



# HOME BUYING SEMINAR

Presented By: Attorney Robert J. Spavento

**Contact Information:**  
Robert J. Spavento, Esq.  
17 South Sixth Street  
New Bedford, MA 02740  
(508) 992-2122  
[www.attorneyspavento.com](http://www.attorneyspavento.com)  
[rjs@attorneyspavento.com](mailto:rjs@attorneyspavento.com)

### **BROKER COMMISSION STATEMENT**

- You should have an attorney at this stage.
- Will the Broker be paid for a “willing and able buyer”? If so, you may have to pay the broker a fee even if you don’t sell your home.
- What is the commission rate?
- Is it an exclusive right or agency?
- Will the Broker be a party to the Purchase and Sales agreement?

### **OFFER TO PURCHASE**

- You should definitely have an attorney at this stage.
- Gives the buyer more negotiating power.
- Look at dates, financing, and inspections.
- Be very specific – parking, appliances, fixtures.
- Contingencies, wetlands, zoning.

### **PURCHASE AND SALE AGREEMENT**

- At this stage you should have had an attorney.
- Contingencies
  - Mortgage
  - Inspections
- Title Examination
- Seller has 30 days to clean title – what if your mortgage contingency expires?
- Insurance
- Buyer accepts premises as seen on day the Purchase and Sales Agreement was signed.

### **AFTER THE PURCHASE AND SALES AGREEMENT IS SIGNED**

- Have all the contingencies been met?
- Has the title examination come back clear and marketable?
- What does the Plot Plan look like?
- Are all taxes paid?
- How will you take title to the deed?
- Do you have insurance lined up?
- Final walk through of home.
- Does the seller have a final water bill; smoke certificate and carbon monoxide certificate?
- Get ready to record and move in.

## A FEW THINGS TO CONSIDER WHEN PURCHASING A HOME

1. Decide what you can afford and stick to it.
2. Go to a bank and apply for a pre-approval letter, federal truth in lending and a good faith estimate.
3. Contact a real estate agent you trust and will work both with you and for you.
  - After you find a home you are interested in, make an offer to purchase in writing. Hire your own attorney to assist in drafting this. And keep track of all dates!
  - **EVERYTHING** must be in writing – even if it’s something as small as the drapes.
  - Does it include:
    - Parking – be very specific – are there any fees?
    - Fixtures / appliances – take pictures and list the exact make and model?
    - Closing costs – will the seller pay some?
    - Are there other conditions to be added? (This is why an attorney is necessary at this stage.)
4. Hire an insured and licensed home inspector.
  - Do this immediately. Ask questions of the inspector--what will/won't they do? How many times will they go back? If they have to go back to inspect again – who will pay?
  - Go to the home with them.
  - Get everything in writing.
5. At this point, if you are satisfied you should be considering entering into a purchase and sales agreement (P&S).
  - Don't just rely on the bank's attorney. You should have your own attorney draft and negotiate this.
  - What conditions should be in the P&S?
  - This could be the last chance to protect both your deposit and your ability to walk away from the home.
  - As always, keep track of all dates!
6. Obtain insurance for the home.
  - Different insurance for both residential and condos.
  - Is it in a flood zone?
  - Do you have enough insurance to protect your assets?
7. Your bank should be looking for the P&S and insurance.
  - Get your commitment letter to lock in your interest rate.
  - Have you satisfied all your conditions?
  - Contact your attorney of any changes. (Keep track of the commitment date!)
8. Before you go to the closing:
  - Schedule a final walk through – note any changes and/or missing items.
9. Go to your closing and be prepared to sign – a lot!
  - Review all documents – especially the HUD Settlement Statement.
  - Ask your lawyer to explain anything you don't understand – otherwise you could be stuck with it for 30 years or more.
  - Make sure you receive copies.
10. Once your home has been recorded:
  - Call your movers (and your lucky family and friends).
  - Make sure all the utilities are up and running.

## FREQUENTLY ASKED QUESTIONS (FAQS)

### Homestead Information

- Q. *What is a Declaration of Homestead, and why is it important?*  
A. It protects your home from creditors. A type of protection from *unsecured creditors* of up to \$500,000.00. The homestead estate is exempt from attachment, execution or forced sale for payment of “non-exempted” debts.
- Q. *Do I still need insurance if I file a Declaration of Homestead?*  
A. Yes! In fact your bank will require you to have homeowner’s insurance. The Homestead is **not** insurance but protects you from **some** forced sales of your home due to **some** unsecured debts.
- Q. *What if I am disabled and/or elderly?*  
A. You may be entitled to more coverage, but additional documents may have to be recorded.
- Q. *Is this expensive?*  
A. No, it is usually around \$35 to file it.

### Title Insurance

- Q. *What is Title Insurance?*  
A. According to Massachusetts Courts, “a title insurance policy provides protection against defects in, or liens or encumbrances on title. Title insurance is neither an agreement to guarantee the state of title, nor a representation of title, but is more in the nature of a covenant of warranty against encumbrances.” ***In other words*** - It could help you and/or your lender bank from loss of property should property ownership be in dispute.
- Q. *Can you explain that in English?*  
A. First, a title insurance policy looks backwards as opposed to home insurance, which looks forward. The title insurance insures against loss or damage incurred after the date of policy, **but** that loss or damage must result from covered matters that had occurred on or before the date of policy.
- Q. *How does this begin?*  
A. The bank’s attorney or an experience title examiner will go to the registry of deeds, which is located where you are purchasing your home. They will then research and make sure everything is “on the up and up”. They look at things such as; making sure all prior mortgages are paid off; a chain of title is not missing any parties, if there are any easements and so forth.
- Q. *I noticed that I am already being charged for a Lender’s Insurance Policy, what is that and is that enough?*  
A. Lender’s Insurance **protects the bank** against any loss that might occur due to unknown title defects. It guarantees the lender to have first priority lien position. Note this **does not** protect you.

- Q. *Okay, if it does not protect me, what do I need?*  
A. You should consider Owner's Title Insurance. This protects you, the homebuyer if an issue occurs after the sale of property. For example you may be protected against losses from prior liens, it states you have legal access (there are exceptions), you are the owner of the property, and that a later buyer does not reject your title because it is unmarketable.

### **Attorney Information**

- Q. *Do I really need an attorney?*  
A. Yes! Have you ever read a purchase and sales agreement or a mortgage – they are confusing.
- Q. *I am purchasing a new home and the bank states I can use their attorney. Is that enough?*  
A. I would recommend you hire your own attorney. You must ask yourself, is the bank attorney going to help negotiate my purchase and sales agreement, make sure all the necessary documents and/or certifications are correct, or is the bank's attorney simply working for the bank? This is probably the biggest purchase of your life; you should have your own attorney who will help you along the way and advocate for your interests.
- Q. *The bank's attorney stated he could represent the bank and myself. Is that okay?*  
A. It can be, but be sure to be clear on what the attorney will do and what the costs will be.

### **Is There Anything Else I Should Know?**

Yes! Unfortunately I cannot tell you everything in one class without keeping you here for a very long time. Here are a few checkpoints/considerations as you embark on this journey:

- Request your bank use your attorney as the bank's attorney to handle the closing – some attorneys give a discount if you have the attorney perform both roles.
- Consider hiring an Attorney at the *Offer to Purchase* stage – help protect your money.
- Ask your attorney (or the bank's attorney) if there any discounts if you purchase an Owner's Title Policy.
- What is included in the closing costs?
- Who are you buying this house with, and are there consequences if you are not married?
- What are the consequences if I want to sell my current home and move into my new home on the same day?
- Do you have a back up plan if the seller has to clear title and delay the closing?
- If considering purchasing a condominium ask: what do you actually own? What can you add? Who does what?
- Does the home have a septic tank? If so, when was it last inspected?
- Are there any zoning issues? What if you want to add on but you find out you cannot?
- Are there any missing permits?
- When does your home insurance begin? How much does it cover?