

CLASSIFIED REAL ESTATE



REAL ESTATE NEWS

Bar association pamphlet offers home-buying tips

It stands to reason that the first piece of advice from the American Bar Association on residential real estate transactions would be to choose an attorney.

And so it is in a 32-page pamphlet, *Buying or Selling Your Home*, prepared by the professional association.

But beyond that, the brochure touches on many issues at both ends of the spectrum ranging from kinds of mortgages available to tax ramifications. It's geared to the first-time buyer and people who haven't been in the market for a while.

Among the major points:

- Keep in mind that real estate agents almost always represent the seller.

- Make sure the purchase offer — a binding contract — includes contingency clauses for financing, inspection, warranties of title, proration of taxes and a firm date for possession.

- Learn about the different kinds of mortgages available and which one best meets your financial circumstances.

- Understand the tax consequences of a transaction, especially if you're a senior citizen seller.

"We're interested in having an informed public out there and once the closing happens, there's no problem down the line," said Brian Mahon, a lawyer who chaired the committee that put the pamphlet together.

'Buyers should remember that even though the broker may be helping them, the broker will draft provisions in favor of the seller when possible because the broker's first duty is to the seller.'

"It's not an extremely detailed pamphlet. We try to put in layman's terms pitfalls a homebuyer may encounter," he said.

No real estate transaction is a simple one, the pamphlet states. "All parties to a transaction have their own needs and goals, and need the advice and protection of their own attorney."

The brochure suggests that a buyer consult with a lawyer before

submitting a purchase offer. Sellers should seek legal counsel before signing a listing agreement with an agent and a purchase agreement.

Both contracts have far-reaching impacts.

The listing agreement indicates who will be paid what commission at sale. Commissions are negotiable. The purchase agreement is the blueprint for the entire transaction.

"Buyers should remember that even though the broker may be helping them, the broker will draft provisions in favor of the seller when possible because the broker's first duty is to the seller," the brochure said.

Spell it out. Itemize all fixtures and furnishings to be included in the sale. Inspection and financing clauses also have become popular in recent years, the pamphlet noted.

Financing takes up the several pages in the brochure. Discussion focuses on fixed rate versus adjustable rate mortgages.

How much loan can you afford? Most lenders don't allow housing-related payments to exceed 32 percent of family income and all

installment debt including mortgage payments to exceed 38 percent of family income.

Tax considerations affect both buyers and sellers. Buyers can take advantage of deductions at purchase and over the years. Buyers were advised to keep receipts of improvements made to the property over the years to pay less capital gains tax on sale.

Sellers over 65 years of age should be aware of the once-in-a-lifetime gain exclusion.

"We feel people need to be informed," Mahon emphasized.

The pamphlet is available for \$2 plus a \$1 handling charge from AEA Order Fulfillment, 750 North Lake Shore Drive, Chicago, Ill. 60611.

Revelation of group home in neighborhood narrowly defined



ROBERT M. MEISNER

I am a real estate agent and am wondering whether I have a responsibility to disclose to a potential buyer of real estate the presence of a group home for the handicapped in close proximity to the property I

am listing. Or am I precluded from doing so by the Handicapper's Statute?

In a recent Michigan Attorney General's opinion, it was held that the Michigan Handicapper's Civil Rights Act does not prohibit a real estate seller or agent from making a truthful disclosure of the existence of a group home in the neighborhood, provided that the disclosure is not made for the purpose of inducing additional real estate transactions from which the agent or seller may benefit

and is not accompanied by any representation that the presence of the group home will negatively affect the neighborhood.

The decision of the attorney general is binding until contradicted by a court decision. Since there are relatively narrow parameters under which you can operate in this context, I would suggest that you be very careful in terms of what you say.

Our municipality is not providing garbage removal ser-

vices to our condominium, but it does so for other residents except for apartments and condominium units. Is there anything wrong with that?

I believe that there is a strong argument that there is something wrong. In a recent case argued in the Superior Court of New Jersey, the court ruled that the law requires that residents in the same situation be treated equally.

If held in the case at issue, the township failed to establish that a rational basis existed for

discriminating against these single family property owners on the one hand, and apartment and condominium owners on the other.

As such, denial of garbage collection to certain owners violated the due process and equal protection rights afforded to all residents by the state and federal constitution. There should be at least a basis to pursue municipalities for depriving condominium associations and apartment owners of the same rights that it pro-

vides to its other residents.

Robert M. Meisner is a Birmingham attorney concentrating his practice in the areas of condominiums, real estate and corporate law. You are invited to submit topics you would like to see discussed in this column by writing Robert M. Meisner at 30200 Telegraph Road, Suite 467, Birmingham Farms 48025. This column provides general information and should not be construed as legal opinion.

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