

Avoiding Closing Delays, Part 2

Contract Items, Vesting, HOA Fees, Closing Costs, and More

Contract items

Your clients have found a buyer for their home, and it's time to sit down to write the contract. Whether you're new to real estate sales or you're a seasoned pro, you may be interested to know that there are a few places in the contract where a little extra attention can pave the way for a smooth closing.

Vesting

If there is more than one buyer, it is important that the vesting box be checked in Section 2 of the contract. Many people assume that married couples will take title as joint tenants and all other buyers will be tenants-in-common, but that is not always the case. A proper notation in this portion of the contract can save time and mistakes later in the closing process.

HOA fees

The contract has two different boxes to check regarding Homeowner's Association fees.

The first option box is regarding the payment of a Status Letter Fee. The second option box is regarding the payment of an Association's Transfer Fee. The option box choices for each one are buyer, seller, or half by buyer and half by seller. Please make sure these option boxes are completed (as well as all other option boxes in the contract). The closer cannot assume who will be paying fees, so if an option box is not completed, the closer will need to call the

agent for instructions.

Since various HOAs often use different terminology, and some even use the two terms interchangeably, it is helpful if both boxes are checked the same way. That way, the title company knows the intention is for the seller, buyer or half by each to pay all HOA related fees, regardless of what they are called.

Closing costs

The 2009 contract provides an area in Section 4-c to indicate if there will be down payment assistance and seller-paid costs.

The amount put in the blank in Paragraph 4.4, Seller Concessions, is the total amount the seller is agreeing to pay to assist the buyer with closing costs, loan discount points, loan origination fees, prepaid items, and any amounts the buyer is not allowed to pay due to the loan being an FHA or VA.

Addendums

Many a Realtor would be surprised to learn just how many contracts show up on the closer's desk without addendums attached, including Inspection Resolutions. Sending these along at the time the contract is sent in (or as soon as they are signed, if after the contract) can help your closer work more efficiently, with fewer follow-up phone calls to hunt down any missing attachments.

Funding numbers

The seller's principal function at closing is to sign and deliver the deed that conveys

title to the property. Once this is done, the seller usually wants to know, “Where’s my check?” The answer to this question sometimes leads to anger, frustration, or hard feelings toward the title company. When the seller understands in advance how the closing process works, these difficulties can be avoided.

Technically, the closing is not complete and title is not passed to the buyer until all the performances required by the contract have been completed. Foremost among these is delivery of the entire purchase price to the escrow agent, the title company. While the buyer may have already delivered the cash portion, the buyer’s lender may create some delay in delivering the financed portion of the purchase price. The length of the delay is determined by lender’s processes for conducting business, and, of course, the time of the month (or even the time of day!) when the closing takes place.

Some lenders include a check with the loan package and allow the title company to call prior to closing to get a funding number.

In rare instances, the lender provides the funds and relies on the title company to disburse without further authorization when the title company has complied with lender instructions.

However, a large number of lenders require the title company to fax a package of signed documents to the lender’s office for review. When satisfied, the lender will provide the title company with a “funding number,” which means the documents have been accepted and that the money has been received. Without a funding number from a lender who requires one, the title company does not have “good funds” to disburse. Not only will the seller be waiting for his check, but the Realtor’s commission check and the payoff itself will be delayed until the funding number comes through.

When working with a lender who requires faxed copies of signed documents before issuing a funding number, a closer may call the Realtor to suggest that the buyers arrive half an hour before their scheduled closing to complete the loan package. Then, while the purchase portion of the closing is taking place, loan documents can be faxed to the lender and funding numbers may come in before the end of closing. Of course, during busy times like the end of the month, when lenders may not be at their desks, there still may be a delay in getting funding numbers in a timely manner.

In most cases, funding can still occur on the same day the documents are signed, but when signing occurs late in the day, it may be the following business day before funds can be disbursed. If a loan package and check arrive at 4:00 p.m., for example, and funding numbers come from a lender in the midwest or on the east coast, then the title company may need to wait until morning to fund.

When sellers and buyers are educated about the funding process, a great deal of closing table anxiety can be avoided.

More helpful information...

For more information on avoiding closing delays, visit our website at www.LTGC.com and click on the Technical Bulletins link at the bottom of the home page. You’ll be able to access our June 2009 Technical Bulletin, “Avoiding Common Closing Delays, Part I: Wires and Payoffs,” as well as view a complete listing of all Land Title Technical Bulletins.

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