

**LORMAN EDUCATION SERVICES**  
**CONTINUING LEGAL EDUCATION**

---

---

**FUNDAMENTALS OF REAL ESTATE CLOSINGS**  
**OVERVIEW & PRELIMINARY STEPS**

---

---

**DATED: November 27, 2007**

**BY: JAMES W. GLATTHAAR, ESQ.**  
**BLEAKLEY PLATT & SCHMIDT, LLP**  
**WHITE PLAINS, NEW YORK**

**© James W. Glatthaar 2007**

## **I. OVERVIEW & PRELIMINARY STEPS**

### **A. DECISION TO BUY OR SELL**

#### **1. Major Reasons Leading to Decision:**

- (a) Desire for new residence;**
- (b) Decision by owner to sell property;**
- (c) Death of owner:**
  - (1) Or co-owner;**
- (d) Divorce;**
- (e) Employment-related reasons:**
  - (1) Promotion;**
  - (2) Transfer;**
  - (3) Layoff or downsizing;**
  - (4) Career change;**
- (f) Other economic reasons:**
  - (1) Retirement;**
  - (2) Financial planning;**
  - (3) Election to change priorities;**
- (g) Increase in family size:**
  - (1) Adding children;**

**(2) Returning children;**

**(3) Relatives.**

## **B. SELECTING A BROKER**

### **1. If You Are Selling:**

**(a) Identify brokers in area of property;**

**(b) Contact brokers in area;**

**(c) Ask friends/relatives/co-workers for recommendations;**

**(d) Interview several candidates;**

**(1) Experience in sales in area;**

**(2) Recommended sale price;**

**(3) Length of time expected to sell;**

**(4) Terms they propose;**

**(e) Avoid gimmicks.**

### **2. If You Are Buying:**

**(a) Identify the communities you wish to live in;**

**(b) Contact brokers in areas you wish to live in;**

**(c) Ask friends/relatives/co-workers for recommendations;**

- (d) Interview several candidates:**
  - (1) Price ranges within communities of interest;**
  - (2) Available properties in these communities;**
  - (3) Their experience in these communities;**
- (e) Ask agents to “qualify” you;**
  - (1) Appropriate price range for you;**
- (f) Consider a buyer’s agent:**
  - (1) Ask the buyer’s agents all the same questions & compile all the same information;**
- (g) Determine space needs & financial limits.**

**3. If You Are Borrowing Money to Purchase:**

- (a) Review local newspapers for loans:**
  - (1) Which lenders are active in communities you wish to purchase in;**
  - (2) What loan terms & interest rates are available;**
- (b) Contact loan providers for information;**
- (c) Consider a mortgage broker.**

**4. Either Way Obtain An Attorney:**

- (a) Existing attorney relationship;**

- (b) Ask attorney for a recommendation;**
  - (c) Ask friends/relatives/co-workers for recommendations;**
  - (d) Interview candidates.**
- 5. Tell Everyone About Any Potential Issues:**
  - (a) Timing of transaction;**
  - (b) Financial issues related to transaction:**
    - (1) Tax issues;**
    - (2) Short sales;**
    - (3) Credit issues;**
    - (4) Cash issues.**

## **C. MAKING THE DECISION**

- 1. Decide on a Community:**
  - (a) Important issues:**
    - (1) Schools;**
    - (2) Political issues;**
    - (3) Recent tax history;**
    - (4) Resale price history;**
    - (5) Growth potential for property;**

- (6) **Growth likely for community;**
  - (7) **Housing options in community;**
- (b) Contract with professionals needed:**
  - (1) **Real estate broker;**
  - (2) **Attorney;**
  - (3) **Lender/mortgage broker (for buyers);**
  - (4) **Home inspector (for buyers);**
- (c) For sellers:**
  - (1) **Identify asking price & price you would accept;**
  - (2) **Identify potential future residences;**
  - (3) **Identify & complete needed repairs;**
- (d) For buyers:**
  - (1) **Start looking at properties;**
  - (2) **Determine what you are willing to pay;**
- (e) Be ready to submit offer to purchase.**
- (f) Don't waste everyone's time.**

## **D. CONTRACT**

### **1. Essential Terms of Contract:**

- (a) Offer to purchase;**
- (b) Acceptance of offer;**
- (c) “Meeting of the minds” on essential terms;**
- (d) Signed contract or purchase agreement.**

**2. Terms Desirable for Seller:**

- (a) No more than 80% financing;**
- (b) “As is” condition of premises;**
- (c) Post-closing possession agreement (if necessary);**
- (d) Allow seller’s attorney to represent seller in event of any dispute;**
- (e) Limited liability for title/survey issues;**
- (g) Adjust costs based upon projected (not actual) closing date.**

**3. Terms Desirable for Buyer:**

- (a) Mortgage contingency clause;**
- (b) All appliances, fixtures “in working order at closing;”**
- (c) Roof & basement free from leaks;**
- (d) Flexible closing date;**
- (e) Property condition contingency;**

**(f) Other due diligence periods.**

**E. DUE DILIGENCE**

**1. Seller's Due Diligence:**

- (a) Contact lender re: loan payoff;**
- (b) Compile warranty information;**
- (c) Contact movers;**
- (d) Arrange for new residence (if necessary);**
- (e) Check out buyer:**
  - (1) If possible, run credit on buyers.**

**2. Buyer's Due Diligence:**

- (a) Preliminary check of title;**
- (b) Arrange for property (engineering) inspection;**
- (c) For co-op, condo or homeowner's association, determine procedures to purchase & rules for association;**
- (d) Review municipal records:**
  - (1) Building permits;**
  - (2) Certificate of Occupancy;**
  - (3) Subdivision approvals;**
- (e) Verify municipal services available;**

- (f) Review 1 year utility/heating/air conditioning costs;**
- (g) Preliminary thoughts about future plans for property (renovations).**