



## **Sellers: How to keep a sale from falling through**

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Sellers already are scrambling to find buyers who are willing to pay a price they want. Now comes word from Realtors and real estate attorneys that some sales are going into contract but never make it to closing.

It is unclear exactly how many Long Island home sales are falling through. But Edward Taylor, a Smithtown attorney specializing in real estate, said that in the past month, one-quarter of the homes he handled that had gone to contract did not end up at the closing table. (The National Association of Realtors, which usually doesn't track this data, did a quick survey in August 2007 and found that the range of deals falling through was 10 percent to 30 percent of all transactions nationwide, says spokesman Walter Molony.)

A major reason deals are falling apart is that some buyers can't qualify for mortgages. But other problems are arising because would-be purchasers have lost their jobs or are concerned about job security. Also, bank requirements for obtaining mortgages have been changing, and some applicants who do receive mortgage pre-approval may no longer be eligible for that particular loan after the contract signing, says Sheryl Hecht, a licensed saleswoman with the Dix Hills office of Prudential Douglas Elliman Real Estate.

If you've had a contract that never made it to closing or are one of the many sellers who have had offers that never even made it to contract, here are some options to consider:

### **REQUIRE A SUBSTANTIAL AMOUNT DOWN**

#### **AT CONTRACT**

The 411: A few lending institutions still will lend money to those buyers who can put down only 3 percent or 5 percent, according to Mark Malsky, owner-broker with RE/MAX Signature Real Estate, which has offices in Babylon and Setauket. But it is preferable for the seller that the buyer be ready to put down 10 percent at contract to make a mortgage commitment more likely, says real estate attorney Neil Garfinkel, partner at Abrams Garfinkel Margolis Bergson, LLP, which has an office in Jericho. And, by having your attorney write the contract to require 20 percent down at closing, you are even more likely to have a buyer actually get a mortgage commitment than if only about 5 percent is put down, Taylor says.

Pros: You get to keep more money in your pocket if the deal dies.

Cons: You may eliminate some buyers. Also, getting to keep the deposit is "not a slam-dunk," says Garfinkel, because purchasers still could want some of their money back and may want to take you to court.



## KEEP THE DOWN

### PAYMENT

The 411: Most contracts are contingent upon a buyer getting a mortgage, points out attorney Barry Landsman, who is of counsel at the Manhattan-based law firm of Pryor Cashman, LLP. If someone cannot get a mortgage and cannot close, you are required by most standard contracts to return the down payment. However, if the purchasers find another home they prefer, are just too scared to go ahead with the deal because of concerns about the economy or back out for any other nonmortgage-related reason, you are legally entitled to keep the down payment, Cashman says.

Pros: You have this money in your pocket to use until another buyer comes along.

Cons: You're back to square one.

### TRY TO SAVE THE DEAL

The 411: "If you need to sell and a buyer is getting nervous to close the deal because of price, find out at what price the buyer will come back to the table and renegotiate the deal," suggests Diane Saatchi, senior vice president in the East Hampton office of The Corcoran Group. "In this market, there may not be another buyer waiting right outside your door, so it may be worth doing this."

Pros: This may allow you to seal the deal and have your home sold.

Cons: You are selling your home at a lower price than you anticipated.

### FIND ANOTHER LENDER

The 411: If a buyer has enough money to close the deal and is gainfully employed but is still having difficulty getting a mortgage, postpone the closing if you can and have the buyer try working with another lending institution, says real estate lawyer Sandra Radna, a partner in the Manhattan law firm of Radna & Androsiglio, LLP, which has a Smithtown office. Some sellers recently have found themselves in this position when their buyers' bank folded, says David Saracino, president of Select Service Abstract Inc., a title insurance company in Merrick.

Pros: You may be able to save the sale.

Cons: Other lenders may be just as difficult or unpredictable.

### PUT THE HOME BACK ON THE MARKET

The 411: If a purchaser loses his job or just does not have the funds to close (even at a renegotiated price), it is time to move on and put the house back on the market, Taylor says. If



you already lowered your asking price in the deal that fell through, keep the home at that selling price rather than going back to your original selling price, says Malsky. Keep your own list of everyone you showed the house to and contact them again, Radna says. And be patient. Deals that used to take one month to seven weeks to close are now taking three to four months, she adds.

Pros: The next deal could work.

Cons: Your home is back on the market.

#### TRY SELLER FINANCING

The 411: If you have a buyer who has a steady job and a good income but was still turned down for a mortgage, provide the mortgage to the purchaser yourself, Garfinkel says. This could be a short-term loan, for maybe just a couple of years or so, until it becomes easier to get loans, and then the buyer could be required to refinance and pay back the seller, says Terry Sciubba, owner of four Sherlock Homes Realty offices in Sea Cliff, Glen Cove, Oyster Bay and Glen Head. "The seller would serve as a bank, in essence," Garfinkel says. "We are just starting to see some of this happening in a small way."

Pros: You've sold your house in a tough market.

Cons: This is recommended for only those sellers whose home is paid off and who do not need the cash from a sale to buy another home.

#### BACK ON THE MARKET

Long Beach: \$750,000

Address: 462 Oceanfront, Long Beach

Asking price: \$899,000

Taxes: \$13,700 and monthly common charges of \$430

Style: Town house condominium

Square footage: 2,200

Condition: Renovated

Background: Joseph Boyce, 42, an accountant, says he wants to move to a house in Suffolk County for more space.

Main features: Three bedrooms, 2 1/2 bathrooms, ocean views, two terraces, updated kitchen with stainless- steel appliances, two parking spaces, two-floor duplex, wood floors.

Time on market: One year

WHEN THE SALE FELL THROUGH: About a month ago.

What went wrong: An offer was made for \$800,000, which Boyce accepted. The house never went to contract because the buyer was concerned about the poor economy. Soon after, a second offer for \$750,000 was accepted, but the purchaser works for an investment house and backed out due to job concerns.

#### BACK ON THE MARKET



Amityville: \$375,000

Address: 96 Ketcham Ave., Amityville

Asking price: \$375,000

Taxes: \$10,000

Style: Cape Cod

Square footage: 2,600

Condition: Renovated

Background: Owner Lucy Parfitt, 59, an adaptive physical therapy coach, relocated to Florida because of her husband's health.

Main features: Four bedrooms, two bathrooms, one-car garage, eat-in kitchen, full basement with fireplace, quarter of an acre.

Time on market: Since fall, 2006

When the sale fell through: July 2007

What went wrong with the deal: The contract was signed and the buyer gave a down payment of \$2,500. Then the buyer couldn't get a mortgage.

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