



## REAL ESTATE LAW



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# Private purchase and sale



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Home sales by owners are becoming more and more popular with the development of websites such as Grapevine and ComFree that will place a home sale advertisement on their website for a fee. There is no real estate agent involved. The buyer and seller are very much on their own to negotiate the purchase price, coordinate inspections and facilitate the signing of the Agreement and amendments. While the purchaser's lawyer will often draft the Agreement of Purchase and Sale for a fee, do not be mistaken – the lawyer is not stepping into the

shoes of a real estate agent. The lawyer will do only the legal work required for closing. All other elements of the transaction that a real estate agent would have done must now be done by the purchaser and seller themselves.

### Get the Agreement Drafted or Reviewed by a Lawyer

Websites such as Grapevine will only provide sellers with a worksheet to assist the buyers and sellers to focus their negotiation about the property. Sellers using

Grapevine will then have to take that worksheet to a lawyer to draft the Agreement of Purchase and Sale. Websites such as ComFree offer assistance and guidance on how to complete the Agreement of Purchase and Sale, but only to a point. They are not legal professionals and will not give legal advice on the Agreement. Regardless of whether you are drafting the Agreement yourself or are receiving assistance through ComFree, have your Agreement reviewed by a lawyer before you sign it. If you sign it, it is a binding contract and there is little the lawyer can do to amend it if one party is unwilling to sign an amendment.

### Conditions:

The Agreement should always be conditional on the

buyer obtaining financing and having a home inspection. Many sellers do not want to add these clauses because they benefit the buyer. That is a mistake. Sellers should include a financing clause because it provides them with the certainty that they will be able to close on the closing date. It could be a disaster if on the day of closing the purchaser cannot buy the home, but the seller needs the funds from the sale to purchase their new home.

Conditions should also have a deadline. The Agreement is usually conditional for about 10 days to allow the buyer time to obtain financing pre-approval and the home inspection. But the Agreement should become a firm deal (no longer conditional) long before the closing date.

There are often specific conditions for certain types of properties. The most common additional condition is a Status Certificate review for condominiums. A Status Certificate is a document assembled by the Corporation that provides potential purchasers with full disclosure of the budgets and any known fee increases among other information. If the property is a rural property, the property may be on well and septic, both of which will need to be inspected separately from the home inspection. An additional inspection would also be required for wood burning stoves in a home.

While these are helpful tips to assist buyers and sellers when they are thinking of buying or selling without a real estate agent, a wise buyer or seller will know

when the drafting or negotiating of the Agreement of Purchase or Sale is too much for their ability. In such a case, they should seek out the professionals to assist with the transaction.

This article does not give specific legal advice. Each contract and real estate transaction is different. Seek the advice of a legal professional based on the specific facts in that situation. This article also does not intend to encourage readers to use or not use a real estate agent for their real estate transaction.

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