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LawClips

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Topic for the Month:

Buying or Selling a Home

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WISCONSIN LAWYERS

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For the Most Important Financial Transaction of Your Life, Call Your Lawyer: There is a common misperception that you do not need a lawyer when you buy or sell a home. This may be due to the false sense of security which surrounds many real estate transactions. Many people are comfortable with the assistance provided by the real estate salesperson and the lender and they don't consult a lawyer. In today's real estate market, that decision places the transaction at grave risk. Buying or selling a home is not a simple as buying or selling a car or other piece of personal property. Real estate transactions have complexities which must be addressed by a real estate attorney at every step.

Salespersons and You: The first critical point in a real estate transaction occurs before you hire a real estate salesperson, whether you are buying or selling. The new "Broker Agency" laws create complex legal and contractual relationships between consumers and real estate salespersons. These relationships are created from the moment you enter that open house on Saturday morning. These laws define who represents whom when consumers and real estate salespersons come together.

Did you know that the new laws provide that a salesperson in an office could be working for you while another salesperson in the same office could be working for the folks on the other side of the transaction? Or that your salesperson could represent both you and the other party in the same transaction with appropriate written disclosure and consent? By law, as licensed lawyers, we must be completely loyal to you without any competing loyalties to other persons. For the largest financial transaction, spend a few minutes developing a relationship with a real estate lawyer who will discuss these new laws with you and set the stage for retaining your real estate salesperson.

Knowledge is Power: Know your rights before entering into any real estate contract. Signing an Offer to Purchase becomes a binding legal contract for both buyer and seller. In such a significant transaction, ease your mind by consulting with an attorney who devotes his/her practice to real estate matters.

The Real Estate Contract: The second critical event in selling or buying a home is the contract negotiation between buyers and sellers. Most communities use standardized real estate contracts prepared through cooperative efforts of real estate sales professionals and real estate lawyers. These "fill-in-the-blanks" contracts were designed to aid in the convenient and standardized transfer of real estate, but the moment the buyers and sellers sign on the dotted line, they are as legally binding and enforceable as any other contract. To avoid this potential problem, bring in your proposed contract **before** you sign it; or require an attorney approval rider to the contract providing adequate time for you to consult with us before the contract becomes binding. All contractual language is negotiable and every word has legal significance.

The Closing: The third stage where legal representation is critical is at closing. Everything comes down to that single point in time when legal title is transferred from seller to buyer and money is funded from lender to buyer to seller. Dozens of legal documents are passed back and forth across the table between the parties involved. We will advise you as to their effect, purpose, and importance and examine them for errors. We will answer all questions at closing, resolve the myriad and competing interests and transform those problems into a successful closing.



Attorney Mark A. Bartels is a senior partner at our firm. Attorney Bartels, concentrates his practice in the areas of real estate law and business development. If you have any real-estate questions, feel free to contact attorney Bartels.