

Responsibilities of your Attorney

Title Examination

When the title order arrives from the lender, the closing attorney first orders a municipal lien certificate, which verifies the real estate taxes and other municipal charges on the property. Insurance binders and payoffs of mortgages are also ordered.

The closing attorney is responsible for examining the title to the property. For purchases, the title is researched going back 50 years. The closing attorney carefully reviews the title examination to ensure there are no title defects; if there are any issues, the attorney will work with all parties to resolve them. Some title defects are extremely difficult to resolve. (By law, the closing attorney must provide new home buyers with a certification of title).

Title Insurance

The closing attorney also coordinates the issuance of title insurance to the lender and the new home buyer. I always recommend that buyers obtain their own title insurance policies because even with the most accurate title examination, there can be hidden title defects that could derail a later sale or refinance. Look no further than the Land Court Ibanez foreclosure mess for what can happen when you don't get an owner's title policy.

The Closing

As the closing day approaches, the closing attorney will coordinate with the lender for the preparation and delivery of numerous documents to be signed at closing, including the mortgage, promissory note, truth in lender disclosures, and most importantly, the HUD-1 Settlement Statement. The closing attorney will also coordinate with the seller to receive the deed to the property, final utility bills, smoke detector/CO2 certificates and condominium 6(d) certificates. As outlined in the Settlement Statement, the closing attorney is responsible for handling a number of issues at closing:

- Payoff and discharge of mortgages
- Payment and allocation of real estate taxes and utilities (water, oil, etc.)
- Payment of realtor commissions

- Disclosure and payment of lender fees and closing costs
- Funding of mortgage escrow account
- Payment of transfer taxes and recording fees
- Payment of pre-paid interest
- Distribution of sale proceeds
- Title V septic certification and condominium 6(d) certification

The closing attorney then conducts the closing. He will explain the numerous loan and closing documents signed by buyer and seller, collect and distribute all funds, and otherwise ensure that the closing is properly conducted.

Post Closing

After the closing, the attorney processes the loan funding, performs a title rundown to ensure there are no changes in the title, then records the deed, mortgage and other recordable instruments. The attorney will also ensure that all paid off mortgages and liens are discharged. Title insurance policies are issued several weeks after the closing.

**Information from massrealestatelawblog.com