

## **Real Estate Transactions**

Real estate refers to land and things permanently attached to it. The law with regard to real estate is vast as it includes everything imaginable one can do with property - sell, rent, develop, mine, grant access with easements or rights-of-way, etc... Land is divided into three estates: surface, subsurface and air space. Therefore, an owner may not only convey the surface rights, but may also sell mineral rights (timber, coal, gas, etc...) as well as the air space above the land. There are also government regulations governing permitted uses of land. Municipal zoning regulations dictate permitted uses by dividing the municipality into various zones based on type of use (commercial, residential, industrial, etc...) Sometimes, a property owner is required to obtain a variance or an exception to carry on a desired use. It is always advisable to consult with a real estate professional when dealing in these types of transactions.

**Sales** – Pennsylvania requires a number of formalities be met in order for the transaction to be enforceable. First, all sales agreements are required to be in writing and signed by the parties. The writing requirement is an age-old requirement established by the Statute of Frauds (33 P.S. § 1). Pursuant to the Deeds and Mortgage statutes, conveyances (deeds) must contain certain information and be recorded in the office of the Recorder of Deeds for the county in which the property is located.

Pennsylvania law also imposes other requirements. For example, in a residential transaction, a seller is required under the Real Estate Seller Disclosure Law to provide a Disclosure Form divulging all material defects of which the seller has knowledge (68 Pa. C.S. § 7301, *et seq.*). Other rights may be found in the Home Inspection Law (68 Pa. C.S. § 7501, *et seq.*). A federal law known as the Real Estate Settlement Procedures Act (RESPA) also applies to residential transactions (12 U.S.C. § 2601, *et seq.*).

**Leases** – A lease provides for the temporary transfer of the right to possession. During the term of the lease, the owner (Lessor) gives the tenant (Lessee) the right to occupy the premises. In a residential lease, the tenant is entitled to all the rights contained in the lease as well as an implied right to habitability. The Landlord and Tenant Act of 1951 (68 Pa. C.S. §§ 250.101, *et seq.*) sets forth the procedures for evicting a tenant, handling security deposits, dealing with abandoned property and other issues that arise in the landlord/tenant relationship.

**Property Assessments** – All property in Pennsylvania is subject to a real estate tax, unless the property falls under an exemption. This tax is imposed by the county, the municipality and the school district where the property is located. The amount of the tax is a simple equation computed by multiplying the property's assessed value (AV) by the millage rate. A mil is one/one thousandths. That is for every one thousand dollars of assessed value, each mil would result in a tax of one dollar. Example: If the property had an assessed value of \$100,000, and the millage rate were 30 mils (.030), the resulting tax would be \$3,000 per year. AV is determined by the County Assessor's Office and is based on the property's estimated market value. In an **assessment appeal**, we challenge the AV. The lower the AV, the lower the property taxes. We also advise property owners whether any abatement programs may apply to lower their real estate taxes.

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