

Braun & Rich

A Professional Corporation

Residential Closing Considerations for Sellers

Residential real estate closings can be frustrating for both sellers and buyers. Challenges can arise at any of the many steps required for a successful closing, making residential real estate closings anything but routine. The following steps should be considered well before you start packing and you will greatly improve your chances of a successful closing:

Personal Property:

You will need to leave behind all the personal property items required in the contract, the attorney review, the MLS listing sheet or brochure. Think about items such as the basement refrigerator, battery back-up sump pump, mirrors, chandeliers, planter boxes, swing set, curtains, blinds and shelving. Ask your realtor or attorney if you are unsure. Also, all other personal property should be cleared from the home before the final walk through. The property should be in broom clean condition and vacant, unless otherwise agreed to in the contract negotiations and/or attorney review stage.

Movers:

Make sure your movers are confirmed and that they have the proper sized crew and truck to efficiently complete the move. If the truck is too small, the move may become long and complicated. Also, consider whether you own any items that are difficult to move and determine ahead of time how you will package and safely transport these items. Will large items get out of your present home and make it through the new front door and up any necessary stairs? Do you have the proper tools to disassemble larger items? If you are moving from a condominium, you may need to meet with the condominium board, complete an application, provide interior insurance, reserve an elevator and sometimes pay a move out fee well ahead of time. Any damage caused by your move will likely be brought up at the final walk through so it is in your best interest to make sure your movers are properly insured and that you have due diligence on them prior to hiring.

Lender Issues:

With both a stricter lending environment and an active real estate market, the buyer will likely ask for an extension of the mortgage contingency in the contract. More often than not, these are granted. This is because the buyer can - and likely will - cancel the contract if it isn't extended. The extension should not typically effect the closing date, but if an extension of the closing date is requested we will discuss the implications of such request with you before responding. We make sure to monitor the financing progress along the way, and will alert you to any issues or concerns that may come up.

Closing Documents and Power of Attorney:

Sellers typically do not attend the closing. Sellers can sign all documents, including a power of attorney that will provide us the authority needed to sign on your behalf prior to the closing, ahead of time with us, and one of the attorneys in our office will attend the closing in your stead. Once the closing is over, the real estate agent or our office will notify you that it is done. The legal documents cannot be signed by electronic signature.

If you intend to have your documents signed at our office, which we recommend, please remember to bring your license or passports, which items cannot be expired. If you intend to attend the closing, you will also need those forms of identification. We can also send you documents and have you sign, notarize and express mail them back to our office.

Spouse:

Matthew B. Rich | O: 847-424-1005 x 2 | C: 312-420-0827 | mrich@myreallaw.com
www.myreallaw.com

Even if your spouse is not on the deed to your house, most of the time your spouse must sign the deed to waive homestead rights (required under Illinois law). Please advise us if you owned the property with your spouse or whether your spouse was not on title. If you have been recently divorced, you may need to bring additional documentation, such as a divorce decree.

Disclosures:

Make sure you properly fill out and provide the statutorily required disclosures and test results you arranged for in the contract stage (well/water, radon, termite and mold).

Also, if you are selling a condominium unit, you will be required to provide the 22.1 condominium documents, financials and minutes. Many condominiums now use third party services in which the documents are not available unless you pay for them. Discuss this with your agent and management company before you go under contract so you know who the contact is for ordering condominium documents, the cost to obtain the documents and the timeline for condominium document turnaround. Purchasers have the right to review and approve these condominium documents and disclosures so it is important to provide them simultaneously with or shortly after the property is under contract.

Final Walk Through: This appointment will occur before closing. Nobody should be in the property during this appointment. Your real estate agent will usually accompany the buyer. As mentioned previously, the property should be emptied before this appointment occurs. Please make sure that all keys, garage remotes, and appliance manuals are left in the home for this appointment or at some point before the closing.

Keys:

Make sure you and your listing agent have discussed how keys will be transferred to the buyers. Buyers want all keys and garage transponders before they close on the transaction so it is wise to have a plan in place if your agent will not be attending the closing. We will happily take them to the closing if you arrange this with our office beforehand.

Title and Mortgage Payoffs:

Our office will serve as a title agent during the transaction. We will provide you information about the agency relationship we have with particular title companies, but ultimately the title company we agree to use will pay our office a fee for reviewing and clearing the title. There are a number of title issues that need to be cleared before we can consummate the transaction with the buyer. For example, if you have a loan on your real estate, we will need you to obtain a payoff letter from your lender(s). The payoff should be good through at least two business days following the closing to insure that the title company has sufficient time to wire the proceeds on the day of the closing.

Additionally, other title issues may need to be cleared prior or at the closing. Examples of title issues include, but are not limited to, previously sold real estate tax issues, municipal liens, mechanic's liens (for failure to pay contractors), possible court cases (i.e. divorce matters, bankruptcy, etc.), etc. If your property is held in a trust, then you will need to provide us your trust agreement demonstrating that you are authorized to sign documents and convey the property on behalf of the trust.

Survey:

As the seller, you are generally required to order, at your own cost, a survey for the buyer. We will order that before the closing and have you pay through the escrow at closing, which will ultimately reduce your sales proceeds. Typically, a survey can cost anywhere from \$350 for a typical home survey and up, but the final cost will depend on the kind and size of real estate being sold. If the transaction is cancelled for any reason, you will have to pay for the survey out of pocket. Surveys are not ordered for condominiums.

Utilities:

Please DO NOT shut off the utility services. Tell all utility companies what the last day of services under your name will be (day of closing), and the buyer will transfer over the services from there. Your agent

will also notify/remind the buyer/buyers' agent of this so they can contact the utility companies and inform them that you've done this.

Real Estate Tax Credits:

As taxes are paid in arrears in the Chicagoland area, you will be providing a credit to your buyer at the closing for real estate taxes since you paid the last installment of real estate taxes. In other words, if you close on February 15th, you will give a credit to the buyer at the closing for January 1st through February 15th and a credit for any installment of prior year taxes that have not come due and payable by the closing date. The amount of the closing credit will depend on what you and your agent and/or attorney have discussed during contract negotiations and/or attorney review negotiations.

Final Closing Costs: We will have the final closing costs for you within the week before closing. It can depend on the title companies' work load and time of year, but you should have final figures no later than the day before closing. Closing costs are taken directly from your proceeds (i.e. loan amount, prorations and costs, MINUS sale price) so there is nothing you need to do unless your proceeds won't cover the closing costs/fees. If this is the case, you will need to bring a certified/cashier's check or send a wire (if the amount due is \$50,000 or more) for any money needed for the closing. Because of privacy, some banks will not send us a payoff and you must order it from them directly, and we are always available to help. Make sure you timely liquidate funds if you are required to bring cash to the closing in order to sell.

Transfer Taxes, Water Charges and Municipal Issues:

Some communities charge the buyer, the seller or both a transfer tax based on the purchase price. Often times a water bill must be paid in full before the community will issue the required stamps. Coordinate with your attorney which party will make the payment. Also, some communities require a home inspection by the building department. Other communities require a copy of the contract, deed or state transfer declaration. Ask your attorney or realtor about the procedures and be prepared. In the City of Chicago, the seller's attorney obtains a Zoning Certification (for 2-5 unit buildings, this certification must be ordered three weeks or more before the closing) and the water certification, but the transfer stamps may be purchased through the title company.

Sales Proceeds: You have the option of receiving a check from the title company or receiving a wire directly from the title company for a fee. If you elect to have your sales proceeds wired from the closing, we will require the wire instructions from your bank. Please note that the account can only be in the name of the person/entity selling the property to avoid fraud. Additionally, please call our office to confirm wiring instructions to your bank to avoid email fraud.

Income Taxes:

The title company will report the amount of the sale to the federal government. Your attorney will provide you a 1099 form to include with the closing documents at the closing table. On certain transactions, the sales proceeds from a real estate transfer may be taxable. You should consult with your accountant about how to report this information at the time of the closing to make sure you are accurately reporting the sales proceeds to the Internal Revenue Service.

Matthew B. Rich concentrates his practice in real estate law, serving individuals buying and selling homes, condominiums, and investments as well as builders and developers. Matt provides counsel to these clients in areas including residential and commercial transactions, condominium development and association matters, zoning/land use, leasing and landlord tenant matters. The firm offers a host of legal services, please visit www.myreallaw.com for details. Matt can be contacted at mrich@myreallaw.com, Office: [847-424-1005 x 2](tel:847-424-1005) | Cell: [312-420-0827](tel:312-420-0827)