

## ***What information does the law firm need for the closing?***

### **Seller**

- Full legal name as it appears on your driver's license and title to your real estate, if different.
- Cell phone numbers and e-mail addresses for communication purposes. Please let us know if you have any privacy concerns (for example, no e-mails to your place of business).
- Phone number and loan number of your current lenders.
- Contact information for your homeowners association.
- Your social security numbers.
- Whether you are a Georgia citizen for Georgia property or a SC citizen for SC property.
- If you have any special issues like the need for a power of attorney, you live out of town and cannot come to closing, the property is coming out of an estate or trust, or a recent bankruptcy, it helps us to know this early.

**Note:** Our privacy procedures are designed to protect personal information, but please be cautious when e-mailing or faxing personal information to us.

### **Buyer/Borrower**

- Full legal name as it appears on your driver's license. Please confirm that your name and initials are spelled and abbreviated identically on your sales contract, loan application, and attorney documents.
- Cell phone numbers and e-mail addresses for communication purposes. Please let us know if you have any privacy concerns (for example, no e-mails to your place of business).
- Will you take title jointly, in one individual's name, or in the name of a trust or other entity.
- Will you take title as joint tenants with right of survivorship (customary) or as tenants in common.
- Your lender's contact information.
- Your insurance agent's contact information. Typically, you will arrange for your hazard and flood insurance policies to be in place at closing.
- Whether you want owner's title insurance.
- Whether you want an elevation certificate or survey.
- Whether you have any special issues like the need for a power of attorney, or other difficulty coming to closing.

***What funds are needed for a closing and how should they be delivered?***

Protecting your money is one of the most important things that we do. As your closing date approaches, your closer will contact you to confirm the date and time, and whether you need to have funds for the closing. Georgia law requires that any funds over \$5,000 be sent to us by wire. Our policy at the firm is to accept certified checks or wires for amounts between \$2000 and \$5000, and personal checks for amounts under \$2000.

The laws, rules and regulations affecting your closing proceeds are very complex, so it is common for us to be working with your lender to get to your exact amount minutes before, or even during the closing. Of course, you need at least a couple of days advance notice to send a wire, or obtain a certified check, so we will contact you a day or two before closing with estimated amounts for your wire or certified checks, and you can pay any shortage by personal check at closing, or receive a refund.

We will send you a document called a HUD-1 Settlement Statement prior to closing, so that you can see the amount of the funds you need to bring, or will receive, and how we computed those numbers. We will explain this document in detail at the closing, but if you notice any errors prior to closing, please let us know.

If your closing date is approaching, and you have not heard from us, again, please don't hesitate to call.

You should also be aware that while we prefer to disburse funds at the closing, it is common for us to not receive all of the funds prior to closing. Georgia law prohibits us from disbursing anything until we have received all of the needed funds, so sometimes your disbursements may be delayed for a day or two.

***If I am the seller, do I need my attorney present?***

It is typical in Georgia for only one attorney to be present at the closing. The closing attorney has a duty to all of the parties to close the transaction in accordance with the contract and the loan closing instructions, and we will do our best to make sure the interests of all of the parties are properly protected. If we perceive a situation that we determine requires each party to be represented by a separate attorney, we will discuss that issue with you at the time. Of course, you always have the right to be represented by your own attorney. If you are concerned about this issue, please let us know in advance and we will help you make appropriate arrangements.

### ***How should I take title?***

The vast majority of purchasers take title in the name of both spouses, if married, as joint tenants with right of survivorship. Joint tenants with right of survivorship means that if either party dies, the title to the property immediately passes to the other without passing through the deceased party's estate.

If you are involved in complex estate planning, however, you might want to consult your tax advisor regarding whether you should take title as tenants in common. Tenants in common means that if one party dies, that party's interest goes into his or her estate for distribution in accordance with the estate planning documents.

Sometimes, a party with liability concerns might title the property in the other party's name only, or in the name of a trust or other entity, and sometimes your lender may dictate how you take title.

### ***Should I request owner's title insurance?***

Owner's title insurance is an optional insurance policy that you can purchase through the law firm at closing. You only pay the one premium amount at closing for as long as you own your property. The policy insures that you have good title to the property. If anyone ever challenges your title, the title company will defend you and pay any losses that arise from the challenge.

Bouhan Falligant's policy is to recommend owner's title insurance for every residential closing, and to include it on your HUD-1 Settlement Statement unless told otherwise. Even though you may be paying for the issuance of a mortgagee title insurance policy or a title opinion to a lender, unless you have purchased an owners title insurance policy, Bouhan Falligant or your closing attorney cannot issue any warranty or representation, express or implied, to you concerning the title to the property that you are buying. Real estate titles are complex, so we cannot provide warranties regarding title unless we issue a document, such as an owner's title insurance policy, with details regarding the status of that specific title.

Notwithstanding the foregoing, unless requested otherwise, we will perform a full 50 year search of the real estate records for every property that we close, and we will review those records for anything that in our opinion affects the marketability of your property, or your ability to use it as a residence. If we discover anything that concerns us, we will notify you prior to or at the closing.

Although owner's title insurance may be optional, it still provides the best protection against encroachments, liens and other title problems not otherwise provided to you.

If you have questions or concerns about owner's title insurance, please discuss them with your closing attorney, preferably prior to the closing.

### ***Should I request an as-built survey?***

A survey or plat is prepared by a licensed surveyor that measures and inspects your property and prepares a picture or plat showing the boundary lines of your property and the location of all major improvements located on or adjacent to your property, such as your house, driveway, fences, setback lines and utility lines. This plat will confirm that your house is built in the proper location on your property, and that none of your improvements encroach off of your property, or that none of your neighbor's improvements encroach on to your property. Don't confuse an as-built survey with the survey of your vacant lot usually prepared by the developer, and which does not show the location of improvements.

If you purchase a home without a survey, you take title subject to any problem a survey might have disclosed. The standard contract approved for use by the Georgia Association of Realtors does not provide a buyer with any real remedies for survey problems unless a survey is obtained, even though the contract does contain warranties of title. You can also purchase owner's title insurance that will give you some protection against such survey matters. The risk of a problem that cannot be solved easily is small, but when you spend your life savings for a home, a small survey problem can quickly turn into a nightmare.

How can you protect yourself? First, ask the seller if they have a recent as-built survey. Walk the property with your Realtor, visually inspecting the property for corner monuments and encroachments. Compare what you have seen on the ground to a tax map or subdivision plat that shows boundaries, but not encroachments and improvements. Discuss any concerns with your closing attorney, and ask the attorney to review the title file for information that might be applicable. Remember that without a survey, the attorney never sees your property and cannot identify specific problems. Finally, after an informed discussion with your attorney, make a decision well in advance of closing as to whether you should have the property surveyed. If you do have the property surveyed and there is a problem, talk to your attorney about reasonable ways to remedy that problem prior to closing.

### ***What is a homestead exemption and how do I apply for it?***

A homestead exemption reduces the amount of property taxes assessed annually on the property to which the exemption applies. Only owners of a home that is their primary residence are allowed to claim the exemption for their home, and only one exemption may be claimed by an owner. In Georgia counties, homeowners may also obtain the Stephens-Day homestead exemption, which reduces the annual property tax by the

**difference between the current year's fair market value and the value of the home in the year prior to the year of the homestead application. The regular homestead exemption and the Stephens-Day homestead exemption application must be made at the same time and in person at the Chatham county tax assessor's office. Applications may be made at any time during the calendar year, however, applications must be made by April 1 in order to be effective for the year of the application. The applicant must present a valid Georgia driver's license (or other state issued ID card) and a prior year utility bill.**

**For more information, see the Chatham County Tax Assessor's website at <http://boa.chathamcounty.org/Homestead-Exemptions>.**

**For homestead exemption information for Bryan County, Georgia, see the Bryan County Tax Assessor's website at [http://www.bryancountyga.org/departments/tax\\_assessor/homestead\\_exemption.php](http://www.bryancountyga.org/departments/tax_assessor/homestead_exemption.php).**

**For homestead exemption information for Effingham County, Georgia, see the Effingham County Tax Assessor's website at <http://www.qpublic.net/ga/effingham/exemptions.html>.**