

BEST PRACTICES FROM SHOWING TO CLOSING

A product originally created in 2013 by members of the **Central Mississippi REALTORS®** and the **Mississippi Mortgage Bankers Association**. This document is updated frequently as business issues arise.

INTRODUCTION:

There are many ways to handle the myriad of issues and responsibilities that take place from showing property to closing that can cause delays in the process. The purpose of this Working Group was to reach a consensus on the BEST of the various ways to do things. If used consistently by everyone fewer transactions might fall through.

<i>Best Practices Included in This Document</i>	<i>Page</i>
<i>Issue 1. Safety and Professionalism</i>	2
<i>Issue 2. Contract Execution</i>	2
<i>Issue 3. Lump Sum Closing Fees</i>	3
<i>Issue 4. Pre-Qualified vs. Pre-Approved</i>	3
<i>Issue 5. Transmitting the Contract</i>	3
<i>Issue 6. Timelines After The Contract Is Signed</i>	4
<i>Issue 7. 16th Section and Pearl River Valley Water Supply District Land</i>	4
<i>Issue 8. The Home Inspection Process</i>	4
<i>Issue 9. Possession of the Property</i>	5
<i>Issue 10. Termite Inspections</i>	5
<i>Issue 11. Personal Property</i>	5
<i>Issue 12. Underwriting and Lender Documentation</i>	5
<i>Issue 13. Closing</i>	7
<i>Buyers' Agent's Information Form</i>	
<i>Sellers' Agent's Information Form (2 pages)</i>	

ISSUES & BEST PRACTICES

Following are descriptions of the issues that can create delays or misunderstandings. Below each stated issue is one or more BEST PRACTICES.

ISSUE 1. SAFETY AND PROFESSIONALISM FIRST

Prior to showing property to prospects with whom you have had no prior contact (unvetted), you should make an effort to ensure you know the person's true identify and that he/she has the ability to buy property. Your time and safety are valuable. Follow the C.I.T.O. principle, "***Come into The Office...where professional services begin.***" Start your relationship at the office where the person can be seen by others, where you can get a photo copy of his/her ID and where you can open dialog about his/her financial ability to buy. A prospect who refuses or is offended by the requirements to meet at your office first, show ID and discuss needs and financing may not be worth your risking your life. Further, sellers of listed properties expect REALTORS® to show their properties only to prospects who have been vetted to some degree and who have demonstrated the financial ability to buy.

⇒**BEST PRACTICE:** Always start your relationship with a new prospective buyer at the office. It's SAFER and demonstrates to the prospect that you only do business in a professional manner. *(If meeting at your office is not possible, identify another PUBLIC place where all the same requirements could be met.)*

⇒**BEST PRACTICE FOR PRINCIPAL BROKERS:** Incorporate into your office policy and procedure manual the C.I.T.O principle recommended by Central Mississippi REALTORS® and Central Mississippi MLS:

It is the policy in this firm to begin all business relationships with prospective buyers at the office adhering to the principle: C.I.T.O. Come Into The Office...where professional services begin."

The firm adheres to the principle by:

- a) Encouraging its affiliated agents to use the C.I.T.O. slogan with consumers describing the benefits of beginning a professional business relationship at the office
- b) Displaying the C.I.T.O. graphic on the firm's and agents' websites, and across social media platforms where the option is available
- c) Displaying the C.I.T.O. poster in the common area of the office
- d) Showing property only to prospective buyers who provide proof of identify and ability to buy
- e) Reviewing the policy with agents annually

ISSUE 2. CONTRACT EXECUTION

The contract should be complete and legible and include the full address with lot, block, if applicable. Phone numbers, and names of all parties should be spelled correctly and printed under signatures. The legal description should be included and legible.

Other common contract issues causing delays in underwriting and closing are:

- An incorrect address that does not include the proper name such as “street, drive or circle.”
- The copy circulated to the lender and/or closing attorney is not legible because it is a faxed copy or otherwise poor copy of the original.

⇒**BEST PRACTICE:** Legibly and accurately write contracts knowing they will be read by a number of people throughout the process including, but not limited to, the buyer, seller, lender, underwriter, and closing attorney. **The Best Practice is for the contract to be typed prior to signatures, but if it must be handwritten, write clearly and with all required detail.** Include all names of parties, addresses in complete form including the correct legal description and/or parcel #; and or tax ID#.

ISSUE 3. LUMP SUM CLOSING FEES

Many of the contracts today provide that the Seller will pay a lump sum amount for the closing costs. This is a great practice, but it does lend itself to interpretation as many people have a different idea of what “closing costs” includes. The language used to convey the cost distribution should be explicitly clear so as not to be left up to interpretation. Contract law states that if contract language is ambiguous or open to interpretation, the provisions that specifically address the issue control the outcome. Therefore, if you do not write your contract as specified in the Best Practice below, it could mean your client would pay the lump sum amount specified PLUS the termite certificate and home warranty. Avoid this misunderstanding by using the suggested language. Further, avoid the following frequently used language that leaves costs unassigned and up to interpretation creating misunderstandings: “*Buyer to pay \$1500 in closing costs. Seller to pay termite and home warranty.*” Who pays Buyer’s closing costs in excess of \$1500?

⇒**BEST PRACTICE:** Be keenly aware of any language in the purchase agreement you are using that describe what are and are not considered closing costs. Specify if the closing costs are inclusive/exclusive of the termite certificate (WDIR) and the Home Warranty, and/or any other items that may be addressed in separate paragraphs in the contract.

Preferred wording is:

“Seller to pay up to \$_____ amount in Closing Costs & prepaid/escrow expenses, including, but not limited to, WDIR report, and home warranty. Buyer to pay any costs not paid by seller...”

ISSUE 4. PRE-QUALIFIED VS. PRE-APPROVED

“Pre-qualified” is the preliminary review by a lender of LIMITED, UNVERIFIED information that leads them to believe a buyer will qualify. “Pre-approval” occurs after the contract and application have been submitted and financial information has been verified.

⇒**BEST PRACTICE:** Recommend that buyers be pre-qualified **before** starting the house hunting process to ensure their search is within the appropriate price range.

⇒**BEST PRACTICE:** Encourage buyers who are pre-qualified to avoid purchasing items on credit that would add to their outstanding debt balances and to avoid changing jobs without notification to lender even if compensation is the same.

ISSUE 5. TRANSMITTING THE CONTRACT

Who is responsible for sending the contract and preliminary contact info regarding the parties/agents, etc. to the lender and the closing office?

⇒**BEST PRACTICE:** It is customary for the buyer’s agent to initiate this process.

⇒**BEST PRACTICE:** The buyer’s agent should ensure that any and all addendums indicated on the contract as being included are provided to the lender. Failure to provide the ENTIRE fully executed contract, including a copy of the earnest money check, and all addendums can delay the underwriting process. The listing agent and buyer’s agent should communicate and determine who will send the documents to the closing attorney.

ISSUE 6. TIMELINES AFTER THE CONTRACT IS SIGNED

How much time on average do lenders need to close? The lender’s timeline STARTS when all the income documentation from the borrower is signed and disclosures are in the lenders’ hand. Generally, lenders need between 45 and 60 days to close once all documents are received. The appraisal is generally not ordered until the home inspection contingencies, if any, have been removed. In some cases, appraisals can take a couple of weeks during which time lenders have no control over the process due to RESPA laws. If the contract is contingent upon a satisfactory home inspection, get the home inspection contingencies removed as quickly as possible allowing for the appraisal to be ordered and completed in accordance with the contract terms.

⇒**BEST PRACTICE:** Allow up to 60 days to close to ensure all deadlines known can be met in a timely manner, and to include time for “Murphy’s Law” to interfere.

ISSUE 7. SIXTEENTH SECTION AND PEARL RIVER VALLEY WATER SUPPLY DISTRICT PROPERTY

Leasehold property and property on 16th section land are fairly common in Mississippi and they can affect your timeline for closing.

⇒**BEST PRACTICE:** As soon as a contract is executed that is on 16th Section land or on the PRVWSD, let the lender and closing attorney know immediately. The seller's agent should obtain a copy of the ground lease to provide when necessary. Further, since lease transfer documents take time to complete the closing attorney will contact those entities.

ISSUE 8. THE HOME INSPECTION PROCESS--WHO ATTENDS?

It is a common misconception that buyers may attend the home inspection along with the inspector unaccompanied by the agent representing them. The only authority a buyer has to access a listed property is with an agent (MLS Participant or Subscriber) who is responsible for buyers' activities while in the property. The only way buyers should be at the property unaccompanied by their agent is with the seller's permission. That request for permission should be made to the listing agent who will have that discussion with the seller.

⇒**BEST PRACTICE:** A buyer's agent should accompany his buyer client to the home inspection. The agent, however, has a limited role: **1) protecting the listed property as he did during the times he was showing the property, and 2) ensuring the buyer has the opportunity to discuss the findings with the inspector.** The agent should not interject himself into the home inspection process letting all communication be between the buyer and the inspector. The buyer's agent should only receive a copy of the inspection report if the buyer client wants him to have it. The report belongs to the buyer not the buyer's agent.

ISSUE 9. POSSESSION OF THE PROPERTY

Possession can be tricky creating enormous emotional and financial distress if handled without full understanding of the parties. For one person to possess a property the other person must be out. Possession by the buyers immediately after closing requires the seller to be out *by* closing. This can put the seller at financial and emotional risk if the closing is delayed or cancelled and he has to move twice. The same risks might apply if the buyer possesses before closing. If the sale falls through, the buyer might incur the expenses of moving again.

⇒**BEST PRACTICE:** At the time of contract negotiation, the possession provision should be thoroughly discussed with the seller to determine if he's being asked to assume risks if possession is on or immediately following closing.

⇒**BEST PRACTICE:** To minimize financial risks, possession by the buyer should be provided 72 hours after closing. This allows time for unexpected closing delays and for the seller to prepare the move-out. Of course, insurance issues would need to be addressed if the seller still possesses the property after closing as the Best Practice suggests.

ISSUE 10. TERMITE INSPECTIONS

Pest inspections are generally required by lenders, but there are exceptions. Some conventional loans do not require them.

⇒**BEST PRACTICE:** Buyer's agents should have a very frank discussion with their clients about the risks of not having a termite inspection if it is not required.

ISSUE 11. PERSONAL PROPERTY

Personal property is not part of the real estate being conveyed from the seller to the buyer and real estate agents should not be part of any documents regarding personal property.

⇒**BEST PRACTICE:** Do not include personal property anywhere on the contract. Personal property should not be negotiated as part of the closing of the real property, but rather separately through a Bill of Sale.

ISSUE 12. UNDERWRITING AND LENDER DOCUMENTATION

Lender request for documentation: After the lender requests documentation from the buyer, the review of that documentation often requires follow-up documentation. It is important that everyone involved with the closing understands that the underwriting process/closing date is a "moving target." Often documentation supplied at the beginning by the borrower is incomplete and/or review of that documentation leads to further questions requiring additional documentation and explanations by the Borrower.

⇒**BEST PRACTICE:** The buyer's agent should encourage the buyer to shop lenders and select one whose practices and fees are in the best interest of the buyer. They should be encouraged to include in their research of lenders what benefits there might be in choosing a local lender versus an out-of-state lender. Further, encourage buyers to supply the lender with all required documentation in a timely manner. They should further prepare the buyer for the possibility of the lender requiring follow-up documentation. Most lenders can confirm with the buyer's agent that they have or have not received all initial and/or follow-up documentation.

ISSUE 13. CLOSING

Communication lines.

⇒**BEST PRACTICE:** Use CMR's Closing Information Forms to provide pertinent information about the transaction expeditiously to the lender and closing agent. The [Buyers' Agent's Information Form](#) and the [Sellers' Agent's Information Form](#) are located on the CMR home page under Quick Links and the Members tab in the Frequently Requested Documents section. The forms are also included on the following pages in this document.

⇒**BEST PRACTICE:** The selling and listing agents, along with the lender, should be in communication with the closing attorney's office. Generally, the seller and buyer should not contact the closing office if represented by an agent. The one exception is that the closing office will generally communicate with the seller directly regarding payoff information.

⇒**BEST PRACTICE:** Lenders are required to abide by privacy laws, and their primary communication will be with the Buyer and the closing attorney's office. The lender has very limited information that can be disclosed regarding the closing status with the selling agent.

Who selects the closing attorney?

⇒**BEST PRACTICE:** In order to prevent any confusion related to who is the designated closing agent/attorney for each transaction the closing attorney or title company name should be included in the contract. RESPA states that the Buyer has the right to choose the title agent/attorney who will provide the title policy, so long as the Buyer is paying for the title policy. As a practical matter, the closing attorney and the title agent are often one and the same person. However, there is no requirement that both services must be provided by the same person or entity.