

Don't Make the Wrong Decision, Know the Facts

Below Are 9 Important Items Everyone Should Know About Before Purchasing Property

1 Is there a recent survey with ribbons and paint clearly marking lines and corners? Today's surveying equipment is much better than it used to be. Older surveys can have significant errors that can cause problems especially when you try to match them with bordering properties. The survey should be certified by a registered property line surveyor as shown by a stamp identifying them as such on the plat or the legal description of the property. In addition, the new survey should be evident on the ground. Corners are generally marked with iron rods topped with a yellow cap identifying the surveyor. In Maryland, property lines should be delineated with blue spots of paint on trees, fences or stakes. Ribbons are quite visible, but do not last very long. That's why you want both ribbons and paint marking your property lines no matter what state you're in.

2 Is there a Health Department approved and recorded perk test, what kind of system is it approved for and is it marked? You cannot build a house on a property without some kind of sewerage treatment system (outhouses are generally not legal anymore). Most country properties use some type of on-site system. The most common is a standard septic system which consists of a septic tank for collecting solids and a drain field that percolates liquids back into the ground. To obtain Health Department approval for such a system, someone (with a backhoe) has to dig a six foot deep hole to make sure that there is enough soil for the system (if you hit solid rock at three feet it won't work). If the deep hole is okay, smaller two foot deep holes are dug and water poured into them. The time that it takes for the water to percolate into the ground is recorded and that information, along with the number of proposed bedrooms or bathrooms, is used to size the system. The percolation rate must not be too fast (causing untreated waste to enter the ground) or too slow (causing the system to back up if used heavily). The results of this test should be on file with the local Health Department. If not, you may have a problem building a house on the property. The perk site should be clearly marked so that you can find it and plan construction accordingly. Approval for alternative systems varies by state. Most are quite a bit more expensive than a standard septic system. Before you buy, you should know what kind of system (and its approximate cost) for which the property is approved.

3 What is the status of mineral rights both subsurface and surface and are there any easements for utilities or access rights to adjoining properties? You should know what documents have been executed and recorded that establish rights for others to use the property. These can be rights that affect either the surface of the property or rights that pertain to things underground. It is quite common for property to have subsurface rights that are owned by oil, gas, or mineral companies. Many of these rights were bought up decades ago. The good news is that most of them do not include use of the surface of the property. You should ask what subsurface rights are reserved and if they include anything that affects the surface of the property. Regarding the surface of the property, there are many types of "easements" that can give others rights for use. Typically, utilities like water, telephone, and electric lines are granted easements when they cross properties. If they are executed and recorded properly, you cannot do anything to disrupt their use of the property even if you buy it. It is also fairly common for a neighboring property to have an easement for the placement of a driveway for access to their property. Any reservations or easements, surface or subsurface should be recorded in the county land records. Before you buy a property, you should hire an attorney (which your bank will probably require) to search the records for you. But before you even get that far, ask the seller or their agent about reservations and easements.

4 Is the Title clear of encumbrances, Life Estates, Liens, etc... ? Another thing that an attorney can do for you when they perform a "title search" is to see if there are any other matters preventing you from obtaining a clear title to the property. For example, any mortgage debt secured by the property should be

recorded. You cannot obtain good title to a property until the previous loan is paid and a release recorded in the land records. Likewise, someone (like a previous owner) may have the right to live on the property (life estate) or to farm or timber (purchased the timber rights) the property. You should ask if anyone else has any right to use the property even after you buy it.

5 Where will my utilities come from; telephone, electric, water etc... ? If you are going to build on the property, you will probably want to establish telephone and electric service and you certainly will need a source of water. Some country properties obtain water from a public or community system. If not, water is generally obtained by drilling a well. You can find out how good the wells are in a area from well drillers or the Health Department. They vary greatly both in terms of quantity and quality of the water the wells produce. Wells vary greatly even from site to site in the same area, so you won't be able to get a "guarantee" for a new well, but you can get a range of quantity and quality that wells in the area typically produce. For community water systems and for electric and telephone service, you should be able to get a fairly specific estimate of what's involved. In the case of new properties, the owner/developer should have established some means of obtaining utility service close to or, preferably, at the property. Running new lines long distances gets very expensive, so you should ask how close the nearest service line is to the property and how much it will cost to connect to the system.

6 Does the property have year-round access and is the road private or public? Depending on your intended use of the property, you will probably want dependable year-round access. If the property has frontage on a public road, the local government will probably be responsible for maintenance. You should know for sure. There also may be permit requirements for building a new entrance to the public road. You should find out what they are and make sure that you'll be able to build one. If the road is private, as in a community, you should know what mechanisms are established for the road to be maintained (like snow plowing, ditching, regrading, etc...) and insured, what specific legal recorded right the property owner has for the use of the road, and what all this will cost in terms of annual fees (like dues to an owners' association). If there is no established, legal mechanism for the community roads, problems often occur when some owners invariably bear more of these expenses than others.

7 What building restrictions affect the property? These could be either public zoning laws administered by local government, or private, deeded covenants administered by a property owners' association. You should ask about building restrictions before you buy. Some restrictions are quite strict, so you need to know if they affect your intended use of the property. Some are also quite complicated, especially if they are part of the by-laws of a community association.

8 Is there a rescission period for canceling the purchase and how will the transaction work? There is a lot to find out! Therefore, many companies will give you and some states require typically 5 to 15 days to read everything and find out everything you want to know before purchasing the property. You should be able to decide not to purchase the property for any reason within that time. Usually, the transaction works like this: You and the Seller will execute a contract of sale, at the same time, you will give a deposit. You should get a receipt or acknowledgement of your deposit and know under what terms or conditions the Seller is allowed to keep your deposit if you don't buy the property. If, after the rescission period, you decide to go ahead, you will apply for financing (unless you are paying cash). There should be a financing contingency in the sales contract. That is, if you apply for financing in good faith and in a timely manner but are turned down for whatever reason, you are released from the obligation of the contract of sale and should still get your deposit back. Once you are approved for a loan, the bank will usually hire an appraiser to make sure that the property is worth what you are paying for it, and an attorney to do a title search to make sure the you will get a good title to the

property. Once the appraisal and title search are complete, you will schedule a closing date, usually at the bank or the attorney's office, for the actual completion of the purchase.

9 If you are working with a Realtor or Multiple Listing agent, is the property their listing? This is a subtle, but possibly important, thing to consider. Typically, sellers enlist the services of a real estate brokerage to help them sell their property. The brokerage and agent working directly with the seller is called the listing agency. The listing agreement between them usually allows the brokerage to put the property in a Multiple List System of some kind. The MLS gives other agents/brokerages the right to sell the property, also. This is called cobrokerage (two brokerages working together). However, agents other than the listing agent seldom work with the seller. In fact, they usually have never met the seller and, often, have never seen the property before they go out and show it to a prospective customer. This despite the fact that they are representing the seller and representing the material facts related to the property for you to make your decision. The listing agent will almost certainly know the most about the property and be able to provide you with the best information in that regard. In addition, anyone but the listing agent will usually have to split the commission with the listing agent. That's why agents generally prefer showing their own listings and often aren't as interested in selling properties listed by others. So, for all these reasons, it's not out of line to ask if the agent you are working with is the listing agent for the property.

This report was prepared for you by Cheryl and Keith at Appalachian Land Services. We hope this report helps you feel confident and informed when making Real Estate purchases. Thanks for your interest, and visit us again soon at www.landservice.com or call 1(800) 898 - 6139 for more information.

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