CAMPBELL & BRANNON

Contract to Close

Continuing Education Class

Overview

Today we will:

1) Take a behind the scenes look at the closing process;

2) Explore the role of each Campbell & Brannon team member; and

3) Give insight into our process, procedures, and everything we need for a seamless closing experience

Contacting C&B Team Members

First initial and Last name @cb.law

i.e. John Smith – jsmith@cb.law

Do not include .com after .law!

www.cb.law
www.campbellandbrannon.com

Who Makes Up the C&B Team?

- File Intake
- Title Examiner
- Title Curative
- Pre-Closer
- Closer
- Attorney
- Funder/Disburser
- Recorder/Post Closer
- And many many more!

Before Writing Your Contract

In some cases you should reach out to C&B prior to writing your contract:

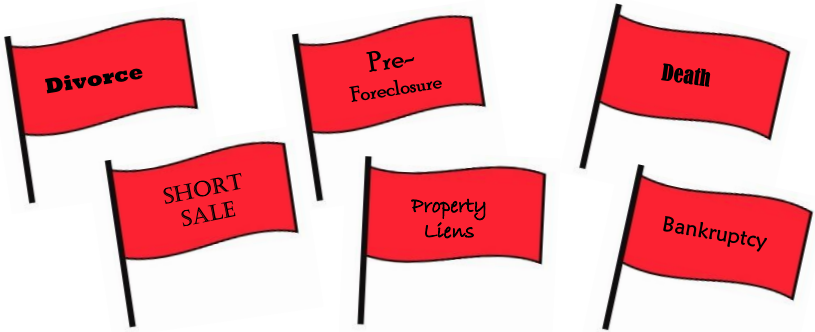
1. Request a legal description – attorneys@cb.law

2. Confirm ownership! Who needs to sign your listing agreement and contract?

3. Special stipulations

RED FLAGS!

The faster we know about these red flags the smoother the transaction will be.



File Intake

Send us your contract immediately! We begin working on it right away even if due diligence hasn't ended. Some issues will take several weeks to clear so we need to get started ASAP. Do not wait until after due diligence to submit the contract!

buckorders@cb.law -- Buckhead
alphorders@cb.law -- Alpharetta
cobborders@cb.law –Marietta West and East Cobb
intownorders@cb.law -- Intown
glenorders@cb.law -- Glenridge
woodorders@cb.law – Woodstock
sugarloaforders@cb.law – Sugarloaf
braseltonorders@cb.law – Braselton
northgaorders@cb.law – North GA
oconeeorders@cb.law – Oconee
orders@cb.law –not sure where to send it?

What should I send with my contract?

- Full contract and all exhibits, including the counteroffer
- Buyer and Sellers email address and phone number
- Lender contact
- Any extra documents specific to this transaction
    - Estate documents, divorce settlement agreements, corporate documents, trust agreements, death certificates
    - Is the buyer ordering a survey? If so, from whom?
    - Termite information
    - Copy of seller's survey

Title Exam

- The title examiner searches for all documents related to the property that were recorded in the county records for the last 50 years!
- The goal is to uncover all relevant matters in the chain of title so we can insure good and marketable title!

Title Exam

A title exam will show:

- Ownership
- Open loans
- Boundary agreements
- Driveway agreements
- Encroachment agreements
- Easements
- Missing interests
- The prior owner's open loans and liens
- Materialman liens
- If the property is part of a mandatory HOA
- IRS liens
- GA Department of Revenue liens
- Property tax liens
- Pending litigation
- And more!

Property Tax Report

- Confirms the tax parcel ID
- Confirms the size and dimensions of the parcel
- Shows the most recently paid tax bill
- Insures there is no outstanding tax bills
- Lists exemptions currently in place
- Alerts of ant pending tax appeals

Title Exam and Tax Reports

- The time it takes to complete a title exam depends on a variety of factors
    - Where is the property located?
    - How big is it?
    - Is it a platted subdivision or acreage?
    - Does the the county have COVID restrictions in place limiting access to the deed records?

- If you know there are special circumstances or have a closing date that is in less than 15 business days, please alert us so we can order the title exam as a rush file.

Pre-Closing – Introductory Email to Buyer

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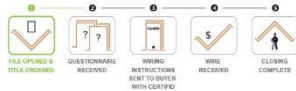


Thank you for choosing Campbell & Brannon for your closing and congratulations on finding a new home. I am your primary contact and have already started working toward your closing.

This is an exciting process and we appreciate the opportunity to walk you through your closing steps. Below are some of the requirements and milestones you'll need to be aware of:

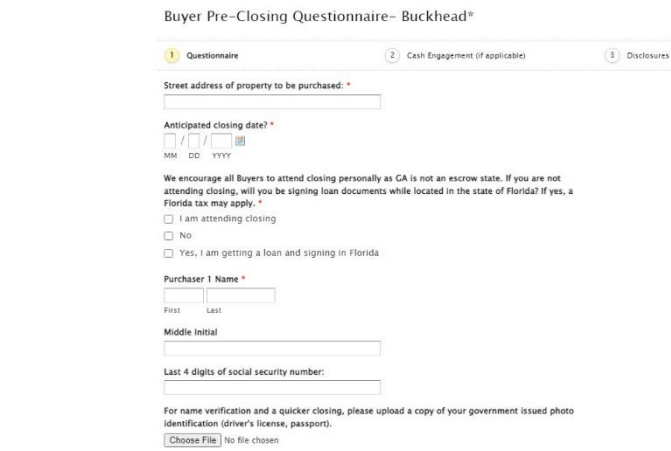
1. The title exam and tax certification have already been ordered for your property.
2. **Complete the Buyer Information Sheet: Please complete this questionnaire at your earliest convenience.**

Pre-Closing – Buyer Questionnaire

This information helps us draft their documents correctly and send wire instructions:

- Street address of property
- Anticipated closing date
- Do you plan on attending closing?
    - We encourage all buyers to attend closing personally
- Buyers' names and contact information
- Copy of their photo ID

Pre-Closing – Buyer Questionnaire



Buyer Pre-Closing Questionnaire- Buckhead*

1 Questionnaire 2 Cash Engagement (if applicable) 3 Disclosures

Street address of property to be purchased: *

Anticipated closing date? *

MM DD YYYY

We encourage all Buyers to attend closing personally as GA is not an escrow state. If you are not attending closing, will you be signing loan documents while located in the state of Florida? If yes, a Florida tax may apply. *

- ☐ I am attending closing
- ☐ No
- ☐ Yes, I am getting a loan and signing in Florida

Purchaser 1 Name *

First Last

Middle Initial

Last 4 digits of social security number:

For name verification and a quicker closing, please upload a copy of your government issued photo identification (driver's license, passport).

Choose File No file chosen

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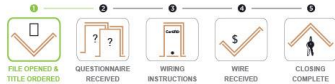
Pre-closing Introductory Email to Seller

CAMPBELL & BRANNON



We look forward to working with you on your upcoming sale. I am your primary contact and have already started working toward your closing.
This is an exciting process and we appreciate the opportunity to walk you through your closing steps. Below are some of the requirements and milestones you'll need to be aware of:

1. The title exam and tax certification has already been ordered for your property.

2. Seller Information Sheet: Please complete this questionnaire at your earliest convenience. This secure form

Pre-Closing – Seller Questionnaire

Our secure website allows you to quickly and safely submit information necessary for us to complete your sale.

You will need the following to complete it:

1. Copy of your mortgage statement and full loan number
2. HOA contact info
3. Water company information
4. Sellers' IDs

For security purposes this has to be submitted in one sitting – please complete it as soon as possible to avoid any closing delays!

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Pre-Closing – Seller Questionnaire

Water Service

Who do you pay your water bill through?

Paid through Homeowner's Association

City of Atlanta Dept. of Watershed Management **Please note: City of Atlanta requires prepayment to process, this will be collected at closing**

Cobb County

Fulton County

Gwinnett County

City of Roswell, Milton or Alpharetta

Others

Pre-Closing – Seller Questionnaire

SELLER PROCEEDS

- Check at closing: Please note that some banks may put a hold period on check
- Wire after closing
- Apply funds to purchase that is being handled by Campbell & Brannon.

If we do not receive the outgoing wire authorization form from the seller in person OR if you do not complete the CertifID wire verification, we must issue a check.

If you choose to have your proceeds wired, please do one of the following:

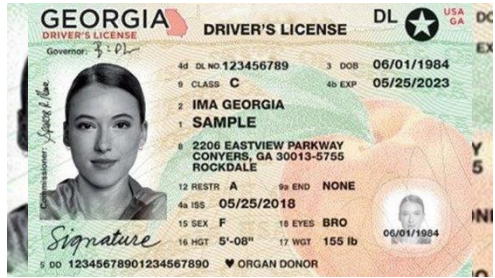
- Attach your wire instructions, bring your wire information, OR attach a voided check
- Send us your wiring instructions via secure email which we will confirm at closing.

For brokerage accounts (i.e. Charles Schwab, Merrill Lynch or Morgan Stanley), a voided check is not sufficient for wiring. Check with your banker/financial advisor for their official wiring instructions.

Pre-Closing – Seller Questionnaire

Asks for the following:

- Address of property being sold
- Sellers' names
- Copy of your photo ID
- Contact information
- Social Security Number – this field is encrypted and required for tax purposes
- Loan number
- HOA information



Pre-Closing – Seller Questionnaire

CLOSING ATTENDANCE AND SIGNORS

Closings run more efficiently when all parties are present. Your presence will reduce closing and funding issues.

Will all sellers on title attend closing?

If any seller is not able to attend closing, their options include:

- **Split closing: Seller signs in our offices at a different time prior to the buyer. There is a fee for this service.**
- **Email/Mail away: Seller signs documents sent via secure email. At minimum a printer, a witness and a notary public are required. There is a fee for this service.**
- **If the seller is abroad, please let us know ASAP as they may be required to set up a notary appointment with the US Embassy**

Pre-Closing – Seller Questionnaire

Power of Attorney (POA)

Do you need a POA prepared?

If you choose a Power of Attorney, you must send wiring instructions in advance so we may initiate the CertifID wire and identify verification process.

If possible, we recommend you use a POA specific to this real estate transaction and drafted by our office.

If providing your own POA, we must approve the document well in advance. Please note that many durable and general POAs are not consistent with Georgia real estate law.

Pre-Closing – Seller Questionnaire

TAX APPEALS

If a tax appeal is filed, the tax commissioner issues a bill for unresolved tax appeals at 85% of the maximum amount due based on the assessor's value.

If your tax appeal is still active by closing time, we will need the final bill to disburse funds escrowed at closing for the tax appeal.

Other Tax Matters

Are you filing a joint tax return?

If no, what percentage of the proceeds will each seller receive?

This is required for IRS purposes:
Seller 1: 40%
Seller 2: 60%

Pre-Closing – Seller Questionnaire

Georgia Withholding

3% of the Net Taxable Gain

Exempt if:

1) Georgia Resident (you cannot lose residency until you establish residency somewhere else)
2) Selling Primary Residence (2 of the last 5 years)
3) May be deemed a resident if:
    a) Filed GA tax returns for the past two years; AND
    b) Is an established business in GA and will continue to be a business establish in GA or has real property in Georgia at the time of closing of equal or greater value than the tax liability; AND
    c) Will report sale on their GA tax return; AND
    d) If seller is a corporation or limited partnership, seller is registered to do business in Georgia

Pre-Closing – Seller Questionnaire

Georgia Withholding

If you are not exempt the DOR withholds 3% of the net taxable Gain

Net taxable gain is determined by:

Sale Price
- Cost Basis
- Selling Expenses
Net Taxable Gain

Pre-Closing – Seller Questionnaire

FIRPTA

Are you a non-resident alien?

If Yes, our office will contact you about the possibility of FIRPTA withholding.

If your seller is a non-resident alien let us know ASAP so we can refer them to individuals who specialize in FIRPTA withholding to determine their tax liability

Sales Price $300,000 or less and buyer acquires as principal residence	No Withholding
Sales Price between $300,001-$1,000,000 and buyer acquires as principal residence	10% Withholding
All transactions—Any Sales Price and buyer NOT acquiring as principal residence	15% Withholding

CertifID

CertifID is an application that allows for real-time verification of devices (cell phones), individual identities, and bank account information. Think Big Brother and Big Data!

Wires are insured for up to $1 Million when using wire instructions received through CertifID.

Pre-Closing – Special Sellers

Trusts:
- Trust Agreement
- Certificates of Trusts are acceptable.

Estates:
- Last Will & Testament and Letters Testamentary OR equivalent probate.
- If Joint Tenants, we only need the Death Certificate.

LLC:
- Operating Agreement
- If Sole Member we accept Sole Member Certification
- Corporate Resolution with Signing authority

INC:
- Articles of Incorporation from Secretary of State website
- By-Laws

Pre-Closing- Initial Contract Review

Look for all terms relevant to the closing

Insure we received all exhibits

Termite? Home warranty? Survey? Other items a party is paying for at closing?

Stipulations that will impact closing or the settlement statement

Pre-Closing – CAD

COMMUNITY ASSOCIATION DISCLOSURE
EXHIBIT "_____"

GeorgiaREALTORS

2022 Printing

This Exhibit is part of the Agreement with an Offer Date of _____ for the purchase and sale of that certain Property known as: _____, Georgia _____ ("Property").

Directions for Filling Out This Community Association Disclosure ("Disclosure"). Seller must fill out this Disclosure accurately and completely. If new information is learned by Seller which materially changes the answers herein, Seller must immediately update and provide Buyer with a revised copy of this Disclosure up until Closing (see Section 8 for Seller's payment obligations related to Initial and updated Disclosures). Seller should ensure the disclosures being made are accurate by confirming the same with the Community Association ("Association") and/or Association Manager(s).

Buyer's Use of Disclosure. While this Disclosure is intended to give the Buyer basic information about the community in which Buyer is purchasing, Buyer should read the covenants and other legal documents for the community ("Covenants") to fully understand Buyer's rights and obligations therein. This Disclosure does not address all issues that may affect Buyer as the owner of a residence in the community. Assessments in community associations tend to increase over time. The Covenants can normally be amended to reflect the changing preferences in the community.

A. KEY TERMS AND CONDITIONS

1. **TYPE OF ASSOCIATION IN WHICH BUYER WILL OR MAY BECOME A MEMBER** (Select all that apply. The boxes not selected shall not be a part of this Exhibit)
   - ☐ Mandatory Membership Condominium Association
   - ☐ Mandatory Membership Community Association
   - ☐ Mandatory Membership Master Association
   - ☐ Mandatory Membership Age Restricted Community
   - ☐ All units are occupied by person 62 or older.
   - ☐ At least 80% of the occupied units are occupied by at least one person who is 55 years of age or older
   - ☐ Optional Voluntary Association
2. **CONTACT INFORMATION FOR ASSOCIATION(S)**
   a. Name of Association: _____
   Contact Person / Title: _____
   Association Management Company: _____
   Telephone Number: _____ Email Address: _____
   Mailing Address: _____ Website: _____
   b. Name of Master Association: _____
   Contact Person / Title: _____
   Association Management Company: _____
   Telephone Number: _____ Email Address: _____
   Mailing Address: _____ Website: _____
3. **ASSESSMENTS**
   The total annual assessments paid to all the above selected Association(s) is $_____ per year and paid as follows: (Select all of that apply. The boxes not selected shall not be a part of this Agreement)
   ☐ Monthly ☐ Quarterly ☐ Semi-Annually ☐ Annually ☐ Other: _____
4. **SPECIAL ASSESSMENTS**
   a. Buyer's total portion of all special assessments Under Consideration is $_____
   b. Buyer's total portion of all approved special assessments is $_____
   c. Approved Special Assessments shall be paid as follows: (Select all of that apply. The boxes not selected shall not be a part of this Agreement) ☐ Monthly ☐ Quarterly ☐ Semi-Annually ☐ Annually ☐ Other: _____
   d. Notwithstanding the above, if the Buyer's portion of any and all special assessment(s) that are passed or Under Consideration after the Binding Agreement Date is $_____ or more, Buyer shall have the right, but not the obligation to terminate the Agreement upon notice to Seller, provided that Buyer terminates the Agreement within five (5) days from being notified of the above, after which Buyer's right to terminate shall be deemed waived.

Information on the CAD allows us to order the closing letter

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Pre-Closing - Commission

Instructions to Closing Attorney (F255)

Total commission?

Commission Split?

Contributing to closing costs?

Paying for an item on behalf of the client?

Pre-Closing – The Lender

Send title commitment to lender

Confirms property taxes, HOA fees, transfer/intangible tax, recording fees, etc.

Coordinate with lender's underwriter for any title related questions

Title Insurance

The one-time payment protects you and your heirs for as long as you own the property

Insures Good and Marketable Title – defends title and pays for claims from loss due to a covered risk

PROTECTS YOUR LARGEST INVESTMENT!

The Owner's Title Policy protects against defects that are missed or cannot be discovered in a routine title exam and title problems that are created after the title exam but before closing.

The seller only guarantees that they have not created a title issue. The purchaser has no recourse against the seller for problems created by prior owners. Title insurance provides this protection.

Owners vs. Lenders Title Policy

Enhanced Owner's Title Insurance

- ✓ Post-Policy Forgery
- ✓ Post-Policy Encroachments by Neighbors
- ✓ Post-Policy Adverse Possession
- ✓ Post-Policy Easement by Prescription
- ✓ Building Permit and Zoning Violations
- ✓ Vehicular and Pedestrian Access
- ✓ Restrictive Covenant Violations
- ✓ Policy amount increases 10% per year up to 150% of original policy amount
- ✓ Pays rent/expenses if you cannot live in your home due to a claim

Surveys

Georgia is a buyer beware state – buyer has a duty to inspect

Identifies boundary lines, set back lines, improvements, stream buffers, easements, encroachments, etc. It will also note if the property is in a flood zone .

Don’t Rely on Old Surveys

A surveyor’s liability runs ONLY to the name(s) on the survey. Only those named on the survey have recourse for a surveying mistake.

An old survey is for information only.

Stream buffers are newer and many older surveys do not show stream buffers. A stream (by the state definition) is difficult to determine by a buyer’s visual inspection of the property.

Newer surveys are conducted using more precise equipment.

Surveys in Due Diligence

If a survey comes back after the due diligence period, buyers can object to title matters but have no recourse for non-title matters such as:

- Stream Buffers
- Flood Zone
- Easements that limit the possibility of building
- Property is not as big as you thought

If the survey won't be back during due diligence you can include a special stipulation for survey matters.

> *Should Buyer obtain a recent survey of the property, Buyer shall have the right to terminate the Purchase and Sale Agreement without penalty and with full refund of all Earnest Money if in Buyer's sole discretion any matters revealed by said survey are objectionable to Buyer. Buyer shall notify Seller of such termination for matters revealed by said survey no later than ___ days from Binding Agreement Date.*

Closer

Works with Lender to balance the CD and receives the final loan documents.

Balances the closing file and sends the settlement statement in advance to review.

Confirms receipt of all items referenced in the contract: termite, home warranty, HOA letter, insurance, water bills, etc.

Prepares, with the attorney, deeds, affidavits and other documents signed at closing.

Confirms receipt of wires

Closer – taxes and escrow

Estimated Taxes:

If property has more than homestead exemption or is new construction, we will ask lender if they need estimated taxes depending on the time of year.

We include estimated taxes for the following year on the title commitment.

We review the exemptions on the tax report for any significant exemptions.

New constructions amounts should be based on the % of completion as of January 1st

Tax Assessments:

If the assessment is released we use the assessment amount for tax prorations prior to the bill being released rather than the prior year.

Closer – Parties not Attending Closing

Seller Mail Away:
Seller will need to be available on the closing date in case the buyer's loan package includes documents to be signed by the seller.

Confirm with the seller that they can print the documents. Seller mail away documents are on letter size paper.

We send a prepaid FedEx label and require a copy of the signed documents to review before they drop them off.

CASH Buyer Mail Away
Documents can be signed via HelloSign

We do not require originals

Closer – Parties not Attending Closing

Loan Buyer Mail Away

We strongly discourage a mailaway with a loan package. A POA is typically a much better option.

The lender must send us the loan package at least 3 days prior to closing in order to receive the originals back before closing.

We will set the buyers up with a mobile notary. The fee for a mobile notary varies and will be collected from the buyer on the settlement statement.

A copy of the signed documents must be returned to the closer to review prior to returning the original package.

Wiring Funds

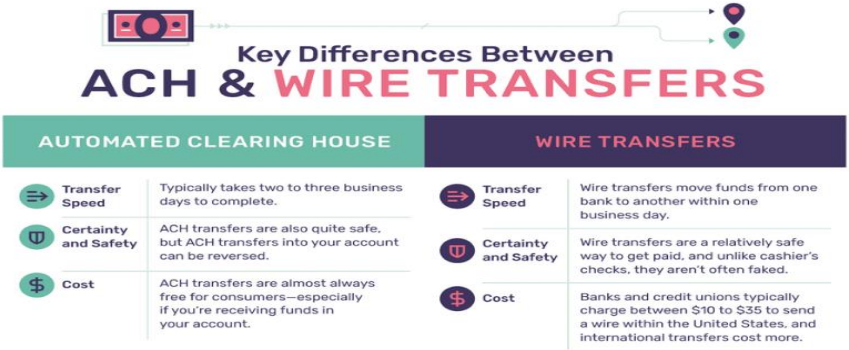
Wire funds at least one day prior to closing!

A buyer should contact their bank to confirm wiring procedures - most banks require you appear in person to initiate a wire.

If funds are coming from an investment account the wire may need to be initiated more than one day before closing.

A buyer should only rely on wire instructions provided through CertifID and confirmed over the phone via an independently verified number.

Wiring Funds



NO closing attorney can accept an ACH transfer for closing funds.
Our account automatically rejects ACH wires.

Closing Day - Buyers

Checklist:

- ✓ Unexpired government issued photo id
- ✓ Second form of id (not a credit card)
- ✓ Confirmation that funds have been received by Campbell and Brannon
- ✓ A check or checkbook
- ✓ Original Power of Attorney, if applicable

Closing Day - Sellers

Checklist:

- ✓ Unexpired government issued photo id
- ✓ Keys, garage door openers, amenity cards, garage codes
- ✓ Original Power of Attorney, if applicable
- ✓ Wire Instructions

Closing Day - Agents

Checklist:

- ✓ Ensure your clients are aware of office location and closing time
- ✓ Communicate any special needs to Campbell and Brannon (any disability needs, babies, pets, etc.)
- ✓ Earnest Money, if needed

Questions?

Contact

Attorneys@cb.law