



LEGAL BRIEF

REAL ESTATE GUIDE

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The following information is based on real estate laws and practices specific to Clark County, Nevada. Please be aware that real estate regulations, taxes, and procedures can vary significantly from one state, county, or city to another. Therefore, this guide should be considered for informational purposes only and is not a substitute for legal or financial advice from a qualified professional in your specific area.

I. Brokers/Agents

In a typical real estate sale, there are two agents: a listing (seller's) agent and a buyer's agent. While there may be technical differences in their legal duties, you should not place absolute reliance on them to protect all your interests. An agent you retain may intend to represent your best interests, but they are ultimately salespeople focused on closing the sale to earn their commission. With that in mind, do not rely solely on an agent to negotiate every aspect of the sale for you, such as the best possible price, timing of closing, or move-in dates.

II. Brokers/Agents for Buyers

Many people begin the home-buying process by retaining a buyer's agent. The decision to hire an agent or search on your own depends on the time you can commit and whether you are interested in a new or existing home. Searching independently may save you money, particularly if you find a "For Sale By Owner" (FSBO) property where the seller is not paying a buyer's agent commission.

III. Brokers/Agents for Sellers

Sellers benefit from listing their houses with a real estate office primarily through the exposure their property gets on the Multiple Listing Service (MLS) and in advertisements funded by the broker. Another key benefit is the agent's role in preparing the necessary documents to complete the transaction, which can be a significant undertaking for those unfamiliar with the process.

IV. Purchase and Sale Agreement/ "Earnest Money Agreement"

Residential real estate transactions often proceed in reverse order compared to other major contracts. Parties typically sign a binding purchase and sale agreement (or "earnest money agreement") with only the guidance of a real estate agent before consulting a lawyer. It is often less risky to have an established escrow office handle the closing than to enter into the initial purchase agreement without legal review.

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If you sign a purchase agreement without a lawyer, use a standard form and ensure all blanks are correctly filled. Verbal promises not written into the agreement are generally unenforceable, while all written terms are likely to be enforced. If you back out of a signed agreement, you could be sued for damages incurred by the other party.

V. VA (Veterans Affairs) Loans

The VA loan is a mortgage loan program backed by the U.S. Department of Veterans Affairs, available to eligible veterans, service members, and surviving spouses. This program offers significant advantages for qualifying buyers.

Feature	Description
No Down Payment	In most cases, VA loans do not require a down payment, allowing for 100% financing.
No Private Mortgage Insurance (PMI)	Conventional loans typically require PMI for down payments under 20%. VA loans do not have this requirement, which can lower the monthly payment.
Limited Closing Costs	The VA limits the closing costs that lenders can charge to VA loan borrowers.
VA Funding Fee	Most borrowers will pay a one-time VA funding fee. This fee varies based on service type, down payment amount, and whether it is a first-time use. This fee can be financed into the loan amount. Veterans receiving VA disability compensation are typically exempt from this fee.
Eligibility	To secure a VA loan, a borrower must first obtain a Certificate of Eligibility (COE) from the VA. The property must also meet the VA's minimum property requirements, which are assessed during a VA appraisal.

VI. Closing

Closing is when legal title to the property officially passes to the buyer. An escrow agent typically handles this procedure, and closing costs are paid by the buyer and seller as stipulated in their purchase agreement.

VII. Form of Ownership

If two or more persons are buying the property jointly, the escrow agent will ask how you want your ownership characterized. This has important legal consequences. It determines your rights to the property while you are alive and affects what happens to your interest when you die.

In Nevada, all joint holders of property are deemed to be "tenants-in-common" unless another characterization is specified in the deed. (Nevada Revised Statute (NRS) 111.060). Tenants-in-common

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have separate interests in the property that may be sold independently (unless there is an agreement to the contrary) and that will go to their heirs instead of the other tenant-in-common upon the death of a joint holder.

Married couples who purchase real estate together may designate their interest as community property. The details of community property law are too complex to summarize here, but in Nevada your ownership would be less independent of your spouse than under tenancy-in-common; it does not include right of survivorship, which means that your spouse would not automatically inherit your interest upon your death. If you want to hold the property as community property with the right of survivorship, the deed must specifically say that. (Note: in most other community property states, ownership of community property automatically includes right of survivorship.)

Finally, parties may own property as joint tenants, which includes the right of survivorship. This form of ownership will rarely be advisable. If you wish to give someone other than a spouse the right to your share of the property upon your death, a will can do that and it is revocable. In joint tenancy, you have given the other person an interest you can't take back without his or her consent.

Ownership Type	Description	Survivorship
Tenants-in-Common	This is the default form of joint ownership in Nevada unless otherwise specified (NRS 111.060). Each owner has a separate interest that can be sold independently and passes to their heirs upon death.	No
Community Property	Available to married couples, this form provides less independent control than tenancy-in-common. Without a specific declaration, it does not include the right of survivorship.	No (unless specified)
Joint Tenancy	This form includes an automatic right of survivorship, meaning a deceased owner's interest passes directly to the surviving joint tenants. This is often inadvisable as it creates an interest you cannot revoke without the other's consent.	Yes

VIII. Homestead Exemption

Nevada law allows you to protect up to \$605,000 of your equity in your primary residence (including mobile homes) from judgments and bankruptcy. This protection does not apply to overdue real estate taxes, mortgage foreclosure, or mechanic's liens. You can file the exemption form yourself with the County Recorder for a small fee.

IX. Nevada Taxes

Nevada charges a transfer tax (like a sales tax) on the sale of real property. The tax rate varies by county. In Clark County, this tax is \$5.10 for every \$1000 of the sale price.

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Tax Type	Details for Clark County
Real Property Transfer Tax (RPTT)	A tax on the sale of real property. In Clark County, the rate is \$2.55 for every \$500 of the sale price (or fraction thereof).
Property Tax	The median effective property tax rate in Clark County is approximately 0.74%. Nevada offers a property tax exemption on a portion of the assessed value for veterans who served in combat theaters (NRS 361.090). This exemption is not automatic and must be applied for.

X. Federal Tax Considerations

Mortgage interest on a primary residence is generally deductible from federal income taxes when you itemize. Additionally, federal regulations allow for the exclusion of capital gains from the sale of a primary residence. You may exclude up to \$250,000 (\$500,000 if married filing jointly) of the gain if you owned and lived in the home as your main residence for at least two of the five years preceding the sale and have not excluded gain from another home sale in the prior two years.

X. Mortgage Rate Calculator

For a free mortgage calculation that includes taxes, insurance, and Private Mortgage Insurance (PMI), you can visit a reputable online mortgage calculator.

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