



LEGEND REAL ESTATE & FINANCE

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Contingencies

Contingencies: Safeguards and Troublemakers

Real estate agents often talk about the merits of a clean contract. A clean contract, or purchase offer, is simple and straightforward... one that's not complicated by numerous contingencies, restrictions and conditions. A contingency in a real estate purchase is something that must be satisfied in order for the sale to go through. Contingencies protect buyers and sellers, but they also provide opportunities for real estate transactions to fall apart.

For example, the buyers may need to sell another property to come up with enough cash for the down payment. If their property sells, the deal goes forward. If it doesn't, the deal is off. Other common contingencies are for inspections, for financing and for approval by other parties (like attorneys or accountants).

Less common contingencies are sometimes more difficult to satisfy. Perhaps the buyers only want to buy a property if they can modify it, or use it, for a specific purpose. For example, they might need city approval to run a child-care center.

Seller contingencies can also complicate matters. For example, a property that's being sold to settle an estate might require court approval of the sale. In this case, the buyers don't know that the house is theirs until the sale is confirmed in court.

Given the emotional nature of home buying and selling, most buyers and sellers prefer the cleanest contract possible. Buyers often shy away from buying homes which have complicating factors affecting the sale, like a requirement for court confirmation. Sellers often reject an offer if it's contingent on the sale of another property. In both cases, the degree of uncertainty is high.

Being able to offer a clean contract may give you an advantage when negotiating with the sellers. This is particularly so if you find yourself competing with other buyers for a property. Put yourself in the seller's shoes. The fewer strings attached to an offer, the better the chance it has of going through. The more contingencies there are, the more opportunities there are for something to go wrong.



First-Time Tip

Even though a clean contract may give you a competitive edge, you shouldn't delete contingencies from your offer if, in fact, you need to satisfy certain conditions in order to close the sale. For example, if you need to line up a mortgage in order to close, you will need a financing contingency. If you write your offer without a financing contingency, you may risk losing your deposit money if you can't get the loan.

Rather than giving up the contingencies you need, shorten the time period required for satisfying these contingencies as much as possible. A typical financing contingency is about 30 days following acceptance. If you can shorten a financing contingency, you need to be planning ahead. Many buyers get preapproved for the loan they need. To get pre-approved you must submit a loan application and documentation such as verifications of employment and down payment. You must have your credit checked. Buyers who aren't pre-approved when they enter into contract to buy a home will need to submit a loan application within a day or so of acceptance to get approved within 2 or 3 weeks.

The Closing

To make a clean offer, get your financing set up and take care of as many conditions as possible before you start negotiating.

This is taken from a newspaper article. I've included it to show common thinking with respect to contingencies. The specific advice I give you may depart from this. – Jerry

Dian Hymer is the author of the home buying book "Starting Out, Chronicle Books, San Francisco"

