



Questions About Today's Real Estate?

Ask Phyllis!

What happens when a cash buyer can't pay cash?



Dear Phyllis,

After four months on the market, we finally sold our home to an all cash buyer. Closing was to occur in three weeks. Because there was no loan to worry about, we have been mostly packed and ready to move. Now we learn that the buyer is trying to get a loan and is having difficulty because of his credit. Our agent now claims that the buyer doesn't have enough cash to buy our house. Shouldn't he have checked this first?

*Packed and ready in
La Crescenta*

Dear Ready,
It is customary when presenting a cash offer to verify the existence of the cash (bank statements, stock portfolio, etc.). Years ago, I represented a seller in a supposed cash sale. Prior to entering escrow, the buyer presented proof of the cash needed to close. The wrinkle was that in the interim, he purchased another property for cash and didn't

have enough remaining to close on my sale.

If you feel it is in your best interest to proceed, you and your Realtor® need to start building a case to keep the buyers earnest money deposit in the event that he doesn't close. I am not privy to the particulars of your escrow, but some thoughts:

•Ask your agent if your contract outlines liquidated damages and arbitration. Or if you need an attorney to make a claim for damages suffered.

•Your buyer has hopefully already removed his inspection contingency in writing; if not, have the buyer do so immediately. In my experience as a real estate agent, in order to have a claim to the buyer's deposit, you need to show that you were reasonable in your dealings with the buyer. You may want to offer the buyer another two weeks to close escrow and in the event that the he can't close within that period, offer an additional two weeks at a cost of \$75 per day.

This per diem penalty is to cover your mortgage costs and inconvenience.

If you don't think the buyer will be able to obtain financing and close escrow, you may want to consult with a real estate attorney, who can aid you in building a case to keep the buyer's deposit.

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