

HOME SELLER'S HANDBOOK

FROM THE OFFICE OF
MINNESOTA ATTORNEY GENERAL
KEITH ELLISON

www.ag.state.mn.us

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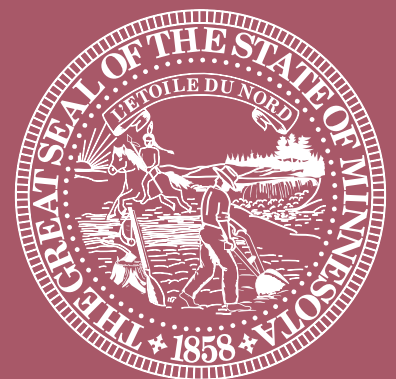
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People often feel overwhelmed not only by the complexity of selling their home to a new owner, but by the surge of emotions they feel leaving their home.

Your first big decision is whether to sell your home yourself or use a real estate agent.

Selling Your Home? _____

There are many reasons for moving. Maybe you got that once in a lifetime job offer or your family is growing and quickly running out of space. Maybe you want to relocate to a new neighborhood or find a house with a bigger backyard.

Whatever the reasons that influence you to sell your home, you have some important decisions to make. **People often feel overwhelmed not only by the complexity of selling their home to a new owner, but by the surge of emotions they feel leaving their home.** This guide offers some practical advice, as well as important information, about selling your home in Minnesota.

By following the Klines and Ellen Bower as they sell their homes, you'll have the opportunity to learn from their success—and their mistakes!

Meet the Klines

Jim and Cindy Kline knew it was time to move when they began tripping over Cindy's endless stacks of books, Jim's antique lamp collection, their growing family of pets, and each other!

Meet Ellen Bower

Ellen Bower decided to move when she got a phone call: "Ms. Bower? This is Tom Jackson at the Environmental Protection Agency in Washington. Can you be here in four weeks? We want you to be our new national mosquito expert."

Yourself or an Agent? _____

Your first big decision is whether to sell your home yourself or use a real estate agent. Some sellers feel more comfortable relying on the expertise of a real estate agent, while others want to avoid paying a commission.

The Klines have heard that real estate agent commissions can be as high as seven percent of the home's sale price and they aren't excited about paying that much to sell their house. They are thinking about selling their home themselves. Agent-free selling is what people in the real estate industry call "FSBO" (pronounced "fisbo," which stands for "for sale by owner").

If you're not under any time constraints, you might want to give selling your own home a try. If your home does not sell, you can always hire a real estate agent later.

Pros and Cons of Being a FSBO (“For Sale By Owner”)

The number one reason to sell your home without an agent’s help is to avoid paying a real estate commission. In Minnesota, real estate commissions run as high as seven percent of the home’s sale price, although you may be able to negotiate a lower rate.

Time and expertise are also major factors in determining whether or not to sell your own home. Do you have a minimum of one hour per day to spend on advertising, screening buyers, and showing your home? FSBOs need the flexibility to schedule showings at convenient times for buyers. If your home isn’t shown, it won’t sell.

Business savvy also helps. When negotiating the sale, will you be able to keep your cool if a buyer wants to knock a couple of thousand off the price because the home is “obviously going to need a complete redecorating job?” Agents are used to negotiating and can be objective about the value of your home. Can you say the same about yourself?

And, as a FSBO, you will have to pay a fee if you want to have access to the Multiple Listing Service (MLS) used by real estate agents to locate homes for buyers. This computerized service lists homes for sale and homes that have sold by neighborhood, price, and features. However, you may be able to list your home on the Internet with a variety of websites. Some websites may charge a fee for a listing, while other sites may be available at no cost.

Tips for FSBOs

If you’re still unsure about whether or not to sell your own home, find out more by talking to several people who have tried to sell their homes themselves, look on the Internet, and get a book from the library or bookstore. Sometimes, school districts offer adult education classes on selling your own home.

Additional Tips:

- Keep your home clean and ready to show at all times.
- Price your home according to what similar homes have sold for in your area—not by how much cash you need from the sale of your home and how much you paid for improvements.
- Consider selecting an agent in advance to list your home if you can’t sell it in a few weeks. Get the agent’s advice about pricing and repairs.

Time and expertise are major factors in determining whether or not to sell your own home.

If you are selling your own home, hire professionals to help you along the way.

- **Hire professionals to help you along the way.** These can include a closing agent and/or a real estate attorney. You will also need a home inspector if an inspection is required by your city.
- Keep a notebook with potential buyers' names, addresses, and phone numbers so you can follow up with them.
- Don't stop advertising your home when you receive a bid. A buyer's offer may not survive the negotiating process.
- Prepare and make copies of a fact sheet about your home to hand out to potential buyers. Have a blank purchase agreement for interested buyers to take with them.
- If you're having trouble selling your home, consider offering a sales commission to a buyer's agent. Determine what commission will entice local agents. By offering a sales commission, you'll still save what you would have paid a listing agent to advertise your home.
- If you want help advertising your home, consider hiring a company that specializes in FSBOs. They will also assist you with legal documents and the terms of the sale. Look for them online or in the real estate section of your Yellow Pages, or get a referral from another FSBO.

The Klines have decided to become FSBOs. Jim and Cindy think they can split the responsibilities that go with selling their own home. They hope to put the money they would have spent on an agent into a new house. Their next home will have an extra room for a home office, and enough space for their dogs, Mo and Curly. The Klines have placed ads for their home in the newspaper and in a local real estate publication that is free to the public. They also designed a yard sign and flyers with snapshots of their home for bulletin boards at local businesses.

Hiring a Real Estate Agent

Ellen Bower is in a frenzy! Since she heard she got the mosquito job in Washington D.C. she has flown out there twice to find a home, has gone to three going-away parties, and has been tying up loose ends at her current job. In her "spare" time, she's been painting and cleaning her house to get it ready for sale. With all she has to do, selling her home herself is out of the question. She needs to hire a real estate agent with the time, experience, and connections to get the job done quickly.

If you're thinking of hiring an agent, interview several different agents. Talk with friends and family about agents they've used. **Find an agent who will**

work on your terms. Make sure what you're asking is realistic, however. Here are some things to discuss with prospective agents:

- **Have you sold homes in my neighborhood in the last year?**
If the answer is yes, ask for the names, addresses, and current phone numbers of the sellers, as well as the sales prices of the homes. If the agent hasn't sold homes in your area, find one who has. They'll have a better feel for the market in your area. And, if the agent won't give references, be skeptical. Don't accept excuses about why he or she can't give you the information.
- **I'm not willing to pay the commission that you're asking.**
Many agents will give you the impression that their commission is not negotiable. However, there is no rule preventing them from lowering their fees. Make sure you negotiate how much you are going to pay your listing agent and how much you are going to pay the buyer's agent. Listing agreements may allow a listing agent to keep the entire commission even if there is not a buyer's agent involved.

Ellen Bower hopes to negotiate a lower commission because she lives in a popular development. Other homes on her street have sold quickly, so she thinks her home will be easy to sell. (Of course, this is what most people think!)

- **Are you willing to put your sales strategy in writing?** To make sure you get the services you're paying for, ask interested agents for their sales strategy before you hire one. When you agree to list your home with an agent, you could be forced to pay the commission even if you don't get the service promised. So when you find an agent you like, ask to make the commission contingent on the agent sticking to his or her sales strategy. Any understandings you have with the agent must be in writing and included in the listing agreement.
- **What will you tell potential buyers when they ask whether the price is negotiable?** Make sure the agent will convey the information you want to be conveyed to buyers.

A final note about agents: Your real estate agent is obligated to get you the best possible price for your home as quickly as possible. Ask your agent to send you copies of your MLS sheet and any other marketing materials for your home. Also ask the agent to call at least twice a week to update you about potential buyers. Make sure your agent knows you are going to hold him or her accountable for getting the job done!

Find an agent who will work on your terms. Make sure what you're asking is realistic, however.

What Listing Agreement Should You Sign?

If you choose to sell your home with the help of a real estate agent, you'll have to decide between an exclusive or nonexclusive listing agreement.

An exclusive listing agreement provides that the listing agent earns a commission out of the sale price when your house sells within the time period specified. Chances are good that lots of agents will be showing your home if it's listed in the MLS. An agent who successfully brings a buyer to you shares the commission with your listing agent. Your listing agent can sell your home without the help of another agent, too. In that case he or she may get to keep the entire commission. The drawback to an exclusive listing is that you will pay your listing agent a commission even if you end up finding the buyer yourself.

Few agents like to admit it, but you can also choose to sign a nonexclusive or open listing agreement that allows you to list your home with several real estate agencies. Under this agreement, whoever sells the home gets the commission. If that person turns out to be you, you don't have to pay a commission. A nonexclusive agreement can create healthy competition between agents. But it turns off many real estate agents. The best situation for using this agreement is if you have a very saleable property.

No matter which type of listing agreement you choose, remember that the listing agreement is a legally binding contract that is enforceable in court. Be sure to read the agreement thoroughly and make certain that you understand all the terms and provisions.

If you do not understand something, ask the agent to explain. You should strongly consider having your attorney review the listing agreement with you. The terms of the listing agreement could create future liability. For example, some listing agreement call for the seller to indemnify the agent and brokerage for errors made by the agent or brokerage.

What Should Your Agent Do for You?

Your listing agent has several responsibilities:

- Conducting a marketing strategy and market analysis to help you set a fair price for your home.
- Advertising your home. This includes placing newspaper ads, Internet ads, providing a lawn sign, listing your home with the MLS, and showing your home to prospective buyers.
- Negotiating the terms of the sale with buyers, including contingencies and counteroffers.

The listing agreement is a legally binding contract so be sure to read the agreement thoroughly and make certain that you understand all the terms and provisions.

- Reviewing and filling out contracts. In complex selling situations (for example, if the property is part of a contested estate in probate, or if you're a separated or divorced couple selling the home) you may want to hire an attorney experienced in real estate matters.
- See the transaction through to the closing.

Have a Complaint About an Agent?

If you have a complaint about your real estate agent's conduct, contact the Minnesota Department of Commerce at (651) 539-1500.

The department licenses and regulates real estate agents and investigates complaints. The Minnesota Association of REALTORS® (MNAR) also takes complaints and arbitrates disputes and can be reached at (952) 935-8313 or (800) 862-6097.

Keeping Up Appearances —————

Ellen Bower's dinner parties have left their mark on her beige dining room carpet. At the Klines, Mo and Curly have scratched the door each morning when it's time to go outside. To Ellen Bower and the Klines, these little imperfections are just part of the nostalgia of their homes. To potential buyers, however, they might be reason to look elsewhere.

When looking at your home, put yourself in a buyer's shoes. Inexpensive improvements can go a long way toward attracting buyers. Cleaning the carpet or applying a new coat of paint won't cost much and could substantially raise the value of your home. But be cautious about more expensive improvements. Adding a first floor bathroom or updating your kitchen might raise the value of your home, but luxuries like swimming pools and saunas might not. Some amenities may turn off buyers who aren't interested in them or don't want the hassle of upkeep.

When the Klines were ready to sell their house they spent \$500 on quick and easy improvements. They started by organizing Cindy's books and renting storage space for all of Jim's lamps. Then they hired a landscaper to plant some flowers and replace dead patches on the lawn. A few large red geraniums and some colorful petunias made a huge difference in the "curb appeal" of the home. Next, they painted the doors, including the one that Mo and Curly scratched. Finally, they hired professional cleaners to scrub their house from top to bottom and shampoo their carpet. When they were done, the house looked so nice that Jim said to Cindy, "Why do we want to sell?"

Inexpensive improvements can go a long way toward attracting buyers.

Easy Improvements to Increase Your Home's Value

When showing your house, remember that you never get another chance to make a first impression.

- **You never get another chance to make a first impression:** Paint or stain your front door; add polish to brass fixtures such as address numbers and door knobs; trim the bushes; plant colorful flowers; and lay down a new welcome mat.
- **Cut the clutter:** Have a garage sale to get rid of junk; straighten the cupboards and closets; and get rid of piles of papers or newspapers that you just haven't had time to read.
- **Clean and shine:** Make sure your home is spotless and fresh-smelling. You may want to hire a professional carpet cleaner and air out any smoke or pet odors.
- **Paint:** Your taste may be unique. Tone down wall colors and wallpaper prints by painting or papering rooms in neutral colors like beige and white. These appeal to a greater number of people. Spackle is cheap. Fill holes and cracks first.
- **Fix leaky roofs and other moisture problems:** Water stains on the basement walls or bedroom ceilings can raise red flags for potential buyers. If you cannot afford to fix water damage, explain the problem to buyers—you will be liable for any problems you know about but don't disclose.
- **Get the bugs out:** Exterminate any pests such as ants or rodents. One rodent can send a potential buyer running.
- **Pay special attention to the bathrooms:** A bathroom must be sparkling. Replace any vanities, soap dishes, wall coverings, or carpets that aren't "hotel clean."
- **Make small repairs:** Little things are the mark of quality. Tighten loose knobs; fix leaky faucets; oil squeaky door hinges; and replace any dirty furnace filters, drain catches, and torn screens.

Hiring a Contractor

Hiring a contractor to repair or enhance your home before you sell? Keep these tips in mind:

- Decide whether to hire a specialized or general contractor based on the work you want completed. Before agreeing to hire a contractor, get three bids or at the very least two estimates so you can compare costs for the work you want completed.
- You may want to ask a contractor for references. Don't be bashful about asking a contractor for this information. Follow up by contacting those references to find out about previous jobs the contractor has completed and the level of customer satisfaction.
- The State of Minnesota requires most home improvement contractors to be licensed through the Minnesota Department of Labor and Industry. Contact the department to verify that the contractor is legitimate. **If you hire a contractor, make sure the contractor has all the necessary permits and insurance before any work is started.**
- Before construction begins, have the contractor provide you with a written contract. The contract should outline the terms for payment and should provide information regarding the work schedule or any other agreement made between you and the contractor.
- Document the progress of the work performed and be sure to keep any invoices, permits, or documents related to the work in a file. If you experience a problem with the contractor and the work performed, these records will be important.
- If you need assistance in resolving an issue with your home improvement contractor, the Minnesota Attorney General's Office has prepared a handbook entitled *Home Building and Remodeling*, which can be found on the Office's website. To order a free copy of the publication or if you have questions you may contact us at the following:

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Setting a Price

Pricing your home is part art and part science. As marketing experts say, “Your house is worth what someone else will pay.”

So what will someone pay for your home? Usually a buyer will offer to pay roughly what similar homes have recently sold for in your neighborhood.

As a general rule, location is the biggest factor in pricing a home. Features such as size, number of bedrooms and bathrooms, fireplaces, porches, and the general condition of your home are also important. You can find the price of homes similar to yours in different ways:

- **Multiple Listing Service (MLS):** Real estate agencies subscribe to this constantly-updated computerized service that lists homes for sale and homes that have sold. It shows homes by price, neighborhood, and detailed features. Because no two homes are exactly alike, a real estate agent is likely to compare your home with many different other homes when determining a price.
- **Internet:** Many companies are using the Internet for listings, so don’t forget to surf for prices. Some websites provide an estimate of a home’s value based on the county’s property tax records.
- **Real Estate Publications:** Usually free in newsstands, these flyers also have listings organized by location.

\$ Pricing Tip \$: What you paid originally for your home and the cost of improvements is irrelevant. When you price your home, only the current market value matters! If the market has slumped since you bought your house, you may owe more on your mortgage loan than you could currently sell your house for.

Why Not Start High?

It seems sensible to price your home higher than the amount you’d be willing to take in case buyers offer less than your asking price. However, pricing your home too high can scare off potential buyers.

In a tight housing market—one with lots of buyers and few sellers—you can ask more than you might in an average market or depressed market. But be prepared to drop your price if the buyers aren’t biting.

As a general rule, location is the biggest factor in pricing a home but other features are also important.

What could you lose by starting high? First, it may take months to find a buyer willing to pay your price (assuming such a buyer exists). Real estate agents might not spend as much time showing homes that they think are over-priced. Second, you miss out on attracting a larger pool of potential buyers. The more buyers, the better the chance they'll engage in a bidding war for your home. When two or more buyers are competing for a house, they might even bid more than the asking price! **Even if you do receive a high bid on your home, keep in mind that if an independent appraiser finds that the house isn't worth the bid price, the buyer will have difficulty getting a loan for the purchase price.**

The Klins spent \$10,000 last year updating their master bedroom and bathroom (new wallpaper, plush carpeting, and new tile). They'd like to recover their investment but they know that adding \$10,000 to the asking price makes their house more expensive than any other sold recently in their neighborhood. However, they think in the current housing market, they just might get their asking price. Stay tuned to see what offers they get!

Ellen Bower has decided to price her home lower than others in the neighborhood. A similar home in her development is for sale at \$177,000. She paid less than \$160,000 for her home five years ago and now has priced it at \$172,000. Property values have risen in the area, but neither she nor her real estate agent think the market supports the high price her neighbors are asking. By undercutting their price, Ellen thinks potential buyers will be more attracted to her house!

Should You Offer Financing Help to a Buyer?

Back in the early '80s interest rates were as high as 17 percent! It was a tough market for sellers. They often offered to help buyers finance a home. While some still may do so, such financing is less common today. **When interest rates are lower, buyers can get good financing terms from traditional lenders.**

If you have a hard-to-sell property, however, you might consider a seller-financed mortgage or a contract for deed. With a contract for deed, the buyer would pay you the monthly payments, not a lender. You essentially would be the "lender." The danger is that you would still be required to make the mortgage payments if the buyer doesn't. In addition, your mortgage may prohibit you from making this type of arrangement with a buyer.

You can also offer to let a buyer assume a loan, if your loan is assumable. This is a good strategy for attracting buyers who may be able to afford your home, but can't qualify for a loan through a lender because of a poor credit

When interest rates are lower, buyers can get good financing terms from traditional lenders.

You should strongly consider obtaining legal and financial advice before entering into any financial assistance arrangement.

record or short job history. But again, you may continue to be liable for the mortgage payments. **You should strongly consider obtaining legal and financial advice before entering into any financial assistance arrangement.**

What if Your House Doesn't Sell?

Your house isn't selling. Where did you go wrong? It might not be anything you did. Instead, there could be a number of contributing factors. Maybe it is the time of the year. House sales tend to pick up in the spring and summer months. Or perhaps you need to do something to spark new interest in your home. Try one of these:

- **Lower the price.** Maybe you're asking too much. Review the information on pricing your home at the beginning of this chapter.
- **Raise the real estate commission.** By raising the commission, you might catch the attention of real estate agents and increase buyer traffic.
- **Offer a homeowner's warranty.** You might want to consider offering buyers a homeowner's warranty if your major appliances, electrical or heating system, or central air conditioning unit are older models. If anything goes wrong with these appliances, the cost of repairs will be covered by the one-year warranty you purchase. You can find out more about a homeowner's warranty through a real estate agent or on the Internet.

Accepting An Offer ---

It's the moment that you've been waiting for. You have a purchase offer on your home! Should you accept it? Deciding whether to accept an offer and setting the terms of the sale are often the hardest parts of the selling process. But they're also the most exciting. **You may accept the offer, reject it, or make a counteroffer by changing some of the terms.** Keep in mind that the buyer is trying to get the lowest price possible.

A buyer will submit a purchase agreement. With it, the buyer should include some earnest money—part of the down payment—which is refundable if you reject the offer. The purchase agreement will include the price offered, how the buyer will pay for the home (loan, down payment, and earnest money), and the date the purchase is to be completed.

Reviewing the Offer

If you receive an offer, review the following to decide whether or not to accept it:

- **The bid price.** Is it within three to five percent of your asking price? If so, most real estate agents will tell you it's a good offer and urge you to consider accepting it—unless you have a hot prospect you think will bid higher.
- **Ability to pay.** A buyer or real estate agent should present you with a lender qualification letter that shows the buyer is qualified to pay for the home.
- **Contingencies.** Is a buyer making an offer contingent on selling his or her home, the results of an inspection, or something in your house being fixed? It's up to you to decide if the buyer is asking too much. Weigh the risk of the sale falling through due to the contingencies against the bid price.

As a seller, you may want to add contingencies, too. Here are a couple to consider:

- **Loan approval.** Purchase agreements can be made contingent on the buyer being approved for a loan within a specified period of time, usually 30 days or less. If you are going to help finance the home, put the exact terms of your contract in writing, too.
- **Property. Both the buyer and seller benefit from putting all agreements about the property in writing.** For example, if the buyer will buy the property only if the roof is repaired or the washer and dryer come with the home, include this in the agreement. Be sure to include in the purchase agreement the maximum price you've agreed to pay for repairs.

After having their home on the market for a month, the Klines hadn't received any offers. Maybe they overestimated the market value of their spiffy master bed and bath. Once they dropped the price closer to what other homes in the neighborhood were selling for, they had better luck. The new listing price of \$185,000 drew more interested buyers. Gloria Slivers offered the Klines \$183,000 contingent on selling her home. The Klines decided to accept the offer "on contingency." Their purchase agreement spells out that they can continue to market their home while Gloria tries to sell her house. If an offer better than \$183,000 or a non-contingent offer comes along, the Klines must go to Gloria and give her the opportunity to remove her contingency.

Both the buyer and seller benefit from putting all agreements about the property in writing.

If you sign an arbitration agreement, however, you may give up your right to use the court system to resolve the dispute.

Sellers Cannot Discriminate Against Buyers

The Civil Rights Act prohibits you from rejecting an offer based on race, color, religion, gender, or national origin. The Fair Housing Amendments Act adds that you cannot discriminate due to disability (mental or physical) or familial status (families with children under age 18). The Minnesota Human Rights Act also prohibits discrimination due to creed, marital status, status with regard to public assistance, and sexual orientation.

Arbitration Agreements: to Sign or Not to Sign?

If you decide to accept a bid on your home, you may be asked to sign an arbitration agreement with your buyer. You don't have to sign it, and will want to consider the pros and cons carefully.

So what is arbitration? In simple terms, it's a system for resolving disputes among buyers, sellers, and agents concerning the material facts of the property without going to court. Disputes are sometimes simple misunderstandings (the buyer thought the washer and dryer came with the house, but the sellers didn't). Problems can also be more complex. If you can't agree on a solution with the buyer or agent, you'll have to go to court or hire an arbitrator. **If you sign an arbitration agreement, however, you may give up your right to use the court system to resolve the dispute. In addition, some arbitration agreements may shorten the period of time for you to file a claim and may limit the remedies available.**

The arbitration envisioned in the typical arbitration agreement is a system that was developed by the National Center for Dispute Settlement (NCDS) and the Minnesota Association of REALTORS® (MNAR) to deal with real estate disputes. Their arbitrators have backgrounds in law, real estate, architecture, engineering, construction, or other related fields. An arbitrator will hear disputes between buyers, sellers, and real estate agents. Arbitration is usually held at the home site.

The buyer may be unwilling to sign the agreement, however, because of the administrative fees required for arbitration under the NCDS/MNAR system. The cost of arbitration may exceed \$3,750, depending on the amount of the claim, number of parties involved, or the choice of a single arbitrator or a three-member panel. A schedule of fees as well as additional information is available on the National Center for Dispute Settlement website at www.ncdsusa.org.

If you don't sign an arbitration agreement, many smaller disputes can be resolved quickly and inexpensively in conciliation or "small claims" court. Judges in conciliation court can decide claims up to \$15,000. To have your case heard costs about \$70 to \$80. You may also appeal the conciliation court's decision, however, it is extremely difficult to appeal the decision of an arbitrator and arbitrators aren't bound by legal rules.

What Does Your Buyer Need From You?

Did you think you could just sign on the dotted line, take the money, and run? Selling your home isn't quite that easy. You may need to scrounge through your file cabinet for the abstract or owner's duplicate certificate of title.

Before signing an agreement to sell or transfer your property, state law requires you to make, in good faith, a general disclosure about anything that may adversely affect the use or enjoyment of your property in writing. **Make sure that all disclosures about the physical condition of the property have also been made.**

After you get the necessary papers to your buyer, the buyer and the lender will then have your home appraised, the title examined, and the loan approved. If these tasks aren't completed by the closing date, your purchase agreement may be null and void unless the parties mutually agree to extend the agreement. You should be aware that in Minnesota there is a statutory procedure for canceling a purchase agreement if the purchase agreement does not terminate according to its terms.

Title Matters

In Minnesota, real estate records are kept in the county where the property is located in either the Office of the County Recorder for abstract property or in the Office of the Registrar of Titles for Torrens or registered property. Abstract property records trace back to the U.S. Government Survey in the mid-19th century. An owner of abstract property may have an abstract of title, which is a compilation of all entries in the index regarding the property. Torrens or registered property is a system that relies upon a certificate of title maintained in the Office of the Registrar of Titles for each piece of registered property.

If you own abstract property, the purchase agreement will usually require you to furnish the buyer or the buyer's title company with your abstract of title. The purchase agreement may, however, permit you to provide a commitment for title insurance instead of an abstract of title. If you own Torrens or registered property, all that you need to do usually is furnish the buyer with the number of your certificate of title.

Make sure that all disclosures about the physical condition of the property have been made.

If any problems appear in the title records, you'll need to hire a closer or real estate attorney to take care of them.

To sell your home, title problems must be cleared up. **If any problems appear in the title records, you'll need to hire a closer or real estate attorney to take care of them.** Here are common problems you may need to address:

- **Unpaid mortgage loan:** An abstract sometimes shows the existence of a mortgage by a former owner. If the mortgage was paid off, but the lender didn't provide a release or the former owner failed to record the release, a new release will need to be obtained and recorded.
- **Lien by spouse:** If you are divorced or in the process of getting divorced, your spouse or ex-spouse may put a lien on your property. Perhaps you owe him or her part of the equity from the house sale, or perhaps you owe other payments, such as child support. You should check with his or her lawyer to clarify the terms for releasing the lien.

Truth-In-Housing Report

Some Minnesota cities require a seller to provide the buyer with a Truth-In-Housing Report, which may also be called a code compliance report. Check with your city to see if you must provide such a report. If so, you must have an inspector, usually one approved by the city, check your home for obvious defects. These can include problems with plumbing, heating or cooling systems; dampness in the basement; or an unstable foundation. You must disclose the results of these inspections.

Seller's Property Disclosure Statement

Real estate agents can provide you with a disclosure statement form for reporting the condition of your home. This disclosure supplements statements about the condition of your home made in the purchase agreement.

In most arms-length transactions, you must disclose any information you have about the property that could significantly affect the buyer's use of the property, unless the buyer waives this disclosure in writing. Your disclosure must be in writing and can be provided to the buyer or the buyer's real estate agent. A buyer can file a lawsuit against a seller for damages caused by violation of this law within two years of the closing date. A seller is not liable to the buyer, however, if the seller did not know about the problem. Additionally, the seller and seller's agents have statutory, contractual, and tort duties which may provide a longer period of time to bring a claim.

Lender's Home Inspection

If a buyer will be financing the purchase of your home with a loan, the lender may require that the home be inspected before the lender will lend the money to the buyer. If the home fails the inspection, the lender may refuse to make the

loan or may require that the items on the inspection report be corrected before the closing can occur.

Well Disclosure Statement

According to Minnesota law, you must disclose information about any wells on your property before the purchase agreement is signed. This includes the location of wells and whether the wells are in use or sealed. You must also submit a well disclosure statement with your deed, or include a statement in the deed that there are no wells or the status of the wells is unchanged since the last statement was filed.

Sewage Treatment System Disclosure

Prior to signing the purchase agreement, you must disclose any underground sewage treatment system on the property. You must describe any system's location and disclose whether, to your knowledge, it is compliant with applicable law. If a seller fails to disclose a system he or she knows about, the seller can be liable for the cost to bring the system into compliance and for attorneys' fees.

Lead-Based Paint Disclosure

If your home was built before 1978, you must provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in your possession and notify the buyer of any known lead-based paint hazards. You may obtain a pamphlet entitled "Protect Your Family From Lead In Your Home" which contains information on identifying and controlling lead-based paint hazards from the United States Environmental Protection Agency's website at www.epa.gov.

Radon Disclosure Statement

Radon is a colorless and odorless radioactive gas that can seep up from the soil under homes in Minnesota. Before signing a purchase agreement to sell or transfer residential real property, you must disclose in writing to the buyer any knowledge you have of radon concentrations in the dwelling. The disclosure shall include:

1. Whether a radon test or tests have occurred on the property;
2. The most current records and reports pertaining to radon concentration within the dwelling;
3. A description of any radon concentrations, mitigation, or remediation;
4. Information regarding the radon mitigation system, including system descriptions and documentation, if such system has been installed in the dwelling; and
5. A radon warning statement.

In most arms-length transactions, you must disclose any information you have about wells, sewage treatment systems, lead-based paint, and radon among other things.

Be prepared! All the paperwork to sell your home must be done by the closing date.

You must also provide a copy of the Minnesota Department of Health's publication entitled *Radon in Real Estate Transactions*.

Be prepared! Closing time is often panic time. All the paperwork to sell your home must be done by the closing date. If you can't close the sale on time, you may be in violation of the purchase agreement, have to cancel the movers, unpack your boxes, and possibly even pay for two homes at once.

Ellen Bower's home has been attracting swarms of potential buyers. The location is attractive and so is the price. By the end of the second week on the market she had two bids. One of them was \$3,000 below her asking price with no contingencies. Because the house will apparently sell with little effort by her real estate agent, Ellen will ask the agent to accept a lower commission, which makes the \$169,000 bid more attractive. The agent agreed to do so, and she will keep the other bidders' names and numbers just in case the first buyer doesn't qualify for financing.

Closing on Your Home

The closing is the day you and your buyer (as well as real estate agents and the closers and/or attorneys involved in the home sale) get together to make sure all the terms of the purchase agreement have been met. For the buyer, closing means signing stacks and stacks of papers. For the seller, it means signing and delivering a deed to your property and signing a few other papers, such as the Settlement Statement or Closing Disclosure required by federal and state law, which lists all the closing costs. For both parties, it also involves a lot of money!

When Should You Schedule the Closing?

When you sign the purchase agreement with the buyer, you'll agree on a closing date. Make sure the date is a minimum of six weeks from the time you make the purchase agreement to allow both parties time to follow up on their end of the purchase agreement. That way you and the buyer will have plenty of time to get all the paperwork in order. Most closings are scheduled at the end of the month to avoid having the buyer pay additional interest on the loan. Don't close on the last day of the month, instead allow yourself a few extra days in case there is a problem. Although the closing date is negotiable, it is often dictated by the type of loan the buyer obtains.

Do You Need a Closing Agent?

In some communities, sellers aren't represented at closing by a closing agent, although usually they are. This is a simple matter of traditional industry practice in different areas. You may need to hire either a closing agent or a real estate attorney to prepare your deed and a few other closing documents. If so, shop around for one with a good reputation and a reasonable price. Ask friends who they used, or ask a real estate agent or a real estate attorney to recommend a closing agent. Keep in mind that you have no obligation to use the closing agent recommended.

Some listing agreements will have you designate, at the time of listing, a closing agent. You can, however, indicate that you will decide on a closing agent at a later time.

If you don't have title problems to clear up, you may be able to rely on the buyer's closer to oversee the entire closing process.

What Will You Pay to Close?

"Wait a minute. You mean I have to pay closing fees when I'm selling my home?" Yes, it's true. While buyers cover most of the closing costs, you owe some too.

Check your Settlement Statement or Closing Disclosure for a list of all fees you owe. Check the math, too. Mistakes can cost you money. Request that the closer furnish this list of costs to you before the closing. The following is a list of closing costs that sellers in Minnesota typically pay:

- **Real estate commission:** Any sales commissions you've agreed to pay real estate agents.
- **Abstract or title search:** The cost to update your abstract and check the title.
- **Recording fees:** The cost to file the deed and other proper documents with the county satisfying your mortgage and clearing up any other title problems.
- **Real estate taxes and assessments:** You may owe property taxes, or if you've already paid them for all or part of the year, your buyer may need to reimburse you.
- **State deed tax:** In every county in Minnesota you must pay a state deed tax. You should check with the county in which the deed will be recorded to determine the applicable tax.

Check your Settlement Statement or Closing Disclosure for a list of all fees you owe. Check the math, too. Mistakes can cost you money.

- **Conservation fee:** Some metropolitan counties collect a deed transfer fee which is used, in part, to fund the Minnesota Conservation Fund.
- **Closing fee:** What you pay a closing agent, if you hire one.

What Can Go Wrong?

Unfortunately, a few things can delay the closing. These include:

- The buyer's loan isn't approved.
- The appraised value of the home is lower than the price your buyer agreed to pay.

What Can You Do?

Besides crossing your fingers, here are some suggestions:

- **Be prepared to negotiate.** If an inspection turns up problems, will you be willing to kick in some money for repairs? If the appraisal is low, will you lower your price? You should know about these problems before the actual closing date, so you can resolve them in advance.
- **Keep buyers in the wings.** Don't lose the phone numbers of potential buyers after you have signed the purchase agreement. If your sale doesn't go through, get on the phone (or have your real estate agent call) and ask other potential buyers for bids.

After Gloria Slivers made her bid on the Kline home, Jim and Cindy continued to court potential buyers. One day a man named Michael Moss stopped by without an appointment. The Klines let him tour the home anyway. They're glad they did because he bid on the house the next day! He offered \$185,000—\$2,000 more than Gloria. The Klines exercised the right they reserved under the purchase agreement and asked Gloria to remove the contingency that she sell her home. Since she hadn't sold it and was unwilling to lift the contingency, the Klines were able to accept Michael's offer!

Congratulations! If you've been following this guide step-by-step, you now have sold your home. Take a break to celebrate. Then clear up a few nagging details.

Don't lose the phone numbers of potential buyers after you have signed the purchase agreement. If your sale doesn't go through, ask other potential buyers for bids.

Sweep Up and Move On —————

- Expect the unexpected—with the neighbors stopping by to say goodbye, the cat accidentally escaping through an open door, and with all that stuff to haul down from the attic, it will probably take twice as long as you planned for packing.
- Find a reputable moving company by asking friends and co-workers for recommendations. Make sure the company is bonded and insured. Or consider asking friends to be your moving company!
- Schedule final meter readings and billing dates with utility companies.
- Don't cancel your homeowner's insurance policy until after the closing. If the home is significantly damaged before the closing, the buyer may elect to cancel the purchase agreement.
- Vacuum, sweep, dust, polish, and mow or shovel. Cleaning up your empty home is the most important thing you'll do to welcome the new owners.

Whew! Now you can finally think about settling into your new home. A move is an exciting change. The Klines (including Mo and Curly) will have more space, and Ellen Bower will take her career to a new level. Wherever your move takes you, we wish you all the best!

Expect the unexpected, it will probably take twice as long as you planned for packing.

Consumer Questions or Complaints

The Minnesota Attorney General's Office answers questions regarding numerous consumer issues. The Attorney General's Office also provides assistance in resolving disputes between Minnesota consumers and businesses and uses information from consumers to enforce the state's civil laws. We welcome your calls!

If you have a consumer complaint, you may contact the Attorney General's Office in writing:

Minnesota Attorney General's Office
445 Minnesota Street, Suite 1400
St. Paul, MN 55101

You can also receive direct assistance from a consumer specialist by calling:

(651) 296-3353 (Twin Cities Calling Area)
(800) 657-3787 (Outside the Twin Cities)
(800) 627-3529 (Minnesota Relay)

Additional Publications

Additional consumer publications are available from the Minnesota Attorney General's Office. Contact us to receive copies or preview the publications on our website at www.ag.state.mn.us.

- Car Handbook*
- Conciliation Court*
- Credit Handbook
- Guarding Your Privacy: Tips to Prevent Identity Theft
- Home Building and Remodeling
- Home Buyer's Handbook
- Home Seller's Handbook
- Landlords and Tenants: Rights and Responsibilities*
- Managing Your Health Care
- Manufactured Home Parks*
- Minnesota's Car Laws
- Phone Handbook
- Probate and Planning: A Guide to Planning for the Future
- Seniors' Legal Rights
- Student Loan Handbook
- Veterans and Service Members

**Available in Spanish*

OFFICE OF MINNESOTA ATTORNEY GENERAL KEITH ELLISON

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