



For Sale By Owner Transactions

by Mary Buettner
AASP-MO Association Attorney

Last month I wrote about the residential real estate transaction. This month I'll discuss the FSBO, or the for sale by owner transaction.

In some markets, real estate sells well enough that sellers can find buyers without the use of a realtor. The thought of saving a six or seven percent real estate commission is enough to make most people at least consider the FSBO process.

Like any real estate transaction, once a sale is agreed to, a contract must be signed. Besides the specific terms discussed in last month's column, such as fees, closing date, inspections, financing, and contingent sales, there are disclosures required by state and federal law. These disclosures relate to the condition of the property and include items like lead paint. It's important to include these disclosures in order to protect the seller from later claims and to prevent the buyer from terminating the contract because the disclosures were not given. Since a realtor is not involved, the buyer and seller will have to create this contract on their own.

FSBO parties must also contact a title company to get the title work started. I recommend that parties try to use the title company that last insured the property. This can save both time and money, since that company has already researched the title to the property. The parties will need to set a closing date and coordinate the schedules of the title company, the buyer, the seller, and the lender.

If this all sounds like a lot of work, it is. But the ability to save a real estate commission may make the work worthwhile. A real estate attorney can provide the contract and the necessary disclosures, as well as help with the process and answer questions along the way.

When clients ask me whether they should try to sell a property on their own, I generally advise them to at least try to do so, especially if they have some time to devote to the process and are willing to do some legwork.

Mary Buettner is the AASP-MO Association Attorney and can be reached at 618/939-6439.