

TALES FROM THE TRENCHES™

BY BARRY C. MCGUIRE

April, 2013

"30 Days To Close, That's Just Crazy!!"

This Tale comes under the heading of 'The Basics.' For new investors especially, there are certain things or situations that keep coming up again and again. Even senior investors often need reminders of The Basics.

One of those Basics is timing. I get this question all the time: "Barry, how long should I leave myself for closing? 15 days after final acceptance is good, right? Not good? What about 30 days after final acceptance? My realtor and mortgage broker both say that should be plenty of time." Wrong and wrong!

Standard deals need to be written so that closing is 30 days after final condition removal, not 30 days after final acceptance. For out-of-province buyers make that 35 days after final condition removal to allow for couriering of documents back and forth. Note: I said 'standard' deals. There are exceptions.

"30 days, that seems like a long time. It can't take 30 days to prepare documents." True, it doesn't take 30 days to prepare documents. But here's how it goes. Before we can get started on preparing your file we need what are called 'Real Estate Instructions' and 'Mortgage Instructions.'

You remove conditions. Your realtor gets that condition removal in to the conveyancer at the real estate office. The listing realtor's office then sends out the real estate instructions, which include a cover letter telling both lawyers who the other lawyer is along with full and final signed copies of the real estate purchase contract, schedules, and addenda.

Your final condition removal also goes to your mortgage broker, who then instructs the lender that the deal is unconditional. The lender then tells their administrative department to send what are called 'Mortgage Instructions' to us here at [RMLO Law LLP](#). Mortgage Instructions are what we need to prepare a mortgage on your behalf.

To prepare your file we need both the Real Estate Instructions and the Mortgage Instructions. After final condition removal it can take up to 10 days to get both sets of Instructions. That chews up 10 of your 30 days and we still haven't started working on your new purchase.

Once we do have both sets of Instructions and we get going, things don't always go smoothly. Life doesn't go smoothly. It doesn't matter what you are doing or trying to accomplish, it's always better if you have a little extra time for the unexpected. With the above background let's talk about some of those 'Unexpected.'

Here are a couple examples we have experienced:

For one transaction, we ordered funds from the lender scheduled for the closing date. Funds didn't come in. When we called the lender, they said their lines were down and they couldn't wire any money anywhere. It took one full day after the closing day to get funds. Calls have to be made to the seller's lawyer requesting extensions. This was a "no money, no possession" deal. Movers and utility people were not allowed access. Our clients had to stay in a hotel overnight.

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In a similar situation the lender advised that there was a fire in their building causing a full evacuation and therefore they could not fund any mortgages. Closing was delayed one day with similar stress for all involved.

We all love the [Cornerstones Program](#) here in Edmonton, Alberta. Grant money up to \$24,000 to construct legal, safe suites. This month we had three scenarios where members were refinancing, buying, and selling properties with Cornerstones Suites. The logistics of dealing with assumption or discharge of the Cornerstones Grant and Caveat are new, mildly confusing, and certainly time-consuming. The refinance took an extra three months to close!!

Some other delay items:

- Incorrect mortgage instructions
- Late amendments to deals
- Real Property Report issues
- Compliance issues
- Client vacations
- Unexpected title issues

Lessons Learned:

- The list of things that can delay a transaction is endless. Give yourself time to solve problems. Get 30 days to close (35 days if out province) after final condition removal.
- Delays are hugely stressful and often expensive. Examples: late closing interest, extra legal fees, or how about the seller won't let you close late. Sellers don't have to give extensions.
- On the other hand, if it's \$20,000 under market and the seller wants to close in a week not 30 days, call us at [RMLO Law LLP](#) right away. A quick consult can help you determine if you should take this short closing deal. Rush deals can be often be done at relatively small extra expense compared to the \$20,000 benefit.

HAVE QUESTIONS? WE HAVE ANSWERS!
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**AND BE SURE TO VISIT WWW.BARRYMCGUIRE.CA
TO FOLLOW OUR BLOG AND PODCAST!**

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