

TRANSACTIONAL REAL ESTATE

PROPERTY TRANSACTIONS

Purchasing a first home is a major milestone and financial undertaking for most people. Even if you are a seasoned property owner, whether it is a house or condo, a cottage on the ocean, or some form of rental or commercial property, there may well come a time when you wish to sell the property, or add to your collection. Whether you are buying or selling, property transactions are significant financial undertakings that require a similarly significant level of professional expertise to ensure the purchase or sale goes as planned.

There are a number of very important issues to be determined in purchasing or selling property. Initially, there must be a contract for purchase and sale for the property. You need to know if the property has clear title by having a title examination conducted. If the property is to be paid for via lender financing, there are important regulations and documents to draft and by which to abide. As a buyer, you should consider purchasing an Owner's Title Insurance Policy, and if a loan is involved, a Loan Insurance Policy will likely be required. Lastly, the actual closing has certain procedures that must be followed to ensure all documents are properly executed and recorded.

PURCHASE & SALE AGREEMENTS

If you are entering into a sale of property, either as the buyer or the seller, you should be signing a Purchase & Sale Agreement to dictate the terms and timeline of the property transaction. This is because, as with any other agreement between two parties, everything goes well until it doesn't. No matter how straightforward the terms may seem, or how close the relationship between buyer and seller, issues and pitfalls can and do arise. Issues that can arise are a buyer wants to back out of a purchase of your property, or maybe you wish to get out of buying a property due to a change in circumstances or new information. In any scenario, we can help you evaluate your options and resolve the issue.

TITLE INSURANCE

If you own or are looking to buy property, it is important to protect your investment as you would anything else of significant value: with insurance. Homeowner's insurance is a no-brainer for most people, as everyone recognizes that accidents and disasters happen, and it is best to be prepared in the event of damage to one's home. However, accident and disaster is not the only way you can lose your property through no fault of your own. Title insurance protects against often unconsidered dangers, such as another's superior claim to the title to the property.

Although unlikely, property is sometimes transferred incorrectly or fraudulently. Perhaps a seller purchased a home with an ex-spouse and has sold the property to you without that spouse's approval; perhaps the camp on the lake you just bought came to the seller by way of inheritance, but a Will is later introduced that leaves the camp to someone other than the person you bought it from; or perhaps a previous owner was the subject of a lien for unpaid taxes on the property. Each of these scenarios could lead to you losing the property outright and/or incurring substantial financial loss. In any of these events, title insurance protects your investment in the event of unforeseen circumstances related to ownership of the property.

Two types of title insurance are available to you: a Loan Policy and an Owner's Policy. A Loan Policy protects the amount borrowed to finance the purchase of the property, or the remaining balance thereof, and it is likely required by your lender that you purchase a Loan Policy. Likewise, the Owner's Policy protects the amount of the policy for the duration of your ownership and against any claims of a subsequent purchaser should a defect arise after you have sold the property.

CONVEYANCE AND DEEDS

Property can be transferred by or to you through various types of transfers, such as gift, inheritance, or sale. In any transfer of property, the actual title to the property at hand is passed through a deed. A deed needs to properly state both who is transferring and who is receiving title to the property, the location of the property, and a description of the property being transferred. Deeds may also contain rights and restrictions for the property as well, and it is imperative these are known and properly conveyed. Likewise, deeds need to be properly delivered to the receiving party and recorded in the appropriate registry of deeds.

Given the significant value of property, and the importance of being able to utilize your property as you see fit, it is of the utmost importance that you receive, or convey, the correct piece of property and its accompanying rights. There are formalities that must be followed in order to effectively transfer title to property from one person to another.

FINANCING

Oftentimes in real estate deals a loan will be needed to supply the full amount of funds needed. In these situations, there are a variety of complex regulations and procedures to be followed and required documents to be drafted and executed. It is essential that the proscribed timelines and documentation requirements are properly adhered to. Navigating the process is an intricate undertaking that is best done with the aid and expertise of a professional. Whether you wish to borrow money to purchase a piece of property, refinance an existing loan, or secure funding for a building project through a construction loan, you will want professional guidance through the process. The real estate team at Ainsworth, Thelin & Raftice, P.A. is knowledgeable about the ins and outs of financed transactions, having been on both the lender side and the borrower side of deals.