENT THAT CREATES BINDING OBLIGATIONS. IF NOT UNDERSTOOD, CONSULT AN ATTORNEY." At the very least, an attorney can help you understand the terms of the standard purchase and sales agreement, the terms of which have legal implications for the parties involved.

Working with an attorney before any documents are signed can provide several additional benefits. For example, an attorney can assist someone selling their home by preparing 'disclosures' that are required (by law) to be provided to a buyer, as well as help the seller understand the consequences of improperly completing them. Then, if a title issue arises prior to closing or when it comes time to prepare the deed and necessary affidavits for closing, the attorney is already involved in the transaction.

On the other hand, an attor-

ney can assist someone seeking to buy a certain property for reasons other than their primary residence; for example someone who plans to eventually refurbish their basement and use it for business purposes. Knowing this, an attorney can explain zoning regulations and requirements to the buyer before he or she has signed the purchase and sales agreement to ensure that the buyer's wishes can be accomplished.

Overall, keep in mind that the term 'real estate' refers to not just a home or a piece of property - it represents an entire practice area of law. You as the buyer or seller are affected by local, state and federal laws and only attorneys are qualified to provide you with an understanding of real property law.

Marlene Marshall is a principal at Marshall & Laffey Ltd in Pawtucket. She is an attorney licensed to practice in Rhode Island and