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ANTICIPATE PROBLEMS BEFORE THEY HAPPEN
AND YOUR CLOSINGS WILL STAY ON TRACK.

Clearing the Closing Hurdles



By Mariwyn Evans

All your hard work has paid off. The purchase contract is signed. Now you can just sit back and wait to get paid. Wrong!

“Sometimes clients and salespeople think the closing is going to be a piece of cake, but these days, having a contract is only the beginning,” says Mary Sand, ABR, SFR, a branch manager and director of training with Century 21 Arizona Foothills in Phoenix. According to recent REALTORS® Confidence Index surveys conducted by the NATIONAL ASSOCIATION OF REALTORS®, between 10 percent and 14 percent of pending transactions don’t close. Another 20 percent are delayed but eventually close.

The easiest way to avoid a closing delay is to do your homework up front, says Alicia Trevino, president and CEO of Century 21 Fine Homes & Estates in Dallas. “Most of the time, a problem at closing really starts much earlier,” she says. Trevino encourages her 52 sales associates to use a checklist of tasks that

must be completed. She suggests they review the list weekly and make follow-up phone calls to lenders and title companies, as needed.

Setting realistic client expectations is also essential. “Before they sign the purchase agreement, you need to educate your clients about the possible closing hurdles. You don’t want to scare them, but they do need to understand what could go wrong—from buyers who can’t qualify for a loan to delays with title,” Sand says.

Most hurdles that delay or prevent closings fall into three major areas: loans and appraisals, titles, and home inspections. By focusing in on the most common closing hurdles in each of these areas, you can gain control of your transactions and master the intricate details that make a closing happen.

Financing falls through at the last minute

Help buyers get their documentation in order

PROBLEM

SOLUTION

Tighter—and in some cases still-evolving—loan underwriting standards make it more critical than ever for buyers to make sure they're financially qualified for the purchase, says Marki Lemons, ABR, CRB, a broker with Keller Williams Realty Chicago Consulting Group.

However, because of new requirements under the Real Estate Settlement and Procedures Act, many lenders are no longer issuing preapprovals—only prequalifications. If a buyer you're working with has just a prequalification letter, Lemons recommends finding out whether income and assets have been verified.

"I look for a letter that shows the buyer has talked to someone face-to-face, not just completed an online form," says Laura Sanders, a sales associate with Sibcy Cline Inc., REALTORS®, in Florence, Ky.

Tighter lending standards and heightened concern about mortgage fraud also mean more time-consuming paperwork, says Tracey Rumsey, a mortgage loan broker with Southwest Business Corp. in Bountiful, Utah, and author of *Saving the Deal* (AMACOM, 2008). "Mortgage brokers have had to relearn the underwriting process and ask all the questions up front," she says.

For example, not only do FHA buyers who receive funds from a family member have to disclose the gift and its source, but the person making the gift must also show the source of the funds. "It's easy to overlook this requirement, but you can't fund the loan without it," she says.

New condominiums can be a particular loan challenge because the FHA requires that 50 percent of the development's units must be under contract before the agency will approve financing for



Photo by Matthew Gilson © 2010

individual condos. "The FHA was doing spot loan approvals for a while, but it's getting harder," Sanders says. Unless an exception is made, a buyer will have to shift out of an FHA product. Lenders are also asking to see statements of homeowner's association reserves before approving a loan, which can create "a great deal of difficulty at the last minute if the HOA isn't cooperative," she says.

Lenders and mortgage loan investors in the secondary market are scrutinizing actual tax transcripts from the IRS much more closely, Rumsey says. She recalls a recent transaction in which a husband and wife had enough income to qualify for the loan amount. However, the lender's review of their tax forms found the wife had an \$8,000 loss from a side business, which dropped their income to below the required amount.

"A lot of lenders have stopped providing preapproved letters."

Marki Lemons, a broker with Keller Williams Realty Chicago Consulting Group

Appraised value doesn't support contracted sale price

Become an ally of the appraiser

PROBLEM

SOLUTION

"The biggest hurdle to closing in an uncertain market is the lack of comps, especially for FHA and VA loans that require comps to be within a three-month time limit," says John Mijac, e-PRO, GRI, with Old Adobe Realty in Tucson, Ariz.

To bridge the gap between his clients' \$175,000 offer and a recent comp that sold for \$145,000, Mijac did a new CMA that justified the offer price.

Still, the appraiser wouldn't budge. So Mijac worked with the listing agent to send supporting documents to Fannie Mae and ask for an adjustment. The property finally appraised and sold at \$165,000.

Questioning comps in transactions involving VA loans has gotten easier since the implementation of the so-called "Tidewater Initiative" in 2003. It allows any party of a real estate transaction to supply market data and information >>>

on recently sold properties to a VA appraiser through a designated third-party contact. "Tidewater lets you use comps outside of your area and other material justifications to support a price," Mijac says.

"Occasionally, we have trouble with values and current comps," says Kara Folkins, a sales associate with Keller Williams Realty in Tulsa, Okla. FHA underwriters prefer to see data on two comparable properties that sold in the last 90 days, one that has sold within the past six months, and one that's currently on the market.

"In some neighborhoods, that's hard to find," Folkins says. She's comfortable asking appraisers to help her understand where they got their comps. She's also hired second appraisers to present another picture of value.

The Home Valuation Code of Conduct, or HVCC, "has taken away the power of lenders to do quick closings," Trevino says. The federal regulations, meant to ensure the integrity of the

appraisal process, require that appraisers are assigned by a third party, such as an appraisal management company. If an appraiser isn't familiar with the neighborhood or property type, the result could be a value that's way off base.

Buyers of securitized loans also are doing more due diligence on home values these days, and that can present another appraisal hurdle. "We had a transaction where the secondary market underwriter questioned the appraisal because it didn't match up with the value on Zillow," says Gary Kenline, CRB, senior vice president at Hunt Real Estate Corp. in Buffalo, N.Y.

In transactions involving a foreclosed home, it's not unusual for the bank that owns the property to balk at a valuation that it sees as being too low, Lemons says. To make the transaction work, "a CMA just doesn't cut it any more," she says. "You have to take the time to submit a report that paints a picture of the property's condition and a neighborhood that the banker has never seen."

PROBLEM
SOLUTION

New lending and closing regulations create delays

Understand rules and allow time for compliance

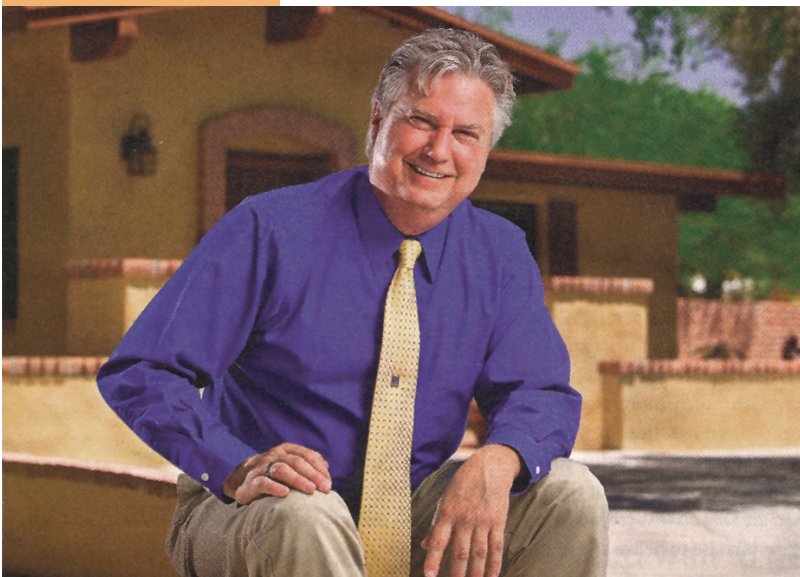


Photo by Steven Meekler © 2010

"The new HUD-1 form adds a few more hours of document preparation because underwriters and escrow agents aren't familiar with it yet." John Mijac, e-PRO, GRI, with Old Adobe Realty in Tucson, Ariz.

Recent changes to the federal Truth in Lending Act and RESPA can slow the closing process. "The new HUD-1 form adds a few more hours of document preparation because underwriters and escrow agents aren't familiar with it yet," Mijac says.

"A lot of people didn't expect the new RESPA rules to go forward and didn't update their software programs or start training soon enough," says Alyce Ritchie, a partner with Morris/Hardwick/Schneider in Atlanta.

Unfamiliarity and the fear of making a costly mistake in the Good Faith Estimate form are sometimes prompting lenders to ask for closing-cost information more than once or in several formats, Folkins says.

Lending rules have also made it harder to close on time if circumstances change late in the deal. Amendments to the Truth in Lending Act require a three-day disclosure period if a borrower decides to change the loan amount or anything else that can change the interest rate. "Changes of more than 0.125 percent in the APR immediately trigger another disclosure," Rumsey says.

To prevent delays, avoid last-minute changes whenever possible. But sometimes, when the matter is out of your control, the best thing you can do is help your client have expectations about how long the transaction will take.

PROBLEM
SOLUTION

Title can't be transferred at closing

Investigate potential title troubles early

"Title defects are another major closing hurdle—but one that can often be avoided with preplanning, Trevino says. "We open title as soon as we take a listing," she says. A preliminary title search can reveal an array of problems, from unpaid taxes to land-use restrictions. The fee is "nominal" and can usually be rolled into the final title work if the buyer agrees to use the same title company that does the search, Trevino says.

You can head off many title problems if you

add a checklist to the purchase contract quizzing buyers and sellers about the status of issues that can encumber a title, Kenline says. "We ask about bankruptcies, agricultural districts, and oil and gas leases" that may be tied to the property. Unfortunately, when it comes to liens, checklists don't always help, since "people are often in denial and don't want to admit that they have a financial problem," he says.

Short sales and REOs are particularly >>>

>>> prone to title problems. “You might find liens for things like HOA fees or unpaid repair costs,” Sand says. Even if the liens are in error, they can put a cloud on the title, and that can delay a closing.

John McCain, division president of Stewart Title North Texas in Dallas, says bankruptcy and pending foreclosure are among the most common issues that delay a closing today. All three of these things can cause title problems. With bankruptcies, you need to search federal

records to be sure that there are no conditions affecting the disbursement of proceeds that need to be met before the sale. The bankruptcy court also has to approve the contract prior to closing. And if an owner is trying to sell a property before foreclosure, check with the lender to be sure the property hasn't been posted for foreclosure and is still available to sell, McCain says. Also, be sure the proceeds are enough to pay off the mortgage lien and any fees from late payments.

PROBLEM
SOLUTION

A home inspection uncovers serious issues

Look into possible repairs before buyer's inspection



Photo by Dan Sellers © 2010

“You shouldn't count on a closing in 30 days.”

Alicia Trevino, president and CEO of Century 21 Fine Homes & Estates in Dallas

The time it takes to negotiate which party pays for repairs and get estimates—and sometimes even complete the work—can spell big delays for a closing. “People want a perfect house. We see buyers renegotiating repairs two or three times,” Kenline says.

One way to head off last-minute wrangling is to get a home inspection and make repairs before the property is on the market. However, that practice isn't endorsed across the board.

“I tried doing inspections before marketing, but didn't see the benefit,” Sanders says. In most cases, buyers want their own inspector, and the results of two inspections often differ, especially when a property is on the market for a long time, she says.

An alternative to a prelisting inspection: Walk through the property with sellers and ask about the condition and age of major components like the roof and foundation. Then get estimates on what potential repairs will cost. “Sellers don't necessarily have to fix the problems, but knowing what they might have to spend will help them price the house,” Mijac says. The estimates can also speed repair negotiations.

Alerting buyers to possible high-ticket repairs and suggesting that they factor those potential repair costs into their offer can also cut down on post-contract negotiations, suggests Phyllis Harb, a sales associate with Dickson Podley, REALTORS®, in Pasadena, Calif.

Repairs required by VA appraisers can delay a closing because the work must be completed before the property can change hands, notes Mijac. Another hurdle with VA loans: a buyer can't agree to pay for a repair, which can be a big problem if the seller can't or won't pay.

Above all, allow more time

No matter how much you plan ahead, it often seems that closings are just taking longer today, Harb says.

Indeed, the “new normal” may be that it takes 45 or even 60 days from the date the contract is signed to close

the transaction. You can get a realistic estimate of a client's closing date by creating a timeline of how long various inspections and approvals are taking in

your area, suggests Trevino. “If it takes 10 business days to get an inspection and two weeks to get a survey, you shouldn't count on closing in 30 days.”