

The real estate contract

If you are buying or selling a home in New York, the details of the transaction will be set forth in a written contract. New York has a form contracts that have been jointly approved by the New York State Bar, Title, and Lawyer's Association and is widely used.

Whether these forms or another contract is used for the transaction, a valid real estate contract in the state of New York has certain basic elements:

- **Written Instrument.** With some very limited exceptions, contracts for the sale of real estate must be in writing. While disputes can arise over written contracts because of vagueness and lack of specificity, the existence of a written contract reduces the likelihood of any misunderstanding between the parties regarding the terms of the transaction.
- **Names of all Parties.** The names of the buyer and seller must be clearly identified in the contract. If you are buying or selling real estate with a spouse, each of you should be a named party to the contract. If you are buying a new home from a builder who is incorporated, the contract should clearly identify the corporation as the seller, and should be signed by the president or vice president of the corporation unless you have evidence that some other officer has the ability to enter into contracts on behalf of the corporation.
- **Description of the Property.** The description of the property should be sufficiently definite so that the buyer and seller are clear as to the property to be bought and sold. The best way to do this is to incorporate the actual legal description of the subject property as an exhibit to the contract or to place the block, lot and section number of property on the contract. This description is usually found in the deed that the seller received at the time that the seller acquired the subject property. Another alternative is to attach an existing survey of the property to be conveyed. A mere address can, in some instances, be sufficient, but there is always the risk that the location of fences, outbuildings, or natural boundaries can create confusion as to the actual location of property lines.
- **Purchase Price.** The contract must include the price to be paid for the property. This is most frequently accomplished by including a fixed dollar amount that the purchaser will pay the seller for the property.
- **Closing Date.** In order for either party to enforce the contract against the other, the contract must include a date by which the transaction is to close. This can be accomplished by naming a specific date, or by reference to a timeframe, as in "30 days from the date of seller's acceptance of this offer."
- **Agreement to Buy and Sell and Contingencies.** In order to be enforceable, all real estate contracts must include the purchaser's clear offer to buy together with

the seller's unequivocal acceptance of this offer. While this mutual agreement to buy and sell must be definite, it is also common for contracts to include certain contingencies which have to occur in order for one party or the other to be required to complete the transaction. The most common of these are the financing contingency, indicating that the purchaser is not obligated to close the transaction unless he or she qualifies for a particular loan, the terms of which are described in the contract, and the inspection contingency, in which the purchaser has the right to inspect the property within some limited time period, and either terminate the contract or request that the seller make certain repairs to the property.

Please keep in mind that the requirements listed above are the certain minimum requirements for the creation of an enforceable real estate contract in New York. Most contracts will include substantially more detailed provisions regarding the rights and obligations of the purchaser and seller. In order to insure that your interests are adequately protected when you are buying or selling real estate, you should consider contacting a licensed real estate agent or real estate attorney before you sign a contract for the purchase or sale of real estate.