



# It's the little things

Title-company professionals and lenders suggest small steps you can take to achieve smoother closings ... and maybe even keep a few transactions from falling apart.

by Jan Adamson

**Y**ou've just walked out of the title company office after another closing where the deal almost fell apart. The buyer and seller aren't speaking to you or to each other, and the closer looks like she's been through World War III. You swear to yourself that you'll never let that happen again if you can help it. You figure there must be a way for a closing to be less painful.

Lest you think your experience is not typical, Brian Pitman, president and chief operating officer of Independence Title Company in Austin, confirms that not every contract sails through to closing, and things may be getting worse. "Our company's experience had been historically that about 75% of deals would close," Pitman says. "During this downturn, I would say that percentage has fallen to around 60%."

Fortunately, although not every problem can be headed off or

anticipated, a lot of them can be avoided with attention to detail.

### Begin at the beginning

Attorney Celia Flowers of Tyler, owner of East Texas Title Companies, has seen a lot of closings go by—and fall through—and suggests getting things in order from the day a property is listed.

“Get as much information as possible when you list a property,” Flowers says. (See sidebar on page 20 for a list of information to obtain.) “If you identify the issues at that early stage, it will be easier to get to the closing table.”

Getting details about the actual ownership of property can help keep an agent from getting to the closing table and then finding out that a seller is separated but not divorced. Asking the questions about access to a property can help an agent find out that the only way his seller can get to his listed property is by driving through his neighbor’s pasture ... and that neighbor is getting pretty tired of this arrangement.

### Set clear expectations

Flowers indicates that a big part of heading off problems is simply to communicate.

“It’s always helpful to the buyers and sellers to understand the process they are about to go through. Many times they have never been buyers or sellers before and this transaction is often the largest transaction of their lives. Communication on what to expect can help the buyers and sellers work through the process in a constructive way,” Flowers says.

She says disclosure all along the way can help keep the parties to a contract happier and more confident that things are going well. “Make sure your clients understand every

step of the process,” she says. “Even then, they’ll look at you panicked at times during the closing and you’ll be able to simply nod and say, ‘This is what we talked about.’”

The need for communication also extends to the title company itself. “Expectations about communication between the real estate agent and the title company should be set at the onset,” Flowers says. “If the real estate agent wants to be called at certain points in the title process, then the title company should honor that. If the title company and the agent know up front when calls are to be made, and do what they say they are going to do, then the agent can feel comfortable knowing the matter is moving along and not feel the need to call daily.”

Flowers says it helps to know the difference between keeping on top of a contract and hassling closers to the point they can’t do their jobs. “Since the title company is often simply the messenger in relaying information from other parties, you may need to contact one or more of the people involved to clear up any issues. In today’s market, this is especially true with lending practices and to keep your client in the loop,” she says.

While a Texas REALTOR® goes through many transactions during her career, this may be a one-time-only event for clients. Patient, thorough explanations are needed.

### It’s the contract ... pay attention!

Taking the utmost care with the contract for purchasing a piece of property is the REALTOR®’s responsibility, and checking and double-checking is imperative. Staying current with contract form changes is also important.

Buyers and sellers are bombarded with forms that contain words and directives foreign to them. While a Texas REALTOR® goes through many transactions during her career, this may be a one-time-only event for clients. Patient, thorough explanations are needed.

“At a minimum, an agent should be sure the contract is properly filled out, making certain the effective date is filled in,” Flowers says. “It is important that the legal description is adequate to locate and properly describe the property. This information is crucial if the seller and buyer get into a dispute during the contract period.”

Flowers notes that there have been many changes to the TREC forms in the past two years, and part of an

agent's job is to make sure clients understand all of them.

It's not time to sit back and relax once everything has been turned over to the title company, either. Throughout the life of the contract, there are dates when one of the parties must act and respond. "It is imperative that you and your client respond in a timely fashion," Flowers says.

### Does your client really understand the title commitment?

Even some seasoned agents have trouble making heads or tails of the title commitment. But it's important

to understand it and make sure your clients do, too.

"When the commitment is received, the real estate agent should review it with their clients," Flowers says. "If the real estate agent is representing the seller in the transaction, they should go over any requirements on Schedule C items. Many times, the seller is the only party in the transaction who knows the answers to some of those matters."

It is the responsibility of the agent to communicate with the title company regarding items listed in Schedule C and to work with her client to satisfy the requirements.

"If the agent is representing the buyer, attention to Schedule B—the exceptions—is crucial," Flowers says. "So it is very important to go over the title commitment with the buyer, particularly the exceptions. Many agents seem to simply pass along the commitment to their



## What information should you get when you list a property?

Surprises are not welcome at the closing table. Here's a list of information you should obtain when you list a property so you can avert potential problems.

- Marital status of seller
- Name of divorced spouse and copy of decree if divorced outside the county
- Name of deceased spouse, date of death, county where death took place
- Did the deceased spouse leave a will? Was it probated?
- If the property is inherited, names and addresses of all persons with an interest in the property
- Will a power of attorney be used?
- Is the property a homestead?
- Are there liens against the property?
- Are the payments on the property current?
- Are any minerals owned?
- Is the property under any written or oral contracts, agreements, or leases, such as oil or cattle leases?
- Are any back property or IRS taxes owed?
- Have any insurance claims been filed in the last three years?
- If the property was owner-financed but paid off, is there a release of lien?
- Did the seller obtain title insurance when the property was purchased?
- Will the seller attempt to use an existing survey? If so, provide a copy to the title company as soon as possible. Agreeing to provide an existing survey but failing to locate it could result in the seller being in default of the contract unless they pay for a new survey.
- Is the property in a homeowners association?
- Can the seller indicate the approximate boundary lines?
- Are there any recorded or unrecorded easements?
- Does the property involve a trust, partnership, merger, or corporation?

Source: Celia Flowers of East Texas Title Companies

clients without a good review ... the client really doesn't understand what they are reading."

### Money matters ...

Of all aspects about real estate sales, the lending process may produce the most frustration for REALTORS® and buyers. Often the work is conducted in a faraway place—behind closed doors—and no one seems willing to give up the secrets. Plus, loan packages and requirements are ever-changing. Clients need a good guide through the maze.

Pitman says he sees deals fail largely because of financial issues such as tighter lending requirements for buyers and appraisal challenges in certain areas and price ranges. "But that has been very small in Texas compared to other states," Pitman says. Seller problems include short-sale paperwork issues and other debt-related challenges, he says.

"Sometimes, unnecessary obstacles can be created despite the best of intentions," says Gwendolyn Griffin, loan officer with Victory Mortgage in Flower Mound. "One of the most common obstacles is a buyer's confusion about the loan's relationship to the home search. The easiest solution involves pre-approving the client before the property search commences ... a pre-approved buyer eliminates the guessing game and sets a good starting point of what area and price point is appropriate."

### Work together for the best result

Griffin says, "Keeping your lender involved from the beginning will create a more confident buyer. As a REALTOR®, you can help your lender by preparing your client for the lending process. Familiarize yourself with the available programs and needed documentation, and have your client start

gathering their financial information for the loan officer. When you have a good lender, they will be willing to share any limitations with you before the home search—such as sales price or loan type—while respecting the applicant's right to financial privacy."

She urges agents to ask questions when they don't understand why a specific limitation is put on a client or on a property. "A guideline may have recently changed, so a conversation with your lender will keep you up to speed on the latest in mortgage minutiae," she says.

Griffin describes the relationship between lender, agent, and buyer as interwoven.

"In today's ever-changing real estate and mortgage industries, it is crucial the REALTOR® and lender work together as a team to ensure a smooth purchase and closing. The agent's role on the team is to sell the property and deliver a signed purchase contract. The lender's role is to find the correct program for the buyer and get the loan closed."

Flowers agrees that a team approach is vital to successful closings. "Work together with the lender and title company to get the lending instructions to the title company as soon as possible. In a perfect world, all parties would have access to and read everything before going to closing," she says. "If all documents are read and all questions are answered, then actually sitting at the closing table will be just confidently signing documents, and that makes for happy customers."

And happy customers, cheerful agents, and a closer with a smile on her face mean the process went well. Now that's the kind of closing everyone wants. ☆

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