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Post-Closing Occupancy Agreements Can Work for Both Buyers & Sellers

The technique of offering or requiring continued occupancy for the seller **after** closing can be a useful and highly effective negotiating tool for both the buyer and the seller. It's not used that much by most real estate professionals, but Golden Real Estate's agents, including myself, have learned how to make highly effective use of it.

REAL ESTATE TODAY



By **JIM SMITH, Realtor®**

From the Seller's perspective, retaining occupancy of their home after closing is a great way to ease concern over having to move twice or not being able to coordinate the purchase of their replacement home with the sale of their current home.

Many owners want to sell but realize that while a "seller's market" is great for **selling** a home, it makes it harder to find and **buy** a home. The big fear is that the owner will sell their home and not have a place to live. This fear can be quite real and quite frightening, but a well negotiated sale that includes a post-closing occupancy agreement can effectively address this concern. I have personally used that device effectively in multiple transactions.

Sometimes this requirement for continued occupancy after closing is expressed in a listing as follows: "Sale must be contingent on seller closing on their replacement home."

Even when a seller has the means to buy their replacement home before putting their current home on the market, a post-closing occupancy agreement can play a useful role for the seller. Last year, for example, I listed an Arvada home for a couple that was already under contract for their replacement home. They had been approved for a bridge loan to finance their replacement home, intending to pay off that loan as soon as they sold their current home. We priced their home just right, so we got multiple offers and were able to sell their home for well above its listing price **and** have the closing date occur the **day before** the closing on their replacement home. They did not have to utilize their bridge loan and, in addition, we negotiated a free two-week post-closing occupancy so they could move from the current home to their new home in a leisurely manner.

Having that post-closing occupancy agreement can reduce the risk of needing to move twice — once into a rental or a relative's basement, then into the replacement home — but there's no guarantee, of course. Only one of my clients during the current 3-year seller's market has had to do so, and that was only because they decided to build a new house **after** they were already under contract to sell their current home. So it can be accomplished. Call me or one of our agents for a strategy conversation based on your own particular situation.

When a seller **is willing and able** to move twice if necessary, I recommend not disclosing the **preference** for a post-closing occupancy agreement until after the multiple offers come in. That way, we don't discourage offers from buyers who require immediate occupancy,

but we can then work with competing buyers to see whether the best offer **financially** might also be also be the best offer in terms of **move-in flexibility**.

From the Buyer's perspective, offering occupancy after closing can be a useful tool in winning against competing buyers. Buyers who are currently renting on a month-to-month basis are the best candidates for this strategy, because they can offer an open-ended occupancy agreement or lease-back, confident that they'll know well enough in advance of when they can move in, so that they can give the necessary notice to their current landlord. With this kind of buyer, I'm always happier as a buyer's agent when the listing is not vacant, because then there's the chance that occupancy after closing could be a bargaining point for my buyer.

The "Post-Closing Occupancy Agreement" is a state-approved form available to all agents and buyers, but it can only be used for up to 60 days. If the parties to a

transaction agree to flexibility beyond 60 days, they need to agree to sign a lease, which can, of course, contain terms for early termination upon reasonable notice.

Of course, most other buyers are unable to offer such flexibility, but I always ask my buyers that question, explaining that if that **is** a possibility, it will enable them, with certain sellers, to make their offer more attractive than many competing offers.

In conclusion, a post-closing occupancy agreement can be an effective tool for helping buyers win contracts for the house they want to buy. Combined with Golden Real Estate's ability to offer free use of our moving trucks (and sometimes free labor), it has made us far more successful in winning bidding wars for our buyers than can be claimed by other brokerage firms. To win a contract for our buyer, we once even offered to move the seller **twice at no cost**. It worked!

Just Listed: 2.3-Acre Golden Horse Property With City Views

This home at **17130 W. 53rd Ave.** sits on the eastern slope of North Table Mountain, four miles from downtown Golden and with views of downtown Denver. It's a working horse property with a 36'x40' horse barn (5 stalls plus tack room), fenced yards and pasture, three outside paddocks and a round pen. It is zoned A-2, which allows for unlimited horses, although you could, of course, just buy this 4-bedroom, 3-bath, 4,204-SF home for its great location and finishes, which include 11 skylights, Talavera tiles, and Italian ceramic tile floors, plus a finished walk-out basement. It's on public water but has its own septic system. Enjoy country life only 20 minutes from downtown Denver, and easy access to light rail and I-70. Extensive mountain bike trails are right out your door, and the lower trail along an irrigation ditch is perfect for hikes and horseback riding. To fully appreciate this home, take the narrated video tour at www.JeffcoHorseProperties.com. **Open Sat., May 13, 11 to 1.**



Just Listed: 2-Bedroom Condo in Denver's Golden Triangle



Unit 206 at 1200 Cherokee Street is a 2-bedroom, 2-bath, 1,352-square-foot condo in an amazing location — 2 blocks from the Denver Art Museum and a short walk to the 16th Street Mall and countless restaurants and entertainment venues. That's why the sellers, who met and married while attending the Berklee College of Music, bought this fabulous condo and then spent quite a bit of money improving it — new hardwood flooring, new slab granite counter tops, stainless appliances, and upgraded bathrooms. You will be quite impressed! This is a secure building, requiring a code both to enter the building and then to use the elevator. The two garages are also secure, and two parking spaces are included with this unit. The interior location of this condo (see photo) also keeps away the street noise that comes with having such a perfect urban location. The condo has its own in-unit laundry room. To fully appreciate this condo, visit www.DenverCondo.info where you can take a narrated video tour of it. **Open Sunday, May 14, 11 a.m. to 2 p.m.**



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