

**BUYING AND SELLING REAL ESTATE IN TEXAS**

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**1. Do I need a Lawyer or a Real Estate Agent? Or both?**

The Seller. It depends. If you already have a Buyer for your property, a Lawyer can probably handle your transaction for less than the commission a Real Estate Agent will charge. If you need to market your property to find potential Buyers, a Real Estate Agent can offer you marketing services and resources a Lawyer generally does not have. In a cash transaction or one financed by a commercial lender, in which you do not encounter any problems, your Real Estate Agent can effectively handle the transaction from marketing through closing, without need for a Lawyer. If you want to offer owner financing to your Buyer, however, you need a Lawyer to properly draw up loan documents.

The Buyer. Again, it depends. A Buyer can work with a Real Estate Agent selling property through commission agreements with Sellers, or cooperating with other agents in a multi-listing service. That Agent can guide the parties through the sale process at no cost to the Buyer. In most residential property purchases in which the Seller has a Real Estate Agent, the Buyer may never need a Lawyer. The Buyer may need legal assistance in interpreting Title Commitment Schedule B documents, however, discussed in Question #2 below.

If the Seller is not working with a Real Estate Agent, the parties should consider hiring a Lawyer to draft the contract and sale documents. If the Buyer intends to make any commercial use of the property, the Buyer may want to hire a Lawyer even though a Real Estate Agent is involved. The contract forms that Real Estate Agents are authorized to use often do not properly or fully protect the commercial Buyer of real estate. For tax or liability reasons, the Buyer of commercial real estate may want to take title in the name of a business organization. A Lawyer can assist a Buyer in the proper formation of a business entity and assure the contract allows for title in the name of that entity.

**2. What is Title Insurance? Do I need it?**

Title Insurance protects the Buyer of real estate in identifying and guarding against certain potential problems with the property. In a sale transaction in which the parties provide for title insurance, the Title Company will issue a commitment to the Buyer to provide insurance. That commitment will identify in Schedule B documents stating restrictions or conditions that affect the property, and against which the Title Company will not protect the owner of the property.

The Buyer should obtain, read and understand the Schedule B documents within the time period provided in the sale contract. If the Buyer objects to any unacceptable Schedule B items within the stated time period, the Buyer can usually get the earnest money back if the Seller does not fix the objectionable items. The Buyer should consult with a Lawyer for assistance in understanding the Schedule B documents and properly objecting under the terms of the contract.

Title insurance provides important protection and information in the purchase of real estate. The parties should provide for title insurance in most transactions. The rare exception might be where there is a high degree of trust between the parties, both of whom are knowledgeable about the matters affecting title to or restrictions on the property.

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