

JAMESTOWN BAR ASSOCIATION

RULES RELATING TO THE CLOSING OF REAL ESTATE TRANSACTIONS

APPROVED JANUARY 11, 2011

These rules shall not apply to the extent that there is contrary agreement by the parties or a mandatory provision of law to the contrary.

1. The attorney for the purchaser shall act as escrow agent for the closing of the transaction receiving the documents and funds required for closing and not releasing the deed and other transaction instruments for recording until funds required for closing in accordance with the Contract for Sale have been made available to such attorney to be drawn from the financial institution where they have been deposited except that funds committed by an incorporated lending institution to be advanced on mortgage security for the purpose of the transaction may be excluded in computing the amount otherwise needed. Payment of the net amount due the seller shall be made by the attorney for the purchaser to the attorney for the seller promptly after the recording of the deed by wire transfer, by cashier's check or certified check issued by any United States bank, trust company, savings and loan association or credit union or by the special account check of the attorney for the purchaser drawn upon any of the aforementioned financial institutions.
2. If the seller is to take back a purchase money mortgage, the purchaser's attorney shall not record the deed until he or she has ascertained that any fire insurance required for the transaction, with mortgagee clause, has been ordered to be effective not later than the date of recording of the deed.
3. The seller shall pay for the filing of Form TP-584. The purchaser shall pay the cost of recording the deed and mortgage, mortgage tax, and the filing of Form RP-5217.
4. The seller shall pay the cost of the continuation of the Tax and Title Searches through closing.
5. Real estate taxes shall be prorated on the basis of the fiscal year of the taxing entity in relation to the date of possession.
6. Sewer and water user fees not subject to final reading and separate billing, special district assessments and the Chautauqua Institution annual fee shall be prorated based upon the period covered thereby in relation to the date of possession.
7. The seller shall be responsible for any County Health Department fee for conducting a water and/or septic system survey.
8. All parties shall cooperate in providing information required to comply with the laws applicable to the transaction and reasonably required by the purchaser's mortgage lender or by an Internal Revenue Code §1031 like-kind exchange intermediary.

9. If the premises sold are subject to an existing mortgage which is not being assumed by the purchaser (a) held by a mortgage lender which is not an incorporated financial institution, a discharge of the mortgage shall be provided by the seller and recorded at or before closing or (b) held by such a financial institution for which a payoff statement is provided at or before closing, such outstanding mortgage shall not constitute a valid objection to the conclusion of the closing as long as the attorney for the seller provides an unconditional guaranty of the payoff of the mortgage from the closing proceeds and of the discharge of the mortgage of record and indemnifies the purchaser and anyone taking under the purchaser from damages, including attorney's fees, arising from the failure of the mortgage to be discharged of record within six (6) months after closing. This rule neither recognizes nor creates an obligation of an attorney to provide such guaranty.