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This newsletter is published by the law firm of Abrahams Kaslow & Cassman LLP to inform our clients and friends about various legal developments and to provide news about our firm. This newsletter is not intended to provide legal advice on specific matters but rather to provide insight into legal topics and issues of current interest. Please consult with legal counsel before taking action on matters covered in this newsletter. If you would like further information or would like to be added to our mailing list, please contact Debbie Watson at 402-392-1250 or email dwatson@akclaw.com.

The Nebraska Rules of Professional Conduct for attorneys require the following statement on newsletters of law firms:
This is an advertisement.

Upcoming Seminars

Commercial & Residential Evictions April 29, 2009

Aaron Weiner will be one of the presenters at a seminar which will cover leases, overdue rent, bankruptcy and other critical issues.

8:30 a.m. - 4:30 p.m.

Hilton Omaha - 1001 Cass Street

\$319.00 registration fee

To receive a \$50 discount, please mention Aaron's name when registering.

Continuing Education Credits available.

Call Debbie Watson for more information or email dwatson@akclaw.com.

Seminar sponsored by Sterling Education Services.

How to Handle Collections in a Tough Economy

In this seminar you will learn:

How to handle a collection.

Tips in recovering payment.

When to turn to a collection agency or attorney for assistance.

April 21, 2009

8:00 a.m. - 9:00 a.m.

8712 West Dodge Road, Suite 300

RSVP to Debbie Watson
call 392-1250 or email
dwatson@akclaw.com

Space is limited, register today!



Legal Perspectives

from Abrahams Kaslow & Cassman LLP

Do Your Research When Buying Real Estate

by James A. Tews

Prospective buyers of real estate should do their homework before consummating a purchase. Most real estate transactions proceed without complications. However, taking certain preliminary actions can help to avoid a negative outcome.

Real estate transactions usually begin with the parties entering into a written agreement for the sale/purchase of specific real estate. This document includes more terms than just the purchase price and closing date. The purchase agreement defines each party's right to terminate the agreement under certain circumstances, as well as each party's legal remedies if the other party breaches the agreement. It is important, therefore, to consider the purposes for which the real estate is being purchased and the conditions under which each party may terminate the agreement. The parties should thoughtfully prepare the agreement to include provisions to protect their respective interests. Once the purchase agreement is signed, it may be too late to include new conditions or address further issues.

Several steps typically become necessary once the agreement has been signed by the parties. First, the buyer may need to obtain financing to complete the purchase. Prospective lenders will analyze the buyer's current financial condition and the proposed deal before

agreeing to make a loan. They will consider many factors, including the purpose of the purchase and the buyer's credit history, other assets and debts, character, financial capability to repay a loan, prior history with the lender, etc. The lender, if it is willing to provide financing, then proposes the conditions under which it will make the loan, such as the length of the loan, repayment schedule, and interest rate. The purchase agreement should include the minimum loan terms that the buyer considers acceptable before being obligated to proceed with the agreement and that, if not met, would allow the buyer to terminate the agreement without penalty. For example, a buyer may want the ability to terminate the agreement if the buyer cannot obtain a loan with an acceptable interest rate. Buyers should shop at least several lenders in order to find the most suitable financing terms.

Second, the buyer should obtain a "title commitment" from a reputable title insurance company. The commitment states the conditions under which the title insurance company will issue a "title insurance policy" insuring good title in the owner of the real estate and any exceptions for which the policy will not provide coverage. The title company will research the current and previous ownership of the real estate, as well as other public records that may affect the property, to determine if there are

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Contact Us!

Let us know what you would like to see in our newsletter. Email your questions or comments to dwatson@akclaw.com.

Estate Planning

Preparation is Key to First Meeting

Clients often wonder before meeting with an attorney for the first time, what documents and other information should they bring to the meeting, how should they prepare for the meeting and lastly, what to expect. Preparation for the first meeting will, of course, depend on the subject of the meeting. If proper steps are taken, the client's efforts in advance of the meeting may reduce the overall cost of legal services and facilitate a more productive working relationship.

Estate Planning

Some attorneys have a standard questionnaire for clients to complete in anticipation of the initial meeting. If fully completed, such a document can reduce the amount of time otherwise necessary during the initial meeting for gathering names, addresses, asset information, and other personal information. This questionnaire can also serve as a central repository for personal and financial information if the time comes when the client is not able to communicate the information. For example, listing all financial accounts, life insurance policies, retirement plan accounts, and investments on the questionnaire can help to ensure that surviving family members do not accidentally overlook these assets after the client's death.

It is also useful for the client to bring to the meeting (1) the most recent statement for each financial account, including retirement plan accounts such as IRAs, (2) information about any life insurance policies (i.e. current death benefit, current cash value, and beneficiary designations), and (3) the client's current estate plan documents, if any. The account statements and policy information can help the attorney assess death tax issues and other relevant considerations. Reviewing the client's current estate plan documents will help the attorney

determine if simple amendments to these documents would be sufficient for current estate planning purposes.

Finally, the client should give some thought as to whom the client may want to nominate to serve in certain fiduciary roles. These fiduciary roles include (1) the personal representative (executor) of the client's estate, (2) the "Agent" under the client's financial and health care powers of attorney, (3) the guardian of the client's minor children, and (4) the trustee of any trust. The client may find it helpful to visit beforehand with the potential fiduciaries to be sure they would be willing to serve in a particular role, should it become necessary.

Post-Death Administration

Handling a decedent's final affairs can place the surviving family members and the attorney in the role of detective. It is necessary when handling a decedent's final affairs to know about each asset owned by the decedent at death and the form of such ownership. The attorney will need this information (1) to calculate any death taxes owed and to determine who is responsible for paying such taxes, (2) to determine who is entitled to receive each asset, and, (3) if applicable, what documents are necessary to obtain control of the asset in order to distribute it according to the client's estate plan documents.

Many of the documents that were useful during the client's estate planning process may again become useful after the client's death. If family members are not familiar with the decedent's financial affairs, the attorney could use old account statements, etc. as a guide for identifying and locating the decedent's assets.

Regardless of whether the client previously provided financial

documents to the attorney, family members should search for and provide a copy of the most recent financial account statements to the attorney. Additionally, family members should provide a copy of (1) the decedent's most recently filed federal income tax return, (2) all estate plan documents, (3) any real estate tax statements, (4) life insurance policies or information statements, (5) retirement plan statements, (6) vehicle titles, (7) loan documents and payment statements, and (8) any other documents indicating that the decedent owed any other debts or owned any other assets.

Lastly, the client or family should provide the attorney with the names and contact information for the decedent's accountant, any investment representatives, and all beneficiaries under the client's estate plan documents.

Conclusion To Initial Meeting

Generally, once the attorney has become familiar with the client's wishes and the client has provided all information requested by the attorney, the attorney should be able to provide an estimate of the cost of the services he or she will provide. I recommend discussing fees in advance to avoid misunderstandings and surprises after the services have been performed. Finally, the attorney should prepare an engagement letter for the client so the scope of services to be performed and, if appropriate, the anticipated costs are clear.

Be sure to take the time to research and provide all information requested by your attorney. These steps may lead to greater efficiency and a better working relationship with your attorney.

For more information, please call one of our estate planning attorneys at 392-1250.

Real Estate Update

Buying Real Estate (continued from page 1)

any documented "encumbrances" or other issues with the current title. There are many possible issues that could be detected by the title company, which include unpaid real estate taxes or assessments, tax liens (Federal, state, local, or otherwise), construction liens, easements, use restrictions, current lawsuits involving the real estate, and defects in previous or current ownership. Once again, a thoroughly prepared purchase agreement will set forth the title issues that, if determined to exist, will allow the buyer to terminate the agreement without penalty.

Third, the purchase agreement should include rights of the buyer to conduct surveys and inspections to determine the suitability of the real estate for the buyer's needs and the physical condition of the real estate. For example, a buyer who intends to farm undeveloped real estate may want the right to conduct a soil analysis before being obligated to consummate the purchase. A buyer

who intends to develop the real estate may want the right (before being obligated to complete the purchase) to have the real estate tested or inspected for suitability for building or to determine the presence of contaminants that may prevent development or create potential liabilities. Government laws and regulations should also be considered under certain circumstances, such as when the buyer intends to install an irrigation system on the real estate, to use the real estate for intensive livestock production, or to use the real estate for purposes that may require a change in municipal zoning. A survey can locate the current boundaries of the real estate (which may be different from the boundaries that a visual inspection may suggest) and, depending on the type of survey, any encroachments that might affect the real estate or adjoining property. If the property is improved, an inspection of the improvements can disclose defects or other adverse physical conditions

that may be unacceptable to the buyer.

A carefully prepared purchase agreement that includes contingencies under which the agreement may be terminated also will likely include deadlines. For example, a buyer will likely have a limited amount of time to obtain acceptable financing, to complete inspections and surveys, or to object to adverse title matters. Missed deadlines could force a buyer to choose between consummating a potentially bad deal and losing an earnest deposit, or worse, result in litigation. It is therefore important for the parties to pay close attention to these deadlines.

Remember, a buyer's or seller's protection begins (and, if not carefully prepared, may end) with the purchase/sale agreement. Please call our office and speak to one of our real estate attorneys if you need assistance with acquiring or selling real estate.

Malicki Named One of Worth Magazine's "Top 100 Attorneys"

Abrahams Kaslow & Cassman LLP is pleased to announce that Thomas J. Malicki, one of the firm's managing partners, has been selected for inclusion in *Worth* magazine's list of "Top 100 Attorneys."

The top attorneys list, published in the December/January 2009 issue of *Worth*, recognizes the nation's leading attorneys specializing in trusts and estates, philanthropy, elder care and other private practice areas. The list, now in its fourth year, is a result of extensive research and analysis by *Worth's* editorial staff and

recognizes attorneys who have demonstrated "outstanding expertise, insight, trustworthiness and commitment to their clients' needs."

Mr. Malicki has also earned recognition by Chambers USA and The Best Lawyers of America.

About Worth Magazine: *Worth* is the only magazine devoted exclusively to the best interests and unique challenges of readers who possess substantial wealth. Each issue offers astute and unbiased reports on such complex subjects as estate planning, private banking,



Thomas J. Malicki

philanthropy, trusts, entrepreneurship, and investment opportunities - topics crucial to the continued well-being of affluent families and individuals.