

Richard D. Klein
Jonathan P. Bellezza
Steve Siliato

Diamond Law Group
5173 Merrick Road
Massapequa Park, NY 11762
(for all mail and overnight delivery)

25 W. Main Street
Smithtown, NY 11787

Tel: (516) 663-5151
Fax: (516) 663-5152
admin@diamonddlawgroup.com

Retainer Agreement

Dear Valued Clients,

"A Lawyer's Time and Advice is His Stock and Trade." Abraham Lincoln.

Thank you for considering our firm to represent you in your real estate endeavors. The intent of this retainer is to outline the transaction process as well as to confirm our mutual obligations to one another; not to overwhelm you.

Our office will put your interests first at every step of the transaction, respond to any inquiries promptly and provide great service. We will offer our very best counsel at every step of the way and make sure your legal rights are protected. We shall be transparent about the process and thoroughly explain any potential issues so you can make informed decisions.

We charge a base fee for a simple contract and closing. This will be determined on a case-by-case basis.

Half of this fee is due initially before any work whatsoever is commenced on your behalf. After e-signing this Retainer Agreement you will be instructed on how to submit this portion of the payment online. *Once the Contract has been signed by both parties, this initial Retainer payment shall become non-refundable. Prior to this point, the fee is 100% refundable.*

The balance shall be due at closing and shall be payable via check along with your other costs at such time.

What Is Included:

Most basic real estate transactions can be completed within five (5) hours. Included in our legal fee is up to five (5) hours of attorney (both Partner and Associate) and paralegal services, commencing with your retainer of the firm to conclusion of the transaction, including any travel time.

Contract Review:

- A real estate contract is written evidence of a meeting of the minds between you and the purchaser. The contract contains all of the terms and conditions of the transaction and

describes the parties' respective rights and obligations. The contract will also contain contingency provisions and representations of you and the purchaser that describe what will happen if the transaction does not go exactly as stated in the contract.

- Should the purchaser attempt to negotiate credits and/or repairs pursuant to their engineer's inspection your agent will assist you in brokering the terms.
- Once all terms have been agreed upon we shall send out the proposed contract to the purchaser's attorney.
- Upon receipt and review of proposed revisions to the contract (if any), we will discuss with you what changes are necessary. Afterwards, we will negotiate these revisions with the buyer's attorney on your behalf.
- Upon verification that the contract is fully negotiated, the purchaser will sign first and upon receipt of the 'partially executed contracts' our office will contact you to schedule an appointment so that we may thoroughly review the terms. If you have any particular questions, you may find it helpful to organize a list so that we may better assist you at the contract signing.
- After you sign the Contract we shall overnight same to the purchaser's attorney. Upon receipt by the purchaser's attorney both parties are 'officially in contract' and bound to the contractual terms. It is at this time that the purchaser's deposit check will be deposited into our office's attorney escrow account.

Title Search:

- *This does not apply to coop. transactions.*
- This is a detailed examination of the historical records of a property. The purpose of the search is to make sure the purchaser takes title to the home from you as the legal owner 'free and clear' of any liens, judgments, tax arrears or other claims filed against the property or property owner which would adversely affect the ownership, marketability or value of the property.
- The typical timeframe for this to be received is approximately one month though depending on the municipality, it may very well be longer.
- The contract will generally state that the sale is conditioned upon you transferring "good and marketable" title to the property. This means that you must transfer title free and clear of all judgments, mortgages and other liens which may exist against the property.
- If you are aware of any potential issues, please bring that to our attention immediately.
- Our office will review the title report upon receipt and shall notify you of any defects to ensure any issues which require correction are addressed in an expedited manner. Thereafter we will continue to follow up with the applicable parties to verify that all issues are resolved.

Financing:

- Most real estate transactions are subject to the purchaser obtaining financing. The purchaser must obtain a mortgage commitment from a lender within thirty to forty-five day. The purchaser must act in good faith, promptly apply for a mortgage loan, and fully cooperate with the request of their lender during this

process. If the purchaser cannot obtain a mortgage commitment, usually either party may cancel the contract, and the contract down-payment shall be returned.

Clear to Close:

- After the purchaser receives their commitment they will be issued what is called the 'clear to close' by the lender. This occurs once the purchaser's loan officer has cleared all of their commitment conditions and the lender's attorney has approved the file for funding. Thereafter we will be able to schedule a mutually agreeable closing date with all parties.
- Generally speaking, the lender must have the buyer acknowledge the Closing Disclosure 72 business hours (including Saturday) before we can close.

Coop Board Approval *(if applicable)*

- If you are selling a coop, the transaction is also generally contingent upon the buyer obtaining 'board approval'. Most coops. have a board interview; others do not. They will schedule an interview and once approved that will be the final contingency for the transaction.

Closing:

- Our office will prepare a financial closing statement that outlines the entirety of the transaction in a manner that is easily understood. At closing we shall review all documents so as to ensure that you are fully aware of all that transpires at such time.
- Please be aware that simply because a closing date has been scheduled, that does not automatically mean you will be giving actual possession of the premises on the day of closing. If you require time to remain in the property after closing, kindly notify us.
- Additionally, the purchaser shall have the right to conduct a final walkthrough of the premises prior to closing. This will be scheduled through the parties' respective agents to ensure the property is in the condition called for in the contract. It is imperative that you contact us immediately if there are any issues at the walkthrough so that we may resolve them prior to the closing so as to avoid any unnecessary delay.
- The location of the closing typically will be held at the office of the attorney for the lending institution or coop. managing agent/attorney, as applicable.
- The duration of a typical closing should be less than two (2) hours, depending on the lender.
- During the actual closing, you will sign New York State/City Transfer Documentation and the Deed while the purchaser signs their loan documentation.
- Your 'closing costs' will include our legal fee, New York State and City (if applicable) Transfer Tax and any realtor commissions.
- Also calculated into your closing costs are real estate taxes. You will be reimbursed on a prorated basis for any real estate taxes have have been prepaid beyond the closing date.

- *If you are selling a coop./condo., closing fees applicable to each party will be obtained via letter from the Management Company just prior to closing and a 'common charges' letter that will be utilized to 'prorate' common charges at closing.*
- You will also receive a credit for any heating or cooking fuel (oil/propane) left in a storage tank. A written final meter reading will be required. This does not apply to homes heated by gas.
- You must bring government issued photo identification (i.e. driver's license or passport) to the closing.
- You should also take any utilities in your name the day after closing or possession, whichever is later.

What is not included:

Sometimes we are called upon to perform services that go above and beyond a simple closing or services which extend past the closing. These fees are due irrespective of fault. In other words, even if the buyer and/lender are to blame these services will become billable to you as compensation for our time on your behalf. These supplemental services include but are not limited to:

- 1) Negotiation of engineer's inspection issues which are generally handled by your real estate agent
- 2) Clearance of any title issues, including but not limited to, judgments or liens against you.
- 3) Obtainment of a Duplicate Satisfaction for a mortgage you have already paid off.
- 4) Correction of variations between fences and property lines.
- 5) Negotiation of any open permits, building violations or Certificate of Occupancy issues.
- 6) Per escrow service that extends past the closing (i.e. post-closing possession issues, CO issues, etc.).
- 7) Preparation and clearance of one (1) Power of Attorney.
- 8) Closings scheduled within 24 hours' notice.
- 9) Adjourned closings.
- 10) Tardiness of any party attending the closing by one (1) hour. This includes the purchaser failing to attend the closing with the proper certified funds.
- 11) Closings that extend past two (2) hours due to any reason whatsoever including any 'dry' closings (where no actual funding takes place).
- 12) Closings that extend thirty (30) days beyond the 'on or about' closing date billable every two weeks.
- 13) Preparation or defense of 'Time is of the Essence' documentation and correspondence thereafter.
- 14) FSBO Sale.
- 15) Involvement of any tenant, foreclosure or divorce situations.
- 16) Any closing "via mail/wire".
- 17) Negotiation of any walk-through issues.
- 18) Pre-contract negotiations that take longer than two (2) weeks to conclude.

Each of the above is billable at **\$350.00** per hour. *We will notify you when one of these fees has been incurred.* Within our sole discretion we may discount the final fees due at closing.

We do not practice litigation of any kind.

In the event that a dispute arises between us relating our fees, you may have the right to arbitration of the dispute pursuant to Part 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided to you upon request.

This is to confirm that you have read this letter, agreed to our engagement, and received a copy, which has been fully discussed and explained to your complete satisfaction. You have been made fully aware of the implications of the above and sign below acknowledging my complete unequivocal acceptance and understanding of said rights and obligations.

Of course, we will always be available to discuss any of the matters set forth in this letter or anything else you may question or be concerned about regarding the subject transaction.

Very truly yours,

DIAMOND LAW GROUP

Received and Agreed to this [] day of [], 20[].
