1. What is the Settlement and the Settlement Agent’s role?

The Settlement or also known as the Closing, is the culmination of the home buying process where the purchase and the sale of the home is completed. The Settlement Agent’s role involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the sales contract between the Purchaser and the Seller.

2. When do I contact or identify the Settlement Agent?

Once you have identified the home you wish to purchase, a sales contract will be completed with the assistance of your Realtor using a standardized form sales contract provided by the local board of realtors. The Purchaser’s Settlement Agent of choice must be identified in the sales contract.

By law in Virginia, the Purchaser has the right to select who handles the settlement/closing on behalf of the Purchaser.

3. What is Title Insurance?

Before answering “what is title insurance”, it might be best to first answer “What is title?” “Title” is the ownership in real property. Among other things, it means that you have the legal right to possess, occupy, peacefully enjoy and sell your property without interference from others, subject only to restrictions imposed by governmental authorities or previous owners.

In most cases, title is transferred by deed which is recorded in the land records of the county/city in which the property is located. Generally, when property is sold, an attorney for the Buyer or a title examiner goes to the land records room of the local courthouse and searches the land records for any title defects. A title defect is anything in the entire history of ownership of a piece of real estate which may encumber the owner’s rights under the title. A title defect may cause the owner of
real property to lose all or part of his land to a superior ownership interest or claim of another. This is the type of loss which title insurance protects against. In short, if you own a title insurance policy, the title insurance company will defend you, without cost, against an attack or claim upon your ownership interest in your property as insured and you will be protected against financial loss caused by a title defect.

4. Are there different types of Title Insurance?

Yes. There are three types of Title Insurance. A Lender’s Policy, Standard Owner’s Policy and the Owner’s Enhanced Policy. As a part of your transaction, any corporate lender will require that you purchase lender’s title insurance as a condition of the loan. This coverage the lender for the amount of the loan they are making to a borrower. This coverage only protects the lender, not you, and the coverage diminishes as the loan is paid off.

Owner’s title insurance protects you against any covered loss from failure of title up to the full amount of the policy. Owner’s title insurance protects you against those hidden risks which would not be disclosed by even the most meticulous search of the public records such as fraud, forgery, misfiled liens and judgments.

The Standard ALTA 1992 Owner’s Policy protects you as the owner of real property against fraudulently executed documents, incorrect representations and improperly probated wills as well as any unsatisfied claims that may not appear in the land records.

The Owner’s Enhanced Policy covers you, the owner against all that is included in a standard ALTA 1992 policy but with additional and enhanced coverage.

5. What is a HUD 1 and why do the Purchaser and Seller have to pay similar Settlement Fees?

A HUD-1 is a Housing and Urban Development form that is required by RESPA (Real Estate Settlement Procedures Act) for use with the closing of any federally related mortgage loan, which includes most loans secured by a lien on residential property. The HUD-1 is also known as the Settlement Statement and provides an itemization of the closing costs for both Purchasers and Sellers. The sales contract identifies the reasonable and customary settlement fees associated with finalizing the transaction that the Purchaser and Seller are expected to pay separately from the lender fees that will be explained by the loan officer involved in the transaction.