

Ensuring a Smooth Process So You Can Get the Keys to Your New Home

Buying a home is an exciting time, but the steps you need to take to finalize your transaction can sometimes be confusing or even frustrating. The safe and efficient transfer of real estate involves a number of steps. Title searches are performed, inspections and appraisals take place, a variety of documents are prepared and signed, and the actual transfer of funds is organized and completed. In addition, issues that might arise during the process are addressed and resolved. This activity then leads to the “closing”, or “settlement” as it’s called in some parts of the country. This presentation will discuss the detailed steps that occur before you can take ownership of your new home – the more you know about the process, the better your experience will be.

The first step to determining which home you will buy is to estimate what you can afford and ensure you have the cash for a down payment and closing costs. Once you determine your budget, find your dream house, and have your offer accepted by the seller, the countdown to the closing begins. Timing is crucial in a home closing. You can shop around to select a settlement agent to handle all of the closing details or you can ask your real estate professionals for a recommendation. In some parts of the country, the settlement agent can be an attorney, title agency, title agent or escrow company. Once you’ve selected a settlement agent, he or she will direct the closing process.

The Process Begins

This is when all of the behind-the-scenes work starts. A title professional will search and examine the public records for information related to the title of your prospective home. This search provides information about liens or debts of the current owner and can identify warnings of title flaws that should be resolved before the property can change hands.

After resolving any title “clouds,” the settlement agent is ready to prepare the closing documents, which outline the fees associated with the closing for both the buyer and seller.

By the time you are ready for your closing day, all of the behind-the-scenes work has been completed. In most parts of the country, your attorney or settlement agent will help explain the content of many of the documents you will then sign. Hopefully, one of these documents is an owner’s policy of title insurance that will help protect your ownership rights. Once the signing is completed, the house is legally yours!

After closing, while you’re unpacking boxes, the settlement or escrow agent sends the funds to pay off the seller’s lender, gives the seller their proceeds check, and disburses checks to all of the parties who provided services in connection with your closing. The settlement agent also records the documents in the county records.

Generally, you don't have to be involved in any of this because your settlement or escrow agent coordinates everything.

Protecting Your Purchase

Once you purchase your home, how can you be sure you really own the property and that there won't be any problems with the home's title? Problems with the title can limit your use and enjoyment of the property, as well as cause financial loss.

You can be protected from some ownership issues by purchasing an owner's policy of title insurance, which ensures that the title to your property is clear of known liens or encumbrances, such as unpaid mortgages, property taxes, or child support liens, just to name a few. The title search will also discover items that could limit the use of the property, such as utility and sewer easements. If a title defect arises, such as a missed easement or forged deed, and as long as you've purchased an owner's policy of title insurance that covers the issue, your title insurance company will seek to resolve it. This owner's policy can be purchased for a one-time fee at closing and provides protection for as long as you or your heirs own the property.

Some title issues are not apparent from a review of the public record. Events like forgeries, documents signed by minors or someone legally incompetent, deeds executed under an expired power of attorney or other errors may not show up in public records. If you purchased an owner's policy of title insurance, your financial interests in the property are protected to the extent of the policy coverage.

Finding the Problems

So, what kinds of problems do title professionals look for?

Title insurance professionals research the complete history of a property by scouring through public records to determine whether title problems exist. Title professionals will review prior deeds, mortgages, divorce decrees, court judgments, delinquent taxes, and child support payments. They also look for covenants, conditions and restrictions, utility and other types of easements. When a title professional finds an issue, they work to resolve it— typically without you even knowing about it. Or, if the problem is not easily resolved, they will notify you before you close. Title issues occur with surprising frequency – in an estimated 40 percent of all residential real estate transactions. The job of the title professional is to ensure that you have a timely and trouble-free closing by resolving these issues in advance.

Examples of Title Issues

To help you understand how title issues could impact someone's use of their home, here are a few examples:

Say you purchased a new home from a builder. Unfortunately, the builder didn't pay the roofer. The roofer wants his payment, so he files a lien against the property. Without a title search alerting you to this lien, and an owner's policy protecting you, you would become responsible for paying this debt— meaning you'd be paying the roofer instead of purchasing new living room furniture.

Here's another example. After a months-long search, you finally find your family's dream home—in a safe neighborhood with a great school district, and a big backyard for the swimming pool you plan to build. You move in and hire a contractor, but a few days into construction the contractor finds an underground utility line running right through the middle of your backyard. You check your owner's policy of title insurance, and find out that the title search did not discover this easement.

Here's another scenario. After retiring, you decide to downsize and buy a smaller townhome on a golf course. A month after you move in, a man knocks on your door and claims he is the real owner of your home and that the people who appeared at the closing had been house-sitting for him and forged his name on the deed. So who really owns the home now?

How You Are Protected

So how could an owner's title insurance policy have helped these homeowners?

For those who suddenly received a bill from the roofer, an owner's title insurance policy would have likely relieved the homeowner from paying that bill. In the case of the utility easement, because the homeowner had obtained an owner's policy, their title insurance company may pay to have the underground utility relocated so they can build their swimming pool. For the retired couple who were victims of forgery, their title insurance company might negotiate with the real owners and reach a settlement so the couple could remain in the home. And another great advantage of the owner's policy of title insurance is that the cost of defense and legal fees are generally paid on your behalf.

An owner's title insurance policy is intended to provide the homeowner with peace of mind about their legal rights to real property. If, however, a title issue does arise, or if you have a question or concern about your rights or need to file a claim, promptly notify the title insurance company whose name appears on your title policy. The last paragraph of the "Conditions and Stipulations" section in every title policy has the address where notices of claim must be sent. It's a good idea to send your notice by certified mail, return receipt requested, to document the fact that you provided prompt notice. Your local title agent can also help walk you through the process and may even assist you in notifying the title insurance company.

When giving notice of a potential claim to the title insurer, you should include the property address, a brief statement of the question or matter that concerns you, copies of any claims documents received, and a copy of your owner's policy (if available).

Remember, the broad coverage of title insurance includes protection against frivolous claims or title problems that may not cause an immediate problem. So it's best to contact the title insurer promptly, as soon as you have any questions or concerns about your legal rights with the insured property. It is important to remember that your title insurance policy is a contract, and you have certain obligations to fulfill to retain your full coverage.

As you can see, the goal of the title professional is to reduce or eliminate risks of title defects and give you peace of mind when purchasing a property. For a one-time fee, a great deal of time and effort provided by knowledgeable and experienced professionals goes into protecting what may be your largest investment.

Closing the Deal

Closing the sale of your real property is easy if you choose the right company. Depending on where you live, attorneys, escrow agents or title insurance companies can be involved in the closing.

As we mentioned earlier, a settlement agent "glues" together the process of the sale, working with both the buyer and the seller in the transaction. Title agents research the title, making sure there aren't any liens on the property, pay the seller and their mortgage lender, obtain funds from the buyer and new lender, collect recording fees and taxes for the government, and file the paperwork at the local courthouse. In effect, they orchestrate the settlement from start to finish with all the parties involved, including real estate agents, attorneys, loan officers, contractors and government agencies.

Select a Professional and Ask Questions

So how do you find a competent title professional? Remember, you are free to select your own title professional or company. You can also ask your real estate agent or lender for a recommendation. Or ask friends and neighbors if they were happy with their settlement agent and get a referral. If you do select your own title company, there are a few things to think about. How many transactions does the company do? How many employees does it have, and how long has it been in business or provided service in your area?

You should also find out if the company is part of its state's title association or the American Land Title Association. If they are members, they are likely keeping abreast of state and federal trends and requirements. You can also contact your state insurance department or the Better Business Bureau to see if they have any information on the company.

Keep in mind that settlements and closings vary from state to state and even from county to county. Be sure to ask how it's done in your area, so you know what to expect.

Now that you know some of the basics, you can start calling title companies to find one in your area to help with your closing.

For more information about the closing process and title insurance, or to find a company that can conduct your closing and issue an owner's policy of title insurance, please go to www.homeclosing101.org.