

## Buying or Selling, You'll Sign a Contract

By Judith I. Johannsen

If you're thinking about buying or selling a place to live, you'll need to know a few things about contracts because the one thing that is a certainty in buying or selling real property, it's all about the contracts.

Contracts are agreements between parties and the most basic of the basic real estate concepts is that in order for real estate contracts, certain leases and deeds to be legally enforceable, *they must be in writing*. We know this because of a law known as the Statute of Frauds.

The two types of contracts commonly associated with buying and selling real property are representation agreements (listing agreements for sellers and buyer representation agreements for buyers) and purchase and sale agreements.

The representation agreement is a contract a person will be asked to sign with a real estate company, either hiring that company to find properties to buy or to market and sell a property. Each of these agreements must include the names of the parties, a beginning and ending date, a compensation paragraph and the parties' signatures.

A purchase and sale agreement for residential real estate, in most parts of CT, is a pre-printed form. The buyer or buyer's agent fills in the blanks with the name(s) of the buyer(s) and seller(s), the property description, the purchase price offered, the amount of the deposit, the time period or date for receiving a loan commitment and for performing inspections, and a contemplated closing date.

In some parts of CT, however, the pre-printed purchase and sale form is not used and a buyer makes an offer to purchase in the form of a binder. There are several types of binders in use and some are binding and others are not - you will need to read the document to know which type it is. Once the parties agree to the basic terms and conditions of the offer and sign the binder, an attorney then drafts the "real" contract.

A written offer (whether a form purchase and sale agreement or a binder) is presented to the seller, who can accept it, reject it wholly, or make a counter-offer to the buyer by crossing out what he does not want and inserting what he does.

When parties to a purchase and sale agreement are competent to enter into a contract (they are of majority age, are not under the influence of drugs, alcohol, or duress), agree to all of the terms and conditions and evidence their agreement by initialing any changes and signing their names to the writing, they have an enforceable contract.

There are times when a buyer wants to test the waters before committing an offer to writing so he'll lob a verbal offer to the seller. The seller can verbally accept the buyer's verbal offer, but that seller is not legally obligated to sell to that buyer (with some exceptions) and can even accept a written offer from another, all because the first buyer's offer and the seller's agreement was not in writing.

Real estate transactions are grounded in contracts, so to protect your interests in the purchase and sale of real property, whether you are the buyer or the seller, get your agreement in writing – not only are contracts the written expression of both parties' understanding, they are also each party's tool for enforcement of the agreed to rights and obligations.

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