

The Agreement of Sale

The Purchase and Sale Agreement is the most important document in a real estate sale. This is the contract that specifies all of the terms of the deal. The real estate agent, if you are using one, will prepare and present the agreement to you after you have decided to accept an offer. It is wise to have an attorney review the agreement before you sign. Even though your broker represents you as the seller and the party paying the commission, you should never forget that brokers make their living selling real estate and have an interest in selling as many properties as they can as fast as they can. Your attorney has an independent interest, and will be able to advise you if there is a problem with the agreement before you sign it.

It is very important to have your attorney prepare the Purchase and Sale Agreement. In addition to the names of the parties, a description of the property (taken from the deed) and the sale price, many other provisions are contained in the agreement of sale. A few standard ones are:

- How much is the deposit or "earnest money"?
- What other items, such as appliances, window treatments or lighting fixtures are included?
- What inspections will be necessary, e.g. roof, wiring, plumbing, termites, etc.?
- Who pays the cost of needed repairs if the inspection turns up problems?
- What if the buyer can't get a mortgage?
- What if you want to back out?
- Who pays the costs of any state or local deed transfer taxes or fees?

Additional provisions may have to be added if the home is a condominium or located in a planned community with special rules and restrictions. Other provisions may need to be added to meet specific needs of one or both parties. It is easy to make a mistake or leave out crucial information when trying to prepare the agreement on your own, even if you use a pre-printed form. The failure to have all of the details spelled out in the agreement of sale often leads to serious problems which can cause delays and lead to extra expenses before the sale can be closed.

Attorney Patricia Bloom-McDonald is a Licensed attorney in the Commonwealth of Massachusetts and has been in private practice since 2003.

She is admitted to practice before the United States Supreme Court, U.S. District Court, 1st Circuit, U.S. Bankruptcy Court, and all courts in the Commonwealth of Massachusetts.

She has extensive knowledge and experience with the preparation of Real Estate documents, Wills, Trusts, Health Care Proxies, Durable Power of Attorneys, and other Estate Planning documents.

Additionally, Attorney Bloom-McDonald possesses exceptional knowledge of Probate law and procedure as it is applied to Estate Administration, Elder Law, Guardianships, Conservatorships, Adoptions, and Name Change procedures.

Her outstanding experience with Real Estate procedures relating to loan and refinance documentation, including Reverse Mortgages, affords her the ability to counsel those over 62 years of age who wish to age at home with dignity. Attorney Bloom-McDonald is able to communicate clearly and concisely with people of diverse backgrounds, age, and levels of authority and is available for in-home consultations.

Attorney Patricia Bloom-McDonald is an Elder Law and Estate Planning Attorney. You may reach Attorney Bloom-McDonald with questions or comments at 508-646-9888, at her website: www.McBloomLaw.com, or email at McBloomLaw@McBloomLaw.com

She is a Member of:
Massachusetts Bar
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Resources to Remember

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Selling a Home



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General Practice of Law concentrating in:

**Probate
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Reverse Mortgages**

*I am available to schedule
appointments in my office,
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other place of convenience*

SELLING A HOME

Your home is probably your most valuable single asset. When you decide to sell your home it is important to be sure that you have all of the information you need to make wise decisions. A lot is at stake when you sell your home. It is not simply a matter of finding a buyer. Legal documents describing the responsibilities of the buyer and the seller must be prepared. State and local laws and rules must be satisfied.

Hiring a Real Estate Agent or Broker

Most people hire a real estate agent to find a buyer and guide them through the sale process. If this is your choice, make certain that you hire an agent who is reputable and is licensed in Massachusetts as a real estate broker. It is best to interview several agents before hiring one. In addition to talking about the amount of the commission and length of the agreement, ask the broker about how much they think you should ask for your home, and what, if anything, you might need to do to improve the appearance of the property. A good broker will want all the information about your taxes, utility costs and other maintenance issues.

The agent will require you to sign a "listing agreement." This is a contract describing what the agent is supposed to do and what you must do. Consider the following:

How long is the term? Most brokers want an "exclusive" listing for a period of time, such as 6 months or a year. Exclusive means that you cannot deal with another agent during the term of the contract; length of time is negotiable. Even if you find your own buyer during the period that the sales agreement is in effect, you will be responsible to pay the commission. You do NOT need to agree to an Exclusive listing; you have the right to negotiate and keep the option to sell on your own at the same time, without paying a commission fee to them.

You also have the option to request a "Multiple" listing agreement. A Multiple listing gives you the option to allow other Real Estate brokers to sell your house and split the commission with the agent you signed the listing agreement. Most brokers participate in multi-list plans. This does not affect the total amount you pay. Commissions are deducted from the amount you receive for your home at the final settlement (closing) of the sale. You do not pay commissions in advance.

Try to get a shorter period, perhaps 2 or 3 months to allow more flexibility to fire the broker if you are dissatisfied.

How much is the commission?

Brokers are paid a percentage of the sale price of the home. Amounts of 5% is typical. These amounts can vary widely in different areas, and they are also negotiable. Don't hesitate to bargain.

What if I don't want to use a broker?

Maybe you have a buyer, or your home is in a "hot" area and you think you can find one yourself. It is essential to consult an attorney before showing your home to a prospective buyer. You will need to have important information on issues such as disclosure of defects, anti-discrimination laws, and zoning provisions. Ignorance of these as well as other matters could result in a costly mistake. And, most important, what happens when a buyer says, "I'll take it!" A lot more than just accepting a check and signing over a deed is involved.

Do I need an attorney to represent me at the closing?

YES The "closing" is the formal proceeding where you sign over the deed to the buyer and receive your check for the sale.

A closing can be quite confusing. There are details such as allocating each party's portion of expenses such as real estate taxes or water and sewer assessments. These issues can vary depending on location, but problems can and often do arise at the closing. If that happens, it is best to have an attorney present to advise you. Otherwise, you risk being pushed to make a decision or to accept some compromise you may not fully understand. Even if you have an agent, (s)he might be influenced by the desire to get the deal closed. There is too much involved, financially, and sometimes emotionally, to risk proceeding without having an attorney at every critical stage of the sale, including the closing.