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UNMARRIED COUPLES TAKING ADVANTAGE OF THE HOMEBUYER TAX CREDIT SHOULD UNDERSTAND THEIR RIGHTS

The Homebuyer Tax Credit is scheduled to expire soon. To take advantage of the tax credit, homebuyers must enter into a binding contract to purchase a home before May 1, 2010, and they must close on the home before July 1, 2010.

Not surprisingly, many unmarried couples have sought to take advantage of the tax credit by purchasing a home together. Those unmarried couples doing so should consider the following issues:

- Will each person pay an equal amount for the down payment and closing costs?
- If not, will each person own an equal share of the home?
- Will each person be responsible for an equal share of the monthly mortgage payment?
- What happens if one person is unable to make a timely monthly mortgage payment? If the other person makes up the difference, is this treated as a loan, a gift, or does it affect the ownership percentage in the home?
- Who gets to decide on necessary repairs/maintenance for the house, and who must pay for them? Similarly, who gets to decide on unnecessary repairs/maintenance for the house, and who must pay for them?
- Will anyone else be permitted to live in the house? For example, a friend, sibling, or parent in need of a place to stay? If so, will they pay rent?
- Will either person be compensated for labor expended on or around the home (e.g. lawn work, painting, cooking, laundry, etc.)?
- What happens if one person can no longer afford the home and wants to sell? If one person dies?

While the blissful couple may believe that a spoken agreement will suffice, they should be mindful of the potential pitfalls of such an arrangement, especially if the relationship falters. For this reason, it can be very beneficial to obtain a Home Purchase and Co-Tenancy Agreement to ensure each party is aware of their rights and responsibilities, both during and after the relationship.