

In cases where the parties cannot agree to cancellation or to related terms, the disposition of funds, and/or are unable to resolve a dispute, the escrow holder may have to file an interpleader action in court and a judge will have to decide which parties are entitled to what documents and/or funds.

## **26. Are escrows for manufactured homes and/or mobilehomes different than escrows for standard residential/single family homes?**

The thing you must understand is that mobilehomes and manufactured homes are constructed as residential dwellings to be transportable in one or more sections. When the “homes” are affixed to underlying real property in a non-leasehold estate, they become “real estate”. Before they become so affixed, they are actually personal property, and sales and purchases are usually handled by an escrow officer who specializes in mobilehome/manufactured home transfers. Thus, the escrow process for the purchase and sale of manufactured homes and mobilehomes as personal property is quite different than that used and applied for standard residential/single family homes. It is probably safe to say that the sale and purchase of the former (and the escrow process used for the sale and purchase) is somewhat of a niche industry and you are well advised to make certain that both your broker and escrow agent/holder are familiar with the laws and escrow practices in this area. Once a mobilehome or a manufactured home becomes real estate, it is purchased and sold like other homes, although there are certain specialty issues that pertain to mobilehome parks. While a discussion of the escrow laws, rules and processes that may be applicable, used and/or employed in the arena of manufactured homes and/or mobilehomes is well beyond the scope of this pamphlet, the authors have included a further discussion of this topic (including key definitions), in the “reference” portion at the end of this pamphlet.

## **C. Helpful Tips.**

Sometimes, the ease and success of an escrow is largely dependent on the actions of the parties themselves. While there may be exceptions, the more conscientious and knowledgeable the parties are about the escrow process, the smoother the escrow transaction will be.

### **1. Prepare yourself for the escrow process.**

There are several pieces of information that you will be required to supply to your escrow officer. Often times, when a real estate broker is involved, he or she might assist you with the communication of that information to the escrow officer. Other real estate brokers depend on the escrow officer and client to work directly on these items together. The following is a brief list of items that you will be expected to provide and/or deliver to your escrow officer:

- a. Correct spelling of your name and up-to-date contact information
- b. Contact information for lender (and/or mortgage broker) if new financing is being obtained
- c. Mortgage loan account information (lender or loan servicer's name, address, and account number) if you are selling or refinancing a piece of property; plus any other tax, mortgage, bond or other lien information
- d. Fire insurance policy information
- e. Title vesting choice
- f. Copies of Trust Documents if taking title in trust or selling from a Trust
- g. Homeowner Association (HOA) and management contact information; copies of HOA documents if held by owner. Any relevant corporate, partnership or LLC documents if taking title in the name of one of those entities, or selling from one of those entities

## **2. Carefully review, read and understand all documents before signing!**

Before signing escrow instructions, or any agreement for that matter, make sure to read and understand it first. Escrow officers are human and can make mistakes. You need to be satisfied that the escrow is handled correctly and to your satisfaction. In that regard crucial that you do your part to make sure your name, vesting information, property address, important dates, and any other terms and conditions are reflected correctly in writing. It would be disappointing, to say the least, to have your name or vesting information incorrectly stated on the recorded grant deed because the misspelling of your name was missed, or lose out on a credit owed you because it was never brought to the attention of the escrow officer. Therefore, act as your own watch-guard and make sure that the documents are accurate and that the escrow is being processed in accordance with the original agreement.

In the event you are obtaining a new loan and want to ensure that you have an opportunity to read the loan documents, make certain to tell your escrow officer, real estate broker, and/or loan broker, that you want to be given enough time to read through the documents first. If there will not be enough time at the loan sign-up, request that copies of the loan documents be made available for your review prior to your appointment. Because these papers disclose interest rates, loan terms and fees, prepayment penalties, and other important disclosures, you will need time to read the fine print without feeling rushed by the notary, escrow officer, loan broker, and/or whoever else is present at the loan sign-up. It is always in your best interest to take your time and read over and fully understand any documents first, because your due diligence and personal care could have a direct impact on the outcome of the transaction.

## **3. Ask for an estimated closing statement up-front.**

In many instances, buyers, sellers, or borrowers look to their real estate agent, broker, or mortgage broker for answers in a real estate transaction. And this is especially true when it comes to the estimation of closing costs. Although closing costs will vary from one transaction to the next, you should not wait to find out what you owe at the close of

escrow, or depend on others to guesstimate your charges. The more reliable method is to talk to your escrow officer in the beginning of the transaction, and request an estimated closing statement. Even an estimate can provide you with an idea of what your final down payment will look like. If you are the buyer in a real estate transaction, you will most likely have to deposit a final down payment into escrow to close. The amount you need to bring in and deposit should never be a surprise. It is never too early to get yourself financially prepared for the closing of an escrow. It should be noted that an estimated closing statement may not reflect all of the applicable fees and charges. This is especially true when it comes to loan fees which are normally provided to the escrow officer from the lender and/or mortgage broker, or other charges and fees that have yet to be provided to the escrow officer or finalized. However, an estimated closing statement is still a helpful tool for you in determining escrow, title, and other miscellaneous non-recurring charges. If applicable, the estimate will also reflect any credits and/or debits agreed to in the purchase contract and escrow instructions, payments to third parties, and/or any other special charges previously agreed upon.

#### **4. Review the preliminary title report.**

For the escrow officer, a property's preliminary title report can often foreshadow whether a transaction will be easy or difficult to process. It is essentially the escrow holder's responsibility to review the report, order payoff demands in connection with the seller's or borrower's mortgage loans or tax liens, request reconveyances and other lien releases, as well as address any clouds (defects or potential defects) on title. Basically, the beauty of "free and clear" title is largely made possible by the work of the escrow officer and title officer. Whether you are a seller, buyer, or borrower, it is a good idea to play an active role in this process. Not only will you be solicited by the escrow to provide your mortgage loan information, as mentioned above, but it is also very important that you inform the escrow holder of any existing liens that might not be showing on title or alert the escrow when liens showing on title have already been paid off. Some times, it is possible that lenders might not reconvey a lien that has been paid off, causing it to remain on title. Similarly, there are instances when liens have been recorded on properties in error. Also, if you have judgments against your property and do not disclose such liens, please be aware that the title company will perform a public records search and will reveal any such liens. Therefore, it is wise to let your broker or escrow officer know about these issues in advance since such problems could easily delay the closing of the escrow. By reviewing the preliminary title report and communicating with your escrow officer about your title, mortgage, tax, and/or lien situation, you might possibly prevent any surprises at the close of escrow and expedite the processing of the transaction.

#### **5. Communicate regularly with your mortgage broker or lender about your loan.**

If an escrow company were polled and asked what were some common reasons why escrows cancel or are delayed, one of the answers would most likely be related to financing. If a transaction is subject to a buyer successfully obtaining a loan, the buyer

must arrange for a loan, obtain loan approval, and satisfy the lender's requirements prior to the request for funding and closing. More importantly, the lender must fund and close the loan in accordance with the agreed upon timeframe in the purchase agreement. In other words, it does not take much for that timeline to be thrown to the curb if there are difficulties with obtaining loan approval due to the buyer's financial situation, providing the lender with an acceptable property appraisal, and/or fulfilling all of the lender's conditions.

If your transaction is contingent on your obtaining a loan, please remember to communicate with your mortgage broker and/or lender from the very beginning of the transaction. It is crucial that you ask questions up-front, and continue checking with your broker or lender regarding the status of the loan throughout the escrow. There are many steps that a lender or broker must take when underwriting and approving your loan, and knowing the status of those steps will not only provide you with an indication of where you are in the process, but alert you to any pending or special conditions that will need to be satisfied in order to obtain the loan. While keeping track of loan approval and/or loan requirements is usually something your real estate broker, mortgage loan broker and/or escrow officer will do, it is wise to keep an open dialogue with your mortgage or lending professional so that you too are kept in the loop at all times. This also means that you need to keep all of the relevant players updated on any changes in your financial situation, as this information is pertinent to the loan and underwriting approval process. Communication is the key to any transaction involving financing, and your active role in that exchange is crucial.

## **6. Remember that documents are time sensitive!**

Throughout a real estate transaction, your escrow will send you documents for your signature. An escrow officer will send you all of the documents that are needed to close escrow, including but not limited to, escrow documents and amendments, information request forms, title related documents, as well as copies of title reports, termite reports, and other disclosures that require your written approval. It is important that you do not hang on to and delay handling these documents. Instead, you need to review and sign them as soon as possible. If you have questions about any document(s), ask your escrow officer about the same sooner rather than later.

## **7. Credits that you are owed must be communicated to the lender.**

If you are obtaining a loan, your lender will need to be aware of any credits you are to receive through the escrow. Most lenders have certain thresholds when it comes to credits received by borrowers, or by buyers towards the purchase price and closing costs. For example, if you are refinancing your property and your mortgage broker agrees to credit you back a portion of his broker fee, this credit will need to be approved by the lender. While your mortgage broker should communicate this information to the escrow officer, it is always a good idea to make sure the escrow officer is in receipt of this information. It will be up to the escrow officer to prepare the appropriate instructions