

The Role of the Real Estate Team Key Messages

Overview:

What are key messages? – Key messages include information you will want to convey to current and potential clients, peers and partners about the role of the real estate attorney and the new real estate resources available to consumers.

Why do you need key messages?

Key messages allow you to concisely communicate the vast amount of information you possess about regarding your role real estate attorney and other associated real estate topics.

When do you use key messages?

You should use key messages whenever you are persuading others about the role of an attorney in the real estate process. Additionally, key messages can be used in preparing presentations or speeches for business associations, trade shows or other events where you will be interacting with the public.

What do you need to remember when using these key messages? - Never speak negatively about anyone who is involved in the real estate transaction. This includes real estate agents, mortgage brokers, house inspectors and other members of the real estate team. Everyone plays a valuable role and it's critical that real estate attorneys do not create a negative perception of any other parties involved in real estate transactions.

1) The Attorney's Role:

A real estate attorney is the only player in the real estate process who is legally and ethically bound to work in the consumer's best interest.

Only real estate attorneys can:

- Interpret and counsel buyers and sellers about all legal documents related to the title and transaction, including deeds, mortgages and closing statements.
- Relate the income, estate and gift tax consequences to the buyer's estate.
- Advise the buyer on what the title policy does not protect against, with emphasis on insurability and marketability.
- Handle probate issues.

Real estate attorneys can also:

- Obtain a title search to evaluate the status of a title and require appropriate legal remedies to clear defects.
- Prepare or review the closing statement and other closing documents, and inform the buyer and/or seller about any stipulations that affect his/her interests.
- Prepare a bill of sale to cover any personal property such as drapes and appliances that are included in the sale.
- As required, investigate zoning ordinances and other governmental use restrictions.
- Check unrecorded municipal liens, including sewer and special assignment liens.
- Protect for marketability of the title for future refinancing, and simplify a future sale.

2) The Real Estate Team's Role:

It takes a whole team of professionals to successfully close a real estate transaction; each person has a vital role. The seller should retain an attorney to represent his/her legal interest, as well as a real estate agent that is focused on selling the house. To ensure his/her best interest is also safeguarded, buyers should also hire their own qualified team of professionals, including a real estate attorney and a buyer's agent, to represent them during the process.

The attorneys on both sides will work with the real estate agents or brokers, the seller, the buyer, the loan officer, the settlement agent, the appraiser and the home inspector to provide the buyer and seller with guidance and counsel. The attorney may also act as the settlement agent, and provide the buyer with an owner's title insurance policy against loss through title defects.

3) Cost In the Process:

Retaining legal representation during the real estate process costs far less than many expect.

Attorney Services

Hiring a real estate attorney costs about the same as hiring a non-lawyer title agency, but a real estate attorney can provide a greater range of services including:

- Preparing the purchase contract,
- Resolving any title or inspections issues, and
- Giving legal advice throughout the transaction.
- (See "The Attorney's Role" above for specific real estate attorney-only roles.)

Cost Variations

The cost of hiring an attorney to help clients through the real estate process varies depending on a number of factors, including:

- **Region in which the attorney practices.** For example, it is standard in some regions for the buyer to pay closing fees while in other regions the seller or the title agent absorbs the cost. Other regional variations could affect the cost to the consumer.
- **Base of title.** If the seller can produce the title history on the home, the attorney will use it as a “map” to begin researching the property. A clean title history can save research time and money. If base of title has not been established, the attorney will research the history of the home and resolve any issues that may occur. Each house has a different history, as well as a different cost associated with it. Many companies sell title insurance, but because ownership is defined strictly by legal rights, an attorney trained and licensed in the complexities of real estate law is best qualified to conduct the title search. A title agency only prepares documents for closing and issues the title insurance policy – *the title agency does not represent the client's legal interests and can't give legal advice.*

A minimum price cap, or a promulgated rate, has been set on the minimum cost real estate attorneys may charge for their services. In the highly competitive Florida real estate market, there is no advantage for an attorney who charges more than the minimum rate. In most transactions, the cost of retaining an attorney is the same as paying for title insurance alone.

Other Cost Considerations

Whether or not a separate real estate attorney fee will be charged depends on the way the transaction is structured. Typically, if an attorney acts as the closing agent and provides the title insurance, no other fees will be involved. For more complex circumstances, fees could range from \$350 to \$600 for an average-priced home. If an attorney is hired to review the title commitment and other documents prepared by someone else, a moderate and reasonable fee will be charged, with the actual cost varying across the state of Florida.

4) Real Estate Tools Available to the Public:

Florida residents have three new no-cost resources to help educate themselves on the complexities of the home-buying and selling process. The resources are designed to ease consumer concerns about the intricate details involved in a real estate transaction, and include a Web site, a toll-free consumer hotline and a free guide to buying and selling a home.

- **A guide to buying and selling a home** offers important information about real estate issues such as contracts, financing, pre-closing, title protection, closing, post-closing, and a glossary of common real estate terms with which buyers and sellers may not necessarily be familiar.
- **A new Web site**, www.fundhomeinfo.com, is dedicated to consumer education and offers downloadable content and checklists, financing information, and details on the key players that comprise an effective real estate team.
- **A toll-free number**, 1-866-Fund-Home, where consumers can obtain real estate information and order the new real estate guide.

5) The Tools' Sponsor:

Attorneys' Title Insurance Fund, Inc. (The Fund) has created these tools to increase awareness among Florida home-buyers and sellers about the importance of protecting their real estate investment by using a real estate attorney. The Fund was created in 1948 in Orlando, Florida, with the mission to preserve and facilitate the real estate practices of its members and their protection of the public. As Florida's leading title insurance underwriter, The Fund underwrites more 300,000 title insurance policies every year and supports over 6,000 attorney agents in Florida who practice real estate law.