

titleTALK



Dear Michael Saunders Agents and valued customers,

Knowing and understanding the importance of critical dates in a contract are necessary to avoid risk and liability — not only to a buyer, but to the agent and the brokerage. In this newsletter we address the *most commonly* seen risks and potential liability when writing a 2 week contract in a real life example we recently closed.

Sincerely,
Laura Bowers, Managing Director



Second Quarter 2019

Closing Timelines The Unexpected Gotchas and Risks

In this example, our contract has an effective date of 5/19/19 with a closing date of 5/31/19 which gives us *9 business days* to close (provided the agent turns the contract in that day, which often does not happen, creating further risk with the prescribed time frames dictated in the contract.) This is a cash as-is contract. Here are the problems with this timeframe.

1. Delivery of the title commitment defaulted to *5 calendar days* prior to the closing. We have several problems here.
 - a. The title commitment is taking at least 5-7 business days.
 - b. We could not deliver the title commitment within the prescribed time frame (5 days prior to closing).
 - c. This provides the buyer an opportunity to get out of the contract for non-delivery.
2. Under this contract, the buyer has a 12-day inspection period. Municipal Lien searches are reliant upon municipalities and governmental agencies whom are often understaffed. The problems here:
 - a. Lien searches are taking 10 business *not* calendar days. This is *after* the inspection period. As a result, if the search reveals open permits, the buyer must accept the property as is and deal with those permits, which could entail thousands of dollars to remedy and will create marketability issues if they do not remedy those open permits.
 - b. If the buyer decides to walk from the contract after reviewing the search, they could be subject to losing their deposit.
 - c. The agent could be liable and open themselves up to a lawsuit.

Writing 2- and 3-week contracts is a not only a disservice to the customers, it also presents great risks to your customer, you and the company.



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3. Our contract is for a condominium. The condo application time frame defaults to the buyer applying to the association within 5 days of the effective date. Under this contract, the buyer did not make application within the prescribed time frame. Approval of the buyer can take *10-15 business days* after submission of the application to be approved. Problems here:
 - a. We cannot close without approval.
 - b. Buyer could be held in default under the contract for not applying to the association as prescribed.
 - c. The agent could be liable for failure to ensure buyer applied to association within prescribed time frame.
4. Estoppels. These are taking *10 business days* minimum and will not be sent prior to the association approving buyer. Problem here:
 - a. We cannot close without an estoppel.

Typical timeframes for services

Below are the typical timeframes required prior to closing once contract is turned in. If you delay turning in a contract add those number of days to the typical time frames:

Title Commitment	5-7 BUSINESS days or 10 calendar days
Municipal Lien Search	10-12 BUSINESS or 17 calendar days
Surveys	10 BUSINESS days or 15 calendar days
Association Approvals	10-15 BUSINESS or 20 calendar days
Estoppels	10-15 BUSINESS or 20 calendar days

(In some cases a RUSH estoppel can be ordered for an additional cost of up to \$100.00 but not all associations offer a RUSH estoppel)

Writing 2- and 3-week contracts is a not only a disservice to the customers (especially when we have so many customers who are not here for the closing), it also presents great risks to your customer, you and the company.

You should write a minimum of 30 days for closing on a *cash* contract these days whether lot, condo or single-family home. Remember a seller does *not* have to grant an extension which could leave your buyer purchasing a property not knowing what potential problems they are inheriting (example – survey doesn't come in time) or worse yet, forfeiture of their deposit and legal action against you.

Let us know at the time you turn in the contract that the parties wish to close sooner and we will work towards a sooner date.

Remember even if you write a 30 day contract that is a maximum of 20 business days to have all of these items completed and delivered on time (assuming no holidays are in the month).



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