Navigating Landlord-Tenant Issues in Massachusetts

Being a landlord in Massachusetts comes with a unique set of challenges, thanks to the state's tenant-friendly laws. Staying informed and proactive is key to managing your rental properties successfully while avoiding costly legal headaches. In this guide, we'll break down the basics to help you navigate any landlord-tenant issues with confidence.

Managing Security Deposits

Security deposits come with strict legal requirements in Massachusetts. If you're not careful, mishandling these funds can lead to serious legal trouble. Here's what you need to know:

- **Separate Bank Account:** Security deposits (along with first and last month's rent) must be placed in a Massachusetts interest-bearing bank account. Mixing these funds with your own money is a big no-no.
- **Receipts and Disclosures:** You must provide tenants with written receipts and statements detailing where their deposit is held.
- **Avoid Costly Mistakes:** Failing to follow these rules can open you up to major liabilities under state housing laws and Chapter 93A, Massachusetts' consumer protection statute.

Keeping your security deposit process airtight protects you legally and helps build trust with tenants.

Screening Tenants

Picking the right tenant can make or break your experience as a landlord. While online screening services are convenient, they don't always dig deep enough into Massachusetts-specific records. What should you do?

- **Go Beyond Basic Background Checks:** Massachusetts court records aren't all available in one place. A thorough check requires searching Superior, District, and Housing court records in each county.
- **Verify Employment & References:** Don't just take a potential tenant's word for it—confirm their job and talk to previous landlords to get a sense of their reliability.
- **Invest the Time Now, Avoid Problems Later:** A strong screening process reduces the risk of rent disputes, property damage, eviction hassles, and other landlord-tenant issues down the road.

Document Everything

Before handing over the keys, make sure you document the condition of your rental unit. If landlord-tenant issues arise later, having solid proof can save you time and money.

- **Take Time Stamped Photos & Videos:** Capture the condition of all rooms, appliances, and even the exterior of the property.
- **Keep a Record of Maintenance Requests:** Whether it's a leaky faucet or a broken heater, maintain detailed records of tenant complaints and your responses. This documentation can be crucial if a tenant claims the property was unsafe or uninhabitable.
- **Stay Organized:** Having a clear system for documentation protects you in case of legal disputes and ensures smoother property management overall.

Dealing with Non-Payment and Eviction

Even with the best tenants, issues can arise. If a tenant stops paying rent, Massachusetts law outlines a structured process landlords must follow.

- **Notice to Quit:** For non-payment of rent, landlords must give a 14-day notice before starting eviction proceedings. For other lease violations, a 30-day notice is required.
- **Court Process & Mediation:** If the tenant doesn't leave, eviction can involve multiple court hearings, mediation, and significant delays.
- **Watch Out for Professional Tenants:** Some tenants know how to work the system, using bankruptcy filings and legal loopholes to extend their stay without paying rent. Being prepared and acting quickly can help minimize losses.

Additional Protections for Landlords

Massachusetts law heavily favors tenants, but landlords do have some protections. Understanding these safeguards can help you avoid financial losses and legal troubles when facing landlord-tenant issues.

- **A Strong Lease Agreement Is Your Best Defense:** Do not rely upon a "standard" residential lease provided by a real estate agent; use a customized lease with more tools to protect against tenants who stop being cooperative.
- **Landlord Insurance for Extra Security:** Standard property insurance covers physical damage, but additional landlord insurance can protect against lost rental income, legal expenses, and liability claims from tenants.
- **Knowing Your Rights in Eviction Cases:** While the eviction process can be complex, landlords still have rights. Understanding the legal process, filing paperwork correctly, and acting promptly when tenants violate lease terms can prevent long delays.
- **Handling Tenant Abandonment & Property Damage:** If a tenant abandons the property or leaves it in poor condition, landlords

have options. Following proper legal procedures for reclaiming the unit and documenting damages can help recover costs.

- **Legal Support for Difficult Situations:** If you're facing ongoing tenant disputes, consulting with an attorney early can prevent costly mistakes. Proactive legal guidance can help you navigate lease violations, eviction roadblocks, and compliance with state laws.

Being a landlord in Massachusetts isn't always easy, but with the right knowledge and approach, you can manage your properties successfully while avoiding legal trouble.

If you're dealing with landlord-tenant issues or just want to make sure you're fully compliant with the law, DaMore Law is here to help. Our experienced team can guide you through everything from lease agreements to eviction procedures, ensuring your rental business runs smoothly and legally.

Need expert legal advice? Contact DaMore Law today.

National Association of Realtors Settlement: What You Should Know

The real estate industry has been buzzing with news about the recent National Association of Realtors (NAR) settlement. This significant legal development has sparked widespread discussion among real estate professionals, homebuyers, and sellers alike. This settlement affects the dynamics of real estate transactions and the broader housing market. In this blog, we will delve into the details of the NAR settlement and what it means for you.

Background of the NAR Settlement

The National Association of Realtors (NAR) is one of the most powerful and influential trade associations in the United States, representing over 1.4 million members. The organization plays a pivotal role in shaping the rules and standards that govern the real estate industry. However, in recent years, NAR has faced scrutiny over certain practices that critics argue have contributed to anti-competitive behavior, particularly regarding how real estate commissions are structured.

In a landmark case, NAR was sued by several home sellers who claimed that the association's rules unfairly inflated commission costs. These lawsuits argued that the traditional real estate commission structure, where the seller typically pays both the listing agent's and the buyer's agent's fees, was a result of NAR's policies, leading to higher costs for sellers. This case led to a settlement that has far-reaching consequences for the real estate industry.

Key Aspects of the NAR Settlement

The NAR settlement has introduced several key changes to increase transparency and promote competition in the real estate market. Here are the most significant aspects of the settlement:

1. **Transparency in Commission Disclosure:** One of the primary outcomes of the NAR settlement is the requirement for greater

transparency in how commissions are disclosed to consumers. Previously, many buyers and sellers were unaware of how much the buyer's agent was being paid, as this information was often not disclosed. The settlement mandates that commission details be made readily available to all parties involved in a transaction, ensuring that consumers are fully informed.

2. **Elimination of Mandatory Commission Offers:** Under the new rules, NAR members are no longer required to offer a commission to the buyer's agent when listing a property. This change allows sellers more flexibility in how they structure commission payments and opens the door for different models of compensation, potentially leading to lower costs for sellers.
3. **Prohibition of Commission Filtering:** The settlement also addresses the practice of commission filtering, where real estate agents might filter out or downplay properties offering lower commissions. The new rules prohibit this behavior, ensuring that all listings receive equal visibility, regardless of the commission being offered.
4. **Impact on MLS Rules:** Multiple Listing Services (MLS), which are often governed by NAR rules, will also see changes. The settlement requires MLSs to eliminate rules that could restrict competition, such as requiring listing brokers to offer compensation to buyer brokers.

Implications for Real Estate Professionals

The NAR settlement marks a significant shift in the real estate industry, and professionals need to adapt to these changes to remain competitive. Here's how the settlement impacts different players in the market:

1. **Real Estate Agents:** Agents are now navigating a new landscape where commission structures may become more varied. Transparency in commission disclosure means that agents must be prepared to justify their fees and demonstrate the value they

bring to clients. With the prohibition on commission filtering, agents must provide clients with all available options, regardless of commission incentives.

2. **Brokers:** For brokers, the NAR settlement may require a reevaluation of business models. Brokers may need to offer more competitive commission rates or explore alternative compensation structures to attract clients in a more transparent and competitive environment.
3. **Homebuyers and Sellers:** The settlement is generally seen as a win for consumers. With more transparency in commission structures, buyers and sellers can make more informed decisions. Sellers, in particular, may benefit from the elimination of mandatory commission offers, as they now have more flexibility in how they negotiate commissions.

The Future of Real Estate Post-Settlement

The NAR settlement is likely to have a lasting impact on the real estate industry. By promoting transparency and competition, the settlement aims to create a more equitable marketplace for consumers. However, the full effects of these changes will take time to unfold.

As the industry adapts, we may see new business models emerge that further disrupt traditional practices. For example, flat-fee or a la carte services could become more popular as sellers seek ways to reduce costs. Additionally, the increased transparency may lead to greater consumer trust in the real estate process, ultimately benefiting the market as a whole.

If you're navigating the complexities of real estate transactions and looking for expert guidance, DaMore Law is here to help. Our experienced attorneys specialize in real estate law and can provide you with personalized advice to protect your interests. Contact us to schedule a consultation.

A Guide To Bridge Loan Financing

A bridge loan is a short-term loan used to bridge the gap between buying a home and selling your previous one. It can be used to make a down payment on a new home when you need extra cash before you've completed the sale of your current home. In this guide, we'll cover how bridge loans work and the pros and cons to help you determine if they're a good fit for your situation.

How does a bridge loan work?

A bridge loan works similarly to a mortgage. The lender qualifies you based on a review of your income, assets, and credit and requires an appraisal to determine the value of your home.

You will decide whether the loan is a first or second mortgage. Here's how each works:

- First-mortgage bridge loan: This covers the balance of your mortgage, plus enough to cover a down payment. Your current mortgage is paid off, and the bridge loan takes first position until you sell your current home, at which point you pay it off.
- Second-mortgage bridge loan: This covers the amount you need for a down payment on your new home. The loan is secured by your current home, which makes it a second mortgage.

You'll typically be able to borrow up to 75% of your home's value, and you may have options for how you make your monthly payment.

The pros and cons of bridge loans

In this section, we'll break down the pros and cons of bridge loan financing for homebuyers.

Pros

- Using current home equity to buy a new home without selling it right away.
- Maintaining some savings.
- Make offers without contingencies for the sale of your current home.
- You may be able to make interest-only payments
- Make a larger down payment on the new home purchase.

Cons

- You'll likely pay high interest rates and closing costs.
- You could potentially have three monthly mortgage payments for a certain period of time.
- There is a risk of losing both homes if you can't make payments and the lender forecloses.
- The loan will be considered riskier and have fewer federal protections.
- It can be difficult to find a bridge lender.

When do you need a bridge loan?

Here are some of the situations where a bridge loan makes the most sense:

- Purchasing a new home in a highly competitive market
- Buying a fixer-upper that needs significant repairs
- A short-term, fix-and-flip home purchase

How to find bridge loan lenders and alternatives

Bridge loans are a special product that not all lenders will offer. Reach out to your current lender, local banks and credit unions, non-qualified mortgage lenders, and hard-money lenders. If you're having trouble finding a lender or you're looking for bridge loan alternatives, consider these options:

Home equity line of credit – This product works like a credit card

and allows you to borrow as much as you need up to your credit line's limit. Your home is used as collateral, similarly to a bridge loan.

Home equity loan – With this alternative, you borrow against a percentage of your home's equity as a lump sum that you begin paying right away. Your current home secures the mortgage.

Cash-out refinance – This option replaces your current loan with a larger mortgage and uses the difference for a down payment for the new home purchase.

80-10-10 piggyback loan – You take out two loans on the new home and make a 10% down payment: one for 80% of your home's value and the other for 10%. When your current home sells, you can pay off the rest and are left with only one mortgage payment.

A bridge loan can come in handy in circumstances where you need to buy a new home before an old one has sold. However, keep in mind it can lead to a costly acquisition and add to your overall debt load. The best strategy is to wait to sell your old house before moving forward to acquire a new property.

DaMore Real Estate Law Services

Buying or selling a home is a significant undertaking. We provide professional and experienced legal counsel so that our clients can rest easy knowing their rights are protected. Request a consultation today, and one of our skilled attorneys will be happy to discuss your real estate plans.

Mortgage with Insurance: A Home Buyer's Guide

When buying a home with a mortgage loan, it's important to know about all the costs you'll be on the hook for. Among those expenses may be mortgage insurance, which can significantly impact the cost of your

loan and your ability to buy a home.

We'll cover everything home buyers should know about mortgage insurance, including what it is, how you can pay for it, and approximate costs involved.

What Is Mortgage With Insurance?

A mortgage with insurance is a type of home loan that requires the borrower to purchase mortgage insurance, also known as private mortgage insurance (PMI), in order to protect the lender in case the borrower defaults on the loan.

Typically, insurance is required when a borrower puts down less than 20% of the home's value as a down payment. The insurance premium is typically added to the borrower's monthly mortgage payment and is paid until the loan-to-value ratio reaches 80% or less, at which point the borrower can request that the insurance be canceled.

Purchasing a mortgage with insurance helps lenders reduce their risk and allows borrowers to qualify for a mortgage with a lower down payment. However, it also adds to the overall cost of the loan, as borrowers are required to pay insurance premiums in addition to their principal and interest payments.

Ultimately, an insured mortgage protects the lender in the event that you fall behind on your payments. If you fail to make payments, your credit score will suffer and you risk losing your home through foreclosure.

What Does Mortgage With Insurance Cost?

Mortgage insurance costs vary depending on the type of insurance you have. On average, homebuyers can expect to pay .1% – 1% of your home loan amount annually with PMI.

Your premiums for PMI will depend on:

- Your PMI type
- If the interest rate is fixed or adjustable
- The mortgage term, or the length of your home loan

- Your loan-to-value (LTV) ratio
- The insurance coverage amount required by your lender
- Your credit score
- Your home’s value
- Whether the premium is refundable
- Additional risk factors.

For example, those with a lower credit score and who put down a minimum down payment will have a higher cost of mortgage insurance.

Types of Mortgage Insurance

There are two main types of insurance for mortgages: Private Mortgage Insurance (PMI) and government-backed mortgage insurance, such as the Federal Housing Administration (FHA) or the Department of Veterans Affairs (VA) insurance.

Government-backed mortgages require insurance or a funding fee. These types of loans have different requirements and may be more suitable for some borrowers depending on their financial situation and needs.

Here are some of the differences between PMI and government-backed mortgage insurance that home buyers should be aware of.

1. Eligibility

PMI is typically required for conventional loans when the borrower’s down payment is less than 20% of the home’s purchase price. Government-backed mortgage insurance, on the other hand, is often required for loans that are backed by the government, such as FHA loans or VA loans.

2. Cost

PMI premiums vary based on factors such as the loan-to-value ratio (LTV) and credit score of the borrower. The cost of government-backed mortgage insurance is set by the government and varies based on the type of loan and the size of the down payment.

3. Coverage

PMI covers the lender’s risk in case the borrower defaults on the loan. Government-backed mortgage insurance covers the lender’s risk

as well as some of the borrower's risk.

4. Cancellation

With PMI, the borrower can typically request to cancel the insurance when the loan-to-value (LTV) ratio drops to 80% or less. With government-backed mortgage insurance, the borrower can request to cancel the insurance when the LTV ratio drops to 78% or less. However, government-backed mortgage insurance is usually required for the life of the loan if the borrower makes a down payment of less than 10% on an FHA loan.

By understanding how mortgages and insurance work, you can make informed decisions about your home purchase and financing options. You can also calculate the added cost of an insured mortgage and factor it into your budget and monthly mortgage payments. Additionally, knowing about mortgage insurance can help you evaluate different loan options and determine which ones may be the most affordable for your financial situation.

DaMore Real Estate Law Services

Buying a home can be overwhelming, but we're here to walk you through the process. We can help you decide which loan option is right for you and make sure everything moves smoothly. Request a consultation and one of our skilled attorneys will be happy to discuss your real estate closing.

Real Estate Closing Checklist For Home Sellers

So you've accepted an offer on the home you're selling. It's time to celebrate, right? While this is an exciting milestone, there are still some things that need to happen before the job is done. During this final phase, you will tie up loose ends, handle the legal transfer of your property's title, wrap up negotiations, and execute

the financial transaction. In this blog we'll go over how you can prepare and include a real estate closing checklist to keep you on track with the sale of your home.

Before The Real Estate Closing

Both parties will need to sign the purchase contract to solidify an offer. This legal document outlines terms of the agreement, such as the buyer's inspection period, how much money the buyer is putting down, and the closing date.

If your buyer has requested repairs based on the results of their home inspection, you'll work with your real estate agent to negotiate the repairs. If the buyer is financing the purchase, then a home appraisal is necessary. The appraisal report provides an objective, third-party assessment of what the home's value is. Once you've worked through these hurdles, you can being to prepare for closing day.

- Clean your home for the final time, taking special care to check drawers and closets for items left behind.
- Gather documents for appliances and other items such as warranties, manuals, receipts, and any home improvement projects you've had done to the property.
- Shut off the main water valve to the property.

During A Real Estate Closing

It's time to seal the deal. Here's what to bring to the closing table:

- Photo identification of all sellers on the home contract. Make sure you bring two valid forms of ID.
- Keys and/or security codes for the home and any remotes to appliances. For example, the garage door, HVAC, motorized window blinds, etc.
- Final utility bills to be paid.
- A cashier's check to cover closing costs if you didn't wire the money already.
- Your checkbook in case there are any unforeseen costs to cover.

- Proof of repairs made per the home inspection.

Check with your real estate agent before closing day to confirm this is all that you need. Every state and individual sale will vary when it comes to closing necessities, so there may be additional items to bring based on your situation.

Your real estate agent or attorney will handle all other essential documents required for the meeting, such as the closing statement, seller disclosures, deed to the home and purchase contract. At closing, you and your agent will meet with the buyer and their agent to sign all the paperwork and settle the final closing costs.

After The Real Estate Closing

After your home's final sale, you will receive a package of paperwork to file away, in addition to a check for the proceeds of the sale. Here are just a few final things to make sure you wrap up.

- Change of address. Notify everyone that you're moving and update your address with the post office.
- Cancel homeowner's insurance policy and utilities. Wait to do this after the transfer of ownership is complete.
- Cover additional expenses such as taxes, insurance, attorney fees, HOA dues, real estate commission, title fees, etc. These will depend on the details of your home sale.

DaMore Real Estate Law Services

Buying or selling a home is a significant undertaking. Our team ensures that everything moves as smoothly as possible, from checking the title is free and clear to the exchange of keys on closing day. Request a consultation and one of our skilled attorneys will be happy to discuss your real estate closing.

The Most Common Real Estate Litigation Disputes and How To Avoid Them

Real estate disputes are increasingly common in today's market. No matter what kind of property you're dealing with, becoming involved in real estate litigation can quickly become expensive. Buying a property is a significant investment, and when ownership is on the line, people stand to lose a lot. Hiring a real estate attorney can help you perform the due diligence necessary to avoid some of the most common reasons for real estate litigation. Below is a list of 5 of the most common causes of real estate litigation and how to avoid them.

1. Boundary Disputes

One of the most common reasons real estate litigation conflicts is over boundaries. Often, a property's practical boundary line and the legal one are different. This leads to neighbors arguing over a strip of land between their adjacent properties, each claiming ownership. Conflicting surveys may show each neighbor as the owner, or one neighbor may use the other's property as an easement. This generates a separate use agreement that can change the usage and ownership rights of the land for both parties.

What a real estate attorney can do is perform property research, comparing public records with the newly done survey and the current practical use of the land. They may provide advice and recommendations to resolve the conflict or award estate ownership to one party.

2. Public Records Errors

One of the most common real estate litigation disputes are over public record errors. Public records are what people search for to determine the rightful owner of a property. Something as small as a typo can undermine someone's right to claim ownership. While it is possible to resolve a public record error, it can take time to fix

and be costly. Many people don’t realize that there’s an issue until the situation is dire.

Working with a real estate attorney can reduce the risk of clerical errors when you file documents. They will double-check with an eagle eye to ensure all of the information is correct.

3. Title Disputes

A title dispute arises when someone else claims to have legal ownership rights to your real estate. This can be one of the most challenging real estate litigation disputes for property owners to experience. It takes extensive research to ensure that the claimed seller of a property is its sole and rightful owner. In a worst-case scenario, a third party may successfully argue in front of a judge that they have a claim to the property. This will leave the new buyer with a financial loss and no property.

A real estate attorney can do the necessary research to ensure that you have a complete picture of your property’s ownership history. This reduces the risk of an unknown third party making an ownership claim.

4. Property Liens

A lien is a legal claim against property that can be used as collateral to repay a debt. Your mortgage company has an ownership claim on your property. However, real estate could have a property lien placed on it for an unpaid contractor, delinquent taxes, or another debt. Liens follow the property, not the debtor. As the new owner, you won’t have a clear title until those debts are paid. This is a common real estate litigation dispute with real estate that was foreclosed on.

A real estate attorney will assist in identifying and negotiating a resolution of any property debts so that the title is free and clear when you purchase a property.

5. Construction Conflicts

If your plan is to build and develop a property, you will likely have contractors and subcontractors who perform the labor during the

construction project. Unfortunately, disputes can arise between a property owner and the contractor or subcontractor that delay your project and result in a financial loss.

By partnering with a real estate attorney, you'll have someone looking out for your best interest. They will review any construction or real estate agreements to ensure that you understand the individual terms and the contractor's duties.

Real Estate Law Services

Buying or selling a home is a significant undertaking. We provide professional and experienced legal counsel so that our clients can rest easy knowing their rights are protected. Our team ensures that everything moves as smoothly as possible, so you don't have to worry about becoming entangled in a real estate litigation case. Request a consultation today, and one of our skilled attorneys will be happy to discuss your real estate plans.

Attorney For Real Estate Closing: What They Do

So you've found your dream home, made an offer, and the day has finally come to close the deal. But buying a home isn't just a simple purchase. The legal details of this transaction can be complex, which is why it's a good idea to enlist the help of an attorney for a real estate closing.

What Is A Real Estate Attorney?

A real estate attorney is someone who is licensed to practice real estate law. They have the knowledge and experience to shepherd parties through a real estate transaction, such as a home sale. The primary role of an attorney for a real estate closing is to prepare and review documents and contracts related to the sale and purchase

of a home. They make sure that the closing goes smoothly and look out for the best interests of both the buyer and seller.

Why Do You Need A Real Estate Attorney?

Real estate attorneys provide assistance with duties such as:

- Preparing purchase contracts
- Writing amendments to a contract
- Compiling information about the property
- Completing a title search
- Reviewing all documentation
- Conducting a closing

Here are a few reasons you may need an attorney for your real estate closing.

1. State or Lender Requirement

Every state has different laws regarding real estate transactions. Some states consider performing a home closing to be a practice of law, and as such, an attorney may be required to be present during closing.

2. Contractual Issues with the Purchase

In certain situations, your home purchase may involve unordinary elements that may lead to legal issues down the line. A real estate attorney will ensure that your contracts take into account the complexity of your situation, and help you if contractual issues arise during the process.

3. Peace of Mind

Having a real estate attorney present during the closing provides peace of mind, especially if you’re unfamiliar with the legal process of buying a home and want to make sure all your bases are covered. If an issue comes up, you can be confident that you have someone who is looking out for your best interests.

Experience Attorneys For Real Estate Closings

Whether you're buying or selling a home, closing the deal can be an intimidating and complicated process. The experienced real estate attorneys at DaMore Law are prepared to work with you to ensure everything goes smoothly. Our attorneys are knowledgeable in all aspects of real estate law, and they will offer you the best service possible. Call us to speak with a law expert today.

MA Smoke Detector Law for Homes Built Before 1975

An overview of MA smoke detector law for residential homes built before 1975 including details on the changes taking effect December 1, 2016

MA Foreclosure Explanation For Buyers

MA foreclosure explanation for buyers provided by Peter Damore at Law Offices of Peter T. Damore Jr.

Tips on MA real estate casualty loss tax deductions

Tips on MA real estate casualty loss tax deductions written byPeter Damore at Law Offices of Peter T. Damore Jr.