

Anatomy of Closing a Home Sale

In the process of selling a home we come to the inevitable conclusion – The Closing. This final stage is where all aspects of arranging the legal transfer of a property are tied together to reach the ultimate goal of a buyer finalizing payment for a property and a seller receiving payment in return for conveying ownership.

Since the sale of a home is a "handful of times" event for most people over a lifetime the steps and procedures associated with the closing are often confusing. In reality, it is a fairly mechanical process with clearly defined events that lead to the day when final papers are signed by both buyer and seller. In an attempt to help simply what happens let's review some of the required steps.

We will start with the fact that at the time a Sales Agreement is signed a Closing Date is established. For greater flexibility in scheduling, the date can be expressed as a "on or before" date subject to agreement of both buyer and seller. In first establishing this date there are a variety of considerations including needs of parties for moving and the source of funding a purchase.

Obviously, sales involving construction of a new home will have a settlement time dictated by the time required for building. In reality a closing date scheduled at the time of contract needs to be viewed as flexible to accommodate building cycle changes that can be induced by weather and potential design and finish product changes that occur during the construction period.

In conjunction with entering into an agreement an earnest money binder is outlined in the contract. This amount of money must be deposited into an escrow account in the case of a resale transaction. In the case of new construction these funds are given directly to the homebuilder. When a deposit is required to be placed in escrow a Title Company is the most commonly chosen escrow. This is due to the fact that title companies have evolved to offering their service as a settlement agent in conjunction with their issuing of a title insurance policy.

Title insurance insures a buyer against problems that may have impacted the property prior to closing which can adversely affect ownership or title to a property that are not detected or clearly evident during a title search. A policy is issued to the new owner in the amount of the purchase price and, if a mortgage is involved, a policy is also required by a lender for the mortgage amount. Fee for this Mortgagee Title Policy is considered a loan closing cost and paid by buyer.

As referenced above one of the first steps in preparation for closing is completing a search of the public records to determine validity of a seller to transfer ownership and any factors, such as deed restrictions or existing mortgages, that will impact title. This results in a title company or lawyer issuing a Title Commitment outlining the conditions for providing insurance coverage. This commitment should be fully reviewed by all parties associated with the sale. A final Owner Title Insurance Policy will be issued to a buyer in conjunction with the final closing. The cost of an Owner Title Insurance Policy can be paid by either the buyer or seller depending on local tradition.

Following issuance of the title commitment a closing agent will coordinate a variety of factors. Among the items they work on is satisfying outstanding monies owed including property taxes, homeowner association fees and all mortgages existing on the property. If a new mortgage is to be placed on a home the closing agent will be responsible for overseeing completion of final mortgage

related documents. They will also prepare the deed and arrange for recording of this form in public record.

An important milestone in a closing is issuance of Settlement Statement. This document signed by buyer and seller is down to “the final penny” financial accounting of the transaction from the perspective of both buyer and seller. Lenders must issue to borrowers a standard Closing Disclosure as dictated by federal regulation a minimum of 3 days prior to closing.

At times an absentee buyer and/or seller requires that final closing documents be signed and notarized out of the local area. In this case the closing agent will send papers to be signed or arrange for a “mobile closer” who will physically meet the party and complete signature requirements.

On a final point, who pays for an owner’s title insurance policy and the government taxes associated with a deed conveying title is a matter of local custom or contract terms. In our market the custom typically calls for a seller to pay both owner’s title policy and government fees deed transfer.

In the end, the closing is the grand finale that culminates in carefully concluding all the affairs necessary to complete the sale transaction and transfer ownership.