

The FAR/BAR Contract

Perhaps the most popular form of Real Estate Contract is the one used by the Florida Association of Realtors and the Florida Bar, known as the FARBAR Contract. However, even the FARBAR Contract should be modified depending on whether you are the Seller or the Buyer. Below are a few little-known provisions from the FARBAR Contract:

1. The Seller warrants that certain items (such as the Foundation, Ceiling, Roof, Fascia, Soffits, Walls and Dockage) do not have visible evidence of leaks or water damage and that other items (such as the Septic Tank, Pool, all Appliances, Heating, Cooling, Electrical and Plumbing Systems) are in Working Condition. Note: This does not mean brand new – it just has to be operational.
2. Most damages to Windows, Screens, Flooring, Roof Tiles, Ceilings, Mirrors, Pool Decks, Driveways and Sidewalks are considered to be Cosmetic Conditions, and are not the Seller's responsibility to repair.
3. The Seller is required to notify the Buyer of any facts which materially affect the value of the property that are not readily observable by Buyer or that have not been disclosed to Buyer. This changes the old adage *Let the Buyer Beware* and means that a Seller cannot refrain from advising the Buyer about a leaky roof or other defect simply because the Buyer did not ask about it or could not/did not see it.



What NEVER To Do (If You Can Help It!)

If you are the Seller, NEVER give the Buyer possession before the Closing!

WHY NOT? Because too many things could go wrong before the Closing (the sickness or death of a party, a leaky pipe or even ordinary house noises occurring between the time the Buyer takes possession and the Closing) - thereby creating issues which are not solved easily (from a refusal to close Title to which party should pay for the repair. **Don't do it!**

SUGGESTION: Move up the Closing, if necessary, so that both possession and title pass at Closing, thus creating a clear line as to responsibility.

If you are the Buyer, NEVER give a Deposit/ Down Payment directly to the Seller!

WHY NOT? Because you, as the Buyer, don't know if the Seller actually owns the property (the person who you think is the Seller could be a Tenant or just a neighbor coming over for a cup of tea!) and if the deal doesn't close for any reason, you may have difficulty obtaining the return of the Deposit from the Seller.

SUGGESTION: Always Escrow! Have any Deposit/ Down Payment held, in Escrow, by your Realtor, Title Company, Mortgage Broker or Attorney.



Feel free to contact us
for a **FREE** Initial Consultation –
let us explain your Real Estate
options to you in simple,
easy-to-understand language.

Real Estate



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Real Estate Terms

HOMESTEAD: refers to the home in which you live (so long as it is residential property up to 1/2 acre within a municipality or 160 acres outside a municipality). Your Homestead property is protected from your Creditors (except that it may be sold to satisfy a Mortgage, Mechanic's Liens or Taxes).

MARKET VALUE: the price a Buyer would be willing to pay and a Seller would be willing to accept. It may differ from the **APPRAISED VALUE**, which is determined by other factors such as comparable properties or highest/best use of the property.

EQUITY: the Market Value of a property less the amount of outstanding secured loans against it.

LISTING AGREEMENT: the Contract between the Seller and the Realtor/Broker which sets forth the details of their relationship, including the specific fee to be charged by the Realtor if and when he/she procures a "ready, willing and able" Buyer.

PROMISSORY NOTE: a written promise by one person (the Payee) to pay a specific sum of money to the other (the Maker).

MORTGAGE: a loan or lien on a property and/or house that has to be paid over a specified period of time.

ACCELERATION CLAUSE: a clause in your Mortgage that allows the Lender to demand payment of the outstanding loan balance for various reasons (the most common of which is if the Borrower defaults on the loan or transfers title to another individual).

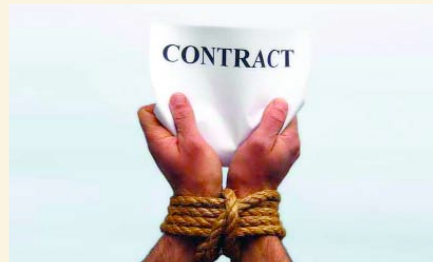


What is a Contract?

A Contract is a meeting of the minds regarding the material terms where one party makes the offer and the other party accepts it. Thus, there must be an Offer and an Acceptance to have a Contract. Sometimes, negotiations are comprised of Offers and many Counter-offers until a deal is struck.

- Q.** What if someone tells you that it "is not really a Contract" or is "just a Binder"?
- A.** Don't sign it - because you may be stuck with an enforceable "Contract" even if you thought some of the terms were still subject to negotiation or that you were going to take the Binder to your attorney for review.

SUGGESTION: DO NOT SIGN ANY DOCUMENT UNLESS YOU COMPLETELY UNDERSTAND IT and are willing to be bound by it. Your interests would best be served by consulting someone, whether it is an attorney or some other consultant, BEFORE you sign it, not afterwards.



There Really Is No Such Thing As A Standard Contract!

Each Contract should be narrowly tailored to a client's specific needs. Because it has been commonplace to obtain forms through the Internet or other venue, it is often difficult to know whether the form you have is appropriate for you, who prepared it, what important terms are omitted, or whether it is enforceable according to Florida law since it might have been prepared in another state with entirely different rules and laws. If you decide to use a form, make sure it covers your particular situation.

Does A Contract Have To Be In Writing?

Yes and No. For Real Estate deals, the Contract for Sale/Purchase of Real Property must be in writing to be valid. However, some non-Real Estate situations do not require that a Contract be in writing and those Verbal Contracts can be enforceable. However, it is often difficult to enforce a Verbal Contract because both parties differ in their recollection of the terms of the deal, making it a *He Said, She Said* situation. That's why attorneys always say *Get It In Writing!*

What Is A Closing?

A Real Estate Closing is the transaction where the Seller and Buyer sign all of the Closing documents to finalize the Sale/Purchase of the Real Property and transfer the necessary certified funds to pay off any existing Mortgages and/or other debts encumbering the property.

Closings are usually scheduled at the direction of the Lender, if there is one, and the parties can appear at the same time, in a Conference Room, or at separate times or even by mail.

Many people may be present at a Closing: the Seller, the Buyer, their respective Realtors and/or Attorneys, the Lender's representative and the Title Agent. We represent Sellers, Buyers or sometimes simply handle all of the paperwork via our affiliate Title company, Attorneys' Title Agency, P.A.

