

# Frequently Asked Questions **WHEN SELLING A HOME**



**Andrew W. Krantz, Esq.**

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COUNSELORS AT LAW

## WHY DO I NEED A LAWYER TO SELL A HOME?

No law says you have to hire a lawyer when you're selling your home. However, there are a few good reasons to do so. As you enter into an intricate legal commitment, having a lawyer who represents ***your interests***, and helps you understand your rights and obligations, is advantageous. Also, you will be called upon to deliver important legal documents such as the deed, and affidavit of title, and having a lawyer represent you in these matters gives you ***added legal protection***.

## WHAT IS THE DIFFERENCE BETWEEN A PRE-APPROVAL AND A MORTGAGE COMMITMENT?

A lender has performed a credit search for the buyer and has preliminarily determined that the buyer has ***sufficient credit*** to borrow a certain amount. A mortgage commitment can only be applied for after a contract has been signed. It is the ***bank's commitment*** to lend to the buyer based upon their thorough review of finances, credit, and appraisal of the property.

## WHAT IS A SELLER'S CONCESSION TOWARDS CLOSING COSTS?

A seller concession is when the seller of the home ***credits money back*** to the buyer, that goes towards the buyer's closing costs. The credit may range from 1% to up to 6% of the sale price of the home. This allows the buyer to finance their closing costs into their mortgage, usually with no additional cost to the seller.

## WHAT IS ATTORNEY REVIEW?

Within 3 business days of the receipt of a signed real estate contract, attorneys for the buyer and seller can either accept the contract ***as is***, or reject the contract unless certain changes are made. The 3 business days do not include weekends and holidays and the first day starts to run once the signed contract is delivered to the buyer and the seller. If an attorney sends a letter asking for changes to be made to the contract, then the attorney review period is automatically extended until both parties come to an agreement.

## WHAT HAPPENS AFTER ATTORNEY REVIEW CONCLUDES?

After attorney review is over, the buyer must make an additional deposit, and arrange for inspections, such as home, termite, radon, oil tank, lead paint, and septic/well. If the inspection reports show defects, the attorneys will attempt to ***negotiate*** any requested repairs or change in purchase price.

If no agreement is reached with regard to the reports, the contract will be cancelled and the deposit returned to the buyer. The buyer also moves forward with their mortgage application.

### WHAT IS A MORTGAGE CONTINGENCY?

A mortgage contingency clause in a real estate contract allows a limited amount of time for the buyers to be approved for a mortgage in order to buy the property. This is called a mortgage commitment. If the buyers aren't approved within the time frame, then the contract can be **voided**.

### WHEN DO I NEED A CERTIFICATE OF OCCUPANCY?

Some municipalities, but not all, require a Certificate of Occupancy in order to transfer title to a homebuyer. A municipal inspector will inspect the home and issue a report. If the report indicates building code violations, the seller must correct them prior to **transferring title**. All municipalities in New Jersey require that a smoke detector and carbon monoxide detector certification be obtained.

### WHAT IS A REALTY TRANSFER FEE?

The Realty Transfer Fee (RTF) was established in New Jersey in 1968 to offset the costs of tracking real estate transactions. Sellers pay the fee, which is based on their property's sales price, upon the transfer of the deed to the buyers. Payment of the Fee is a **prerequisite** for recording the deed and is usually collected at the closing by the buyer's attorney for recording the deed at the county clerk's offices.

### WHAT DOCUMENTS DO I SIGN AT CLOSING?

At closing, you will sign the HUD-1 Settlement, which itemizes the services provided and lists the charges to both the buyer and the seller; the Deed for transferring title; and the Affidavit of Title that states you have the **right to sell** the property.

### WHAT IF I CAN'T ATTEND THE CLOSING?

If you can't attend the closing, you can sign a Power of Attorney (POA). This document allows you to give someone else, such as your attorney or agent, the power to act and sign documents **on your behalf**.

### WHAT HAPPENS AT THE CLOSING?

Once all remaining documents relating to the sale are signed, the seller **delivers the Deed** and the keys and receives a check or wire transfer for the proceeds of the sale.



**Andrew W. Krantz** has been practicing law since 1990. His primary practice areas include residential and commercial real estate, estate planning and administration, commercial transactions and liquor license transfers. He has assisted numerous clients in the acquisition and sale of restaurants, bars and liquor stores. His professional associations include the New Jersey Bar Association's Section on Real Property and the Monmouth County Bar Association. He is a past president and member of the Northern Monmouth Chamber of Commerce. He is a member of the Monmouth County Chapter of Brown University Alumni, for which he interviews students making application to the university. Mr. Krantz is also a member of the Real Estate Committee for the Monmouth County Bar Association. He received his Juris Doctor degree from Benjamin N. Cardozo School of Law and received his Bachelor of Arts degree in Business Economics from Brown University.

**Areas of Practice:**

Residential and Commercial Real Estate  
Estate Planning and Administration  
Commercial Transactions  
Liquor License Transfers

**Bar Admissions:**

New Jersey, 1990  
New York, 1991

**Education:**

Brown University, Providence, RI, 1987  
A.B.  
Yeshiva University Benjamin N. Cardozo School of Law, New York, NY, 1990  
J.D.

**Professional Associations and Memberships:**

New Jersey State Bar Association, 2000 - Present, Member  
Monmouth County Bar Association, 2000 - Present, Member



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268 Broad Street, Red Bank, New Jersey 07701  
Phone: 732-747-3700 • Fax: 732-758-9068  
akrantz@zagerfuchs.com • www.zagerfuchs.com