

## Proactive Steps to Ensure a Smooth Closing

Every transaction is unique although there are several items that commonly impact processing of the file to clear title and proceed to the closing table. Guardian Title has identified some key things that often cause delays in closing or disbursement. Taking a proactive approach in reviewing these issues may help ensure your closing goes more smoothly and timely overall.

### **Payoffs - Deeds of Trust/Mortgages**

The title commitment will identify any existing loans currently recorded against the property and the closing agent will need payoff information from the homeowner in order to contact the lender to obtain a payoff statement. In order to do this, we will need the name of the current lender, loan number, phone number and borrower's social security number. In some cases, the lender may take a few days to provide this statement once the request has been made by the title company so the sooner we have the information, the more timely the process can be to confirm payoff amounts for the anticipated closing date. Many lenders today are also requiring the borrower to sign a written payoff authorization in order to obtain the payoff statement. Guardian Title can provide you with authorization forms as needed.

If your closing is scheduled earlier in the month, it is helpful to know if the seller will make the current month's mortgage payment(s). If so, updated payoff statements may be obtained as needed to help avoid last minute changes to the settlement statement. This will also depend upon the timeliness of the lender to confirm the payment is posted to the seller's account.

Often sellers do not realize that a line of credit is recorded as a mortgage (second mortgage) against their home. These lines of credit must be closed at or prior to closing of the sale to ensure that title is cleared. If such account is not closed, the seller would still have access to funds and could take additional draws near closing causing a shortage in payoff to the lender. If this happens, the title company will contact the seller to resolve the shortage after closing but it is always best to avoid this upfront. Likewise, some sellers may have a zero balance on their line of credit but the account must still be closed and released in order to clear title for closing.

Additional payoff considerations may include previous mortgages which have not been released by the prior lender. If this is true, we will work with seller and lender to ensure it was paid in full, closed and is being released from the property. Another issue arises if the borrower has been delinquent in payments and the lender has begun the foreclosure process. The seller and/or agent may need to assist in obtaining the payoff especially if a short sale is anticipated to close.

### **Clearing Title Requirements**

Federal and state tax liens, judgments, mechanic's liens, lis pendens and more may be identified against sellers or buyers in a title commitment. The closing agent will contact the agent and customer to clear these requirements accordingly. In the instance where a customer may have a common name, completion of a Personal Information Affidavit may be required so that the closing agent can verify whether or not the party identified in the commitment is or is not the party in this transaction. If it is, payoff and resolution will be required. If it is not the party in the transaction, such title requirement can be removed quickly. Please note that title agents cannot negotiate payoffs on behalf of the customer so their involvement is imperative to resolve any issues prior to closing.

An Improvement Location Certificate or Survey may be required by the title company to close, and any adverse matters identified there may be taken exception to in the final title policy. The closing agent will refer to the contract to confirm if the buyer or seller is responsible to obtain such survey and discuss the matter with the real estate agent.



### **Vesting in Title**

It is important to review the title commitment to confirm vesting in the transaction. Is there more than one party in title? Is there a trust or other entity in title rather than individuals? Additional requirements may be made in order to properly convey title from an estate, trust, or other entity. Likewise if an entity is purchasing the property, a Statement of Authority or other documentation may be required to be submitted to close. It is very helpful to submit any required documents to the closing agent prior to closing to make sure they are accurate and appropriate to proceed with closing.

### **Use of a Power of Attorney**

If either a buyer or seller will not be attending closing and prefers to use a Power of Attorney, the closing agent may prepare the Power of Attorney to be used in the property-specific transaction. If the party is using a Power of Attorney that has not been prepared by the closing agent, the document must be reviewed and approved for use in the transaction by the closing agent. If the buyer intends to use a Power of Attorney, the lender must also approve its use. The original Power of Attorney must be provided to the closer and will be recorded in the appropriate county with any other necessary documents. On the day of closing, the closer must be able to confirm that the Power of Attorney is still valid and that the party granting the authority is indeed alive.

### **Contract Addendums**

Often contract documents including Amendments and Inspection Resolutions are completed by the parties that impact the settlement statements. Agents should submit these documents to the closer and buyer's lender as soon as possible so that no last minute changes will be necessary. RESPA requires that any financial components of the transaction be confirmed on the settlement statement to insure complete disclosure to all parties of the obligations and insure that the terms of the contract have been met upon closing.

### **Mail-away Closings**

It is becoming more common for parties to not physically attend the closing and documents must be mailed out to them for completion. It is most helpful to communicate this need to the closer as early as possible so that they may prepare the closing packages in advance to coordinate the mail-away process. Once the documents are sent to the signor(s), the documents must be signed exactly as requested and many require signature before a notary public. Documents notarized outside the country must be completed in English, and certifications of the notary may be required through an Apostille or other certification based upon the country in which they are being signed unless completed at an embassy. So it is critical to discuss these needs with your closer as early as possible as many certifications may take several days for the party to obtain. Original completed documents must be received by Guardian prior to closing and disbursement of the transaction.

### **Good Funds and Wire Transfers**

Colorado law requires that Good Funds be provided to the closing agent in order to complete the transaction. Good Funds may be in the form of a cashier's check or wire transfer. Many title companies are requiring wires more often than cashier's checks due to the volume of fraudulent checks being presented today. For all cash transactions, wire transfers are required by Guardian Title to close. If an amount under \$500.00 is required to close, a personal check may be accepted by the closing agent. It is important to discuss funding requirements with your closer prior to closing.

When wire transfers are involved in your closing, an early morning closing may result in closing in escrow until the funds are received by the title company. Although a Fed Reference number may be provided to the closing agent, that number confirms that the wire has been received by the Federal Reserve but does not insure that the wire will ultimately be credited to the closing agent's account. So until the deposit can be confirmed, closing and disbursement will be held in escrow. If an early morning closing is necessary, the agent or party sending the wire may want to contact the banking institution to see if funds may be sent the day prior to closing to avoid delay in disbursement.

Sellers may prefer to receive proceeds by wire transfer, so it is important to note that there are wire cut-off times for outgoing wires by both title companies and banks. The Federal Reserve closes operations daily at 5:00pm (3:00pm MST) so wires may be delayed until the day following closing if they occur beyond cut-off or Federal Reserve closure.

### **Funding Authorizations**

Lenders often require closers to submit completed real estate and loan documents to them for review and approval at closing. When satisfied, the lender will provide final approval and funding authorization to the closer often including a funding number to disburse. If the lender has such requirements, the closer cannot complete closing and disbursement until authorization is received. Understanding this process and educating customers can help alleviate much stress and anxiety at the closing table.

For more tips to a smooth closing, contact your closer to discuss your specific transaction and be proactive with them to help prevent delays in closing and disbursement as possible.