

TALES FROM THE TRENCHES™

BY BARRY C. MCGUIRE

July, 2013

IT TOOK HOW LONG?

Tales from the Trenches often talk a lot about timing. For example, we recently had a good example of timing on a mortgage application. Two weeks to get the original [CMHC](#) application approved, but another three weeks when circumstances changed. That's five weeks to get your mortgage approved, and I know most of us think two weeks should be sufficient.

That is what one of our investors thought in a recent Joint Venture (JV) situation where he was the Real Estate Expert with what seemed like a slam-dunk Money Partner. The Money Partner's [Beacon Score](#) is 795. Her tax return shows \$95,000 worth of income, her debt service ratios are excellent, the property was already leased with positive cash flow, and she was putting 20% down. How long did the mortgage application take to be fully and finally approved?

The mortgage application started out well enough. Complete the application and provide the usual stuff: Notices of Assessment from the CRA, letter of employment, list of other properties owned, etc. It all looked good. Then the questions and issues started cropping up.

The application was in late April 2013 and the current year's tax return showed a \$10,000 tax bill. The lender wanted that paid. Fair enough. The Money Partner was applying for the mortgage in her maiden name and the lender wanted proof by way of marriage certificate that Emma Jones and Emma Smith were the same person. Smith is Emma's maiden name, which she maintains, and it was that name in which she was making the application. Of course, the marriage certificate, which is almost never used, was not in Emma's documents folder. After the usual time-wasting back and forth, the lender accepted a sworn affidavit of identity.

With the marriage certificate issue out of the way, the lender moved on to a property that Emma the Money Partner had purchased for her niece, Brittany, to live in with her three children. Brittany pays all the expenses, but Emma is on the title and the lender just had a hard time figuring out where this non-rental property fit in their approval process. Why? Because they were not able to recognize the payments as being made by the niece because they come from Emma's bank account. To the lender, that meant that mortgage payment must be carried by Emma's income, hence much tighter ratios.

During the process, Emma's 2012 tax return was filed and it turns out that, due to a competent accountant saving Emma a bundle on taxes, she and her husband now shared some new investment income that Emma had thought would be all on her return

Just when our member thought they were through the mortgage approval loops, the lender pointed out a couple of other income producing items on Emma's tax return. It wasn't enough that those items have appeared on her tax return for the last five years. They wanted to know the details. Where was this money coming from? Of course, there are answers to all of these questions, it was all explainable. But, it all took so much time. Five weeks from start of application to approval. Then it took another 10 days for the lender to instruct lender's lawyer (not us here at [RMLO Law LLP](#)) and for that lawyer to call Emma for her appointment to sign mortgage paperwork.

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As side comments that did not affect timing, but that are extremely relevant, the wonderful, smart, with-it legal assistant at the lender's law firm got in touch with Emma early in the process. Then she went on holiday, and the job was taken over by a standard legal assistant to replace the first wonderful assistant. Good-but-not-great assistance really showed how having top-notch staff means a smooth transaction. It might have been the reason when Emma sat down with the lawyer to sign the paperwork, she noted an error in the interest rate and in the term of the mortgage. She pointed that out to the lawyer and followed up with an email to the assistant. You guessed it, when Emma got her reporting letter and reviewed the documents, both errors were still there!

Now Emma is spending more time and effort attempting to get the lender to properly recognize the errors and make an appropriate amendment. The error was corrected, but the bank documentation left Emma wanting more. It didn't slow down the process, but points out how carefully you have to read and follow up. When you go in to sign, take along anything that summarizes what you believe are the terms/outline of your new mortgage. This would normally be the Commitment Letter provided by your bank or mortgage broker. Mistakes get made and nobody means to do it, but it's your money, so you check.

When it was all over our member had a de-briefing conference with the mortgage broker and they ended up concluding that Emma's application was not enough "plain vanilla." Her financial situation is fantastic but shows things that lenders don't see all the time, which makes them ask for more information because they are curious or nervous, which slows down the process.

Lessons Learned:

1. Whether you are a strong, weak, or middle-of-the-road mortgage applicant, **stuff happens!** Two weeks is the **minimum** time for your financing condition. That's what I say as the lawyer who has to process these deals. The other side of the practicality coin is that our experienced brokers and realtors out in the field say that in this pretty busy market many sellers don't want to give two weeks. An improvement to this dilemma is to get yourself preapproved by a competent, experienced, investment property mortgage broker. Or use a bank you know well and trust through experience to be competent.
2. If you are preapproved then you can ask for seven days, or ten days if you have a complicated personal or purchase situation. Consider writing these times as business days rather than just days, which gets you weekends for free and extends the time.
3. Ask your mortgage broker or bank if they supply advance documents and a summary of the key facts of the deal to your lawyer so s/he can match that against the mortgage instructions. Note, ours did, but somehow that review must not have occurred at Emma's lawyer's office (again, not [RMLO Law LLP](#)). Then, at the lawyer's office, read your mortgage paperwork especially the mortgage commitment, disclosure forms and first couple of pages of the mortgage. Most of the changeable details show up here. Mistakes get made; everyone is human. It's your responsibility to read and make sure everything is correct.

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4. Emma now has a financing file that contains everything this lender asked for including answers to all of their unexpected questions. Make sure you have a financing file where you keep all your information, and update it on a regular basis. It's so much easier to just grab that file when it's time to make a mortgage application. And of course, Emma's mortgage broker now has a similar file. Remember, the first deal is always the one that uncovers all the mysteries of your financing picture. The following deals are almost always much easier.
5. Get pre-approved so all the surprises will come out without the pressure of tight deadlines to be met.

HAVE REAL ESTATE QUESTIONS?
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