GENSTONE
REALTY

Settlement Requirements Workshop Summary

Contract to Closing

Successfully negotiating with the buyer and seller to reach an agreement and completing the terms and conditions requested by both parties is often the easier part of the real estate transaction.

The real estate professional makes a difference when keeping the contract current, coordinating inspections, working with the lender, arranging for closing services, and removing contingencies.

This workshop reviews those steps needed to keep the transaction together and make it successfully to closing. When we do it well, our buyers and sellers will notice our work and professionalism, sending us referrals and working with us again.

Create a New Transaction in dotloop

Create a new transaction *(a "loop")* in dotloop for the buyer. Use the sale templates to populate all the necessary agreements, addenda, and disclosures. With those digital documents, have the buyer, and then the seller approve the documents with their digital signatures. After the seller signs the agreement, change the status of the loop to under contract. You will use dotloop to send all the required documents necessary to receive your commission payment after closing.

Purchase Agreement & Addenda Distribution to the Parties

Check each page for initials and signatures before distributing the final purchase agreement and addenda. It's easier to get missing initials now than later. Using digital signatures through dotloop makes it easier to have both buyers and sellers with copies of all required executed documents. If a party needs to give a wet signature, print a hard copy for the signature, and scan the signed copy for email distribution. If a party to this transaction needs a hard copy, print it, and deliver it by hand or mail.

Purchase Agreement & Addenda Distribution to Others

The sellers' and buyers' responsibility is to distribute the paperwork to those who assist with the transaction. Our responsibility is to let them know what to provide and to whom. Then we verify it's completed. It includes distribution to attorneys, lenders, title companies, and the closing agent.

Earnest Money Deposit

Deposit the Earnest Money into the holder's escrow account. If there is a second deposit, mark the date due, collect it from the buyer, and deposit it. There are a certain number of business days the deposit must be made after the agreement date, depending on each state's rules.

Enter the Under Contract/Pending Status and "Under Contract" in dotloop

When the agreement is final, enter the new status into the local MLS and "Under Contract" in dotloop. It's a professional duty to allow all other agents and potential buyers of the sale. Change the status to "Sold" in MLS and dotloop right after the closing.

Cash Verifications

For all-cash buyers, the buyer must supply verification of those assets to the seller. However, when a loan is needed, most agreements don't specify the verification of the buyer's cash to the seller since that is the lender's responsibility when approving the loan.

Transaction Calendar

It is beneficial for you and your client to create a calendar with all appointments and due dates through to closing. Then both will remember what's next to check off. The following are ones where the agreement specifies due dates for completion from the date of the agreement:

- Earnest money deposit
- Buyer's application to the lender
- Loan Estimate *(3 days after)*
- Property inspection
- Appraisal
- Loan approval
- Closing Disclosure *(3 days before closing)*
- Final buyer inspection
- Closing
- Occupancy

Seller Financing

It's rare as a first mortgage these days, but it may happen. First, the buyer signs a promissory note due to the seller. Next, a Seller Financing addendum or other agreement needs to be executed with the purchase agreement where the buyer agrees to sign a promissory note to the seller at closing. Finally, the buyer provides documentation to the seller verifying the buyer's ability to purchase at the price and with the seller's financing terms. The agreement is contingent upon the seller's approval of the buyer's documentation.

The Buyer and the Lender

The seller agrees to the purchase agreement after a buyer provides a pre-approval letter in most cases. The buyer is free to go to another lender if desired but must make a mortgage application within a specified number of days in the agreement. Following the application, the lender provides the Loan Estimate to the buyer within three days. It specifies the loan terms, the payment amount, plus the estimated closing costs with the amount of cash to have at closing.

If willing, it is helpful for the buyer to show it to you. Then you ask if sufficient funds will be in the buyer's account at closing to wire or get a cashier's check to the closing agent. The lender requires verification to approve the loan, so you will know that the amount of cash available to close is verified when the loan is approved.

Loan Contingency

A loan contingency is in the purchase agreement when it's not an all-cash buyer. Most agreements state the number of days the buyer has to get the loan approved. Sometimes because of appraiser availability or other delays, the lender doesn't approve the loan by the due date. The loan approval by the lender considers appraisal, insurability, and lender-required repairs. Often when these factors are outside the buyer's control, the seller extends the time. It is best to get the date extension in writing from the seller.

Attorney Review

Some states require an attorney to review and approve the buyer's purchase agreement and have the seller's attorney approve it before the agreement is valid. Most of those states require an attorney as the closing agent. The parties' responsibility is to provide the agreement to their attorneys, but we can assist with the delivery.

Contingency on the Sale of Another Property

A seller may allow a buyer contingency to sell another property in slower markets, so the funds to buy this one is possible. If the buyer cannot sell or close the sale on the Buyer's Property within the time allowed, the agreement is voidable, and the buyer receives the earnest money deposit back. Some sellers will allow the contingency to exist while keeping the property on the market. The first buyer will need to remove the contingency when another offer comes in, so the original offer becomes valid.

Appraisal

Everyone involved in this sale hopes the property appraises equal to or more than the purchase price. If it's below, there are three options for the buyer:

- Renegotiate with the seller.
- Pay the difference between the appraised price and the purchase price in cash at closing.
- Cancel the agreement

Property Inspection

Unless the lender requires it, buyers can forego the property inspection, but at their financial peril. Most lenders require a home inspection, especially for an FHA or VA loan. Buyers should also want one because in most purchase contracts if the discovery of significant work results in a negotiation where the parties don't agree, the buyers may back out of the contract if within the dates for cancellation. Home inspection fees are in the $300 to $500 range, and it is the best money they can spend when buying a property.

The Property Inspection Process

Although the buyers may find their own, your knowledge and recommendation of better inspectors are helpful. Schedule the appraiser when you and the buyers are available with the appraiser and when you have access to the property with the seller present or not. The inspection takes two-three hours, depending on the size of the property. You should be there to ease their mind or explain things to them. It's best not to have buyers bring children or others unnecessary as you go through every part of the property – attic, basement, and even crawl space.

Here are the general areas the inspector assesses:

- Footing & foundation
- Exteriors
- Roof
- Plumbing
- Electrical systems
- HVAC systems
- Smoke alarms
- Appliances staying with the property

Inspection Report

Both the buyer and the seller should have a copy of the inspection report. When the buyer receives the report, depending on the provisions of the purchase agreement, there are three outcomes:

1. The buyer accepts the situation described in the report and moves forward, and removes the inspection contingency if it exists in the agreement.
2. The buyer requests the seller make repairs or adjustments through a written request or addendum.
3. The buyer cancels the agreement if it provides for that.

Negotiation of Repairs from the Inspection Report

The seller's response to the buyer's request could be to make some or all requested repairs or decide not to make any. The buyer may return to any of the above options by accepting the seller's decision, renegotiating, or canceling.

Other Inspections and Tests

Lenders and other entities require inspections or tests of certain aspects of the property. FHA and VA loans require pest inspections, and payment is the seller's responsibility. These inspections include:

- Wood destroying pest inspection *(termite)*
- Septic or private sewage systems
- Domestic well water
- Radon

Seller Concessions

If the seller gives any monetary concessions when negotiating repairs from the property inspection or other reasons not in the original agreement, both the lender and the closing agent require written notification. This is so it can be added to the Closing Disclosure and accounted for at closing.

Title Search

A title search is required to ensure the seller has a clear title to convey the property to the buyer with no outstanding liens. Before the lender transfers money and documents from the seller to the buyer, it is required. In most parts of the country, the seller pays this, but it's the buyer's responsibility in some. The one with the responsibility chooses the title company. Consider having your clients contact Title Clearing & Escrow.

Survey

Sometimes required or requested by buyers is a current plat of survey showing visible evidence of
improvements, rights of way, easements, use, and measurements of all parcel lines. It could clear up any potential encroachment or other issues that may come up later.

Homeowner Insurance

The buyer must supply a homeowner insurance binder to the lender and the closing agent before closing. It assures the buyer is insurable. Even if the property structures are not worth the mortgage amount, the lender requires a coverage amount at a minimum of what the mortgage is. The lender usually asks the insurance company to add it as an additional insured.

You may ask the buyer to consider Constructive Insurance. Buyers can go to their website to get an online quote for comparison. Because Constructive is an independent insurance broker, buyers may get a better quote. This is because the broker can match their situation with a top company that better fits the buyer's situation with a lower premium.
https://insurance.getconstructive.com

Flood Insurance

Since homeowner insurance does not cover flooding damage, lenders may require it for properties in potential flood areas since 90% of natural disasters involve flooding. Buyers may purchase federal flood insurance through many insurance companies. Buyers pay premiums to FEMA.

Disclosures to the Buyers

Other than "material facts" and the previous Sellers Property Disclosure, there is a mandatory disclosure the federal government requires. For a building built before 1978, buyers must receive the following from the homeowner, which usually you supply:

- The EPA pamphlet "*Protect Your Family from Lead in Your Home."*
- The Lead-Based Paint Disclosure

If the property is part of a homeowner or condo association, a copy of the CCRs must go to the buyer. If applicable, give the buyer copies of easements and restrictions.

Remind Clients about Arranging for Utilities and Services

Remind sellers and buyers to disconnect and arrange for new utilities, television and internet services, and address forwarding. Of most importance is coordinating the exact date for electric power disconnection and reconnection. If the sellers are willing, it may help give the buyers their new address when mail or packages are not forwarded.

Closing Disclosure

The Closing Disclosure updates the Loan Estimate to give the final numbers, including "Cash to Close" for the buyer and "Cash to Seller." It must be delivered three days before closing. If the buyer or seller you represent agrees to send it to you, then you have the chance to review it for any needed changes. The Cash to Close is the amount the buyer needs to wire, preferably the day before, to the closing agent or bring a cashier's check.

Wiring Funds for Closing Cash

The better way for buyers to get the Cash to Close directly to the closing agent is to wire the funds the day before closing. First, get the buyer the wiring instructions to have the funds wired from the buyer's account to the closing agent's account to arrive the day before. Then, a week before, give the buyer the "Wire Fraud Prevention Notice" disclosure to sign so they only use the correct instructions. If wiring funds is not an option, then have the buyers obtain a cashier's check for the Cash to Close the day before closing to bring to closing.

Final Walk-through Inspection

This inspection just before closing is an opportunity for buyers to confirm the property is in the same condition at the time of the purchase agreement, plus any agreed-upon repairs are completed satisfactorily. Be sure all included attached items and personal property included in the purchase agreement are in place. If anything is amiss, decide with the buyer what actions to take with the seller. Have the buyer sign a Buyer Walk-Through Acknowledgement Addendum.

Closing/Settlement Date

Scheduling in advance the exact day and time of the closing is a significant duty for the listing and selling agents. It is normal to have "roundtable" closings in some areas, meaning both parties attend closing together. In others, the buyer and seller sign the paperwork at differing times. The latter case only involves three parties – the closing agent, the buyers or sellers, and the agent. There are five parties to schedule for a roundtable closing, so the schedule must be arranged in advance. Here is what is necessary or might be necessary to bring to closing:

For Both:

- Photo ID's
- A copy of the Closing Disclosure to compare
- A cashier's check for the Cash to Close amount on the Closing Disclosure, if a wire was not already in process *(applies to sellers only if liens and closing costs are more than the purchase price)*
- A copy of a power of attorney for anyone who needs to sign documents who cannot attend, executed days before closing, and sent to the closing agent in advance.

For Sellers:

- For anyone whose name was on the deed, have a death certificate and divorce decree
- Keys, passcodes, garage door openers, and any other devices or remotes

End of Month Closings

The closing in the last days of the month helps the buyer stretching for cash because the interest on the mortgage loan taken at closing is for fewer days in that month. For that reason, and for renters who are buying, the end of the month is popular. However, it's best to avoid the last two days of the month, especially Friday, if there is a problem. For example, a day or two delays from FHA funding may affect possession when scheduled on the last day of the month.

Possession/Occupancy Date and Time of Day

Arrange in advance with your clients the day and time of day the seller is entirely out of the property, and the buyer has access. Sometimes a last-minute adjustment is necessary, so make sure there is complete communication between the parties.

Post-Closing Occupancy by the Seller

There are situations where the seller needs extra time to occupy the sold property. Often used is a rent-back option to allow the seller to pay rent to the buyer for several days, weeks, or a month. There is potential for risk if damage or reluctant to vacate occurs, but usually, it works out well

Closing Day Conduct

How you present and conduct yourself on the closing day creates a lasting impression on both buyers and sellers of your abilities and professionalism. At closing, proper planning and execution make the process pleasant and satisfying for all parties. A caution is to pay more attention to your client and even the other agent's client than to having social talk with the other agent. Be sure to thank the closing agent and all others at the end. Put a "Sold" sign on the yard sign, and soon after, give an announcement to as many neighbors as you can.

Continued Contact with Sellers and Buyers

Make a notation in your follow-up program of the date of closing. That date is essential for you to make anniversary contacts for buyers. Set up automatic reminder follow-up contacts for your client so you are top of mind to them. Past clients are the best ambassadors to give you leads when you regularly keep in touch throughout your career. For buyers, consider giving them a modest "welcome to your new home" gift.

Contract Contingencies

One solution to prevent not meeting contingency dates is to monitor the dates carefully and assess the situation many days before expiration. The transaction calendar in your hands and your client's, including frequent discussion of progress, solves many potential upcoming issues. If the date is approaching and there is insufficient progress, secure extensions of those contingency dates with a written agreement between the seller and the buyer.

Fall-throughs and Cancelations

Not every transaction comes to a successful conclusion. Expect fall-throughs and cancelations to occur with so many factors that can go the wrong way. When a termination occurs, have the buyers and sellers execute a release of the purchase agreement. Handle the disposition of the earnest money deposit. At the termination of a contract, do all you can to keep the listing active or keep the buyer's interest to try for another one.