

## **CLOSING ATTORNEYS AND THE CLOSING PROCESS WHAT YOU SHOULD KNOW**

Your application to a lender for a home mortgage loan leads you inevitably to the closing attorney's office. You undoubtedly have questions as to what the role of the closing attorney is, what tasks the closing attorney will perform and what will take place at the closing. Although the closing attorney generally represents the lender in the mortgage loan transaction it is the practice of all closing attorneys in Massachusetts to be as helpful as they can to assist borrowers in the mortgage loan transaction. The closing attorney takes care of all arrangements necessary to close the lender's mortgage transaction. The closing attorney coordinates all of the efforts outside of the loan approval process that allow the closing to take place. Sometimes issues arise regarding the record title to a property. If there are title issues, problems in a sale transaction, or issues involving inaccuracies, the closing attorney tries to keep the borrower informed and is there to answer basic questions. When possible, the closing attorney tries to resolve title issues and disputes, many times without any additional fees. This usually insures that the mortgage transaction and/or the sale of the property proceeds forward to close with the borrowers being satisfied with the result. Closing attorneys offer one-stop processing of the closing.

The closing fees quoted to you by the lender include a variety of items and services. Many of those services are performed directly by the closing attorney's office for the benefit of the buyer/borrower, seller, lender and Realtor. They include the following.

### **Attorney/Legal Fee**

1. Ordering and obtaining a title examination from title examiners at the various Registry of Deeds and Probate throughout Massachusetts;
2. The review of the abstract of title examination;
3. Obtaining municipal lien and tax information from the city or town in which the property lies;
4. Obtaining and reviewing survey information about the property;
5. Obtaining and reviewing mortgage and lien payoff information requested from lenders and others that hold mortgages and liens on the property;
6. Preparation of the loan documents including the settlement statement;
7. Preparation and issuance of a title certification ( in purchase transactions only ) certifying that the buyer has good title to the property and that the records of the Registries of Deeds and Probate have been searched back for at least 50 years;
8. Communication and coordination with borrowers, sellers, Realtor and lender;
9. Receipt of the proceeds of the transaction and maintaining them in a safe and separate account;
10. Conducting the closing, final rundown of title at the Registry of Deeds;
11. Recording of documents;
12. Preparing and delivering proceeds to payoff all outstanding mortgages and liens that affect the property;
13. Disbursement of the transaction proceeds;
14. Preparation and issuance of the title insurance policy;

15. Copying and delivery of the loan documents to the lender and borrower;
16. Sundry other matters relating to the loan closing.

Title Abstract - The statement that outlines the physical review of the title to the property prepared from the records of the Registries of Deeds and Probate, including bankruptcy and tax matters where available. This work is most often performed by title abstractors and their work is reviewed and certified by the closing attorney.

Mortgage Survey Plan - Sometimes referred to as a plot plan, this is a tape measure survey of the land to be mortgaged in order to determine that it was not in violation of zoning when constructed and that no buildings or improvements encroach upon the property or over its lot lines. This work is performed by a registered land surveyor and is reviewed by the closing attorney. Sometimes lenders do not require this survey and in those instances none will be performed. In a Condominium transaction no such survey is usually required.

Municipal Lien Certificate - Prepared by the tax collector in the city or town where the property lies, this document shows all outstanding tax and utility liens and is reviewed by the closing attorney in order to prepare the settlement statement and collect and

Title Insurance - The lender requires a loan policy of title insurance for the loan amount in order to protect their interests from issues relating to the title to the property that could not be determined from an examination of the record of the title. In a purchase transaction an owners policy can be purchased at the same time at substantial savings over the rate if not issued simultaneously with the loan policy.

Recording of documents/Courier & Certified Copy Fees - These include the cost to courier the mortgage payoff and loan documentation for safe and timely delivery, to record the mortgage and other transactional documents and obtaining Registry certified copies that may be required in certain transactions as well as returning the original loan documents back to the lender.