



From the Law Office of Ronald H. Gitter, Esq.

Addressing the Realities of Residential Real Estate

May 09, 2010

The Twenty Year Rule



May 10, 2010

A True Story

Many years ago, a client was purchasing a co-op in an upper crust Park Avenue building. Everything was top drawer. When I went to the managing agent's office, someone sat with me as I reviewed the minutes (to insure that I didn't copy or remove any documents). It was as if I were in the presence of the Dead Sea Scrolls.

At 7 a.m. on the day of the closing, I received a phone call from my client. Something had happened during the walk through and she wanted to adjourn the closing. Despite the multi-million dollar price tag, the seller felt it necessary to remove the towel racks from the master bath, together with the toilet seat. My client was incensed and wanted to re-think going forward with the transaction. Knowing that her significant contract deposit would be at risk, I tried to explain that the removal of the toilet seat would not be grounds for terminating the contract. No matter what I said, she wanted out of the contract.

I called the seller's attorney, a relatively obnoxious partner in a large law firm: "Let the brokers work it out". Click. What to do...

I called the client and told her that I had resolved the issue in a manner that she would find satisfactory, but that I wanted to discuss it with her at the closing. She was dubious at first, but after a sufficient amount of cajoling, she reluctantly agreed to meet me at the managing agent's office a half hour before the closing was to begin.

Fortunately, we were the first to arrive. I handed her a large gift wrapped box from Gracious Home, with a card taped to it. The note on the card read as follows:

Will whatever we are fighting about today, make any difference twenty years from now?

She didn't unwrap the gift as she knew what it was...She laughed and we

closed.

Manhattan: An Open Air Therapy Park

Let's face it, there are some strange folks walking around the island. Sooner or later, one of those individuals finds his or her way into a real estate transaction. Whether it's the selfish buyer or seller, the overbearing real estate broker, the out-to-lunch attorney, the impossible to reach mortgage guy or the difficult closer at the managing agent's office. All it takes is one party in the cast of characters to behave inappropriately and what should be an orderly and plain vanilla transaction, turns into a struggle for sanity. As I have told my clients many times over the years, keep your eyes on the prize. A troublesome party in the closing process will not have a personality transplant in the sixty to ninety-day period it takes to complete the deal. Just let it go.

If It Costs Less Than a Flat Screen...Work it Out

Getting to the closing table is like producing a musical. There are many things that go on before show time to insure that things go right once the curtain goes up. Despite the best efforts of all concerned, every now and then, the sound isn't right or the lighting cues are off. Stuff happens. That's true with closings as well. Exhibit A: Issues often arise at the buyer's walk through that can cause potential problems: The apartment isn't as clean as it should be as dirt was apparently invisible to the seller; some of the seller's possessions were not removed, like that huge armoire or the Murphy bed; a granite counter was scratched or the floor was damaged during the move out--the list could go on and on. The buyer is about to spend a lot of money and the condition in which the apartment is delivered, can produce an emotional reaction. In many cases, the buyer's reaction to the inadequate condition in which the apartment is being delivered is justified. It's hard to throw out a "one size fits all" general rule, but I will:

If the issue at hand costs \$1,000 or less to fix, the parties should reach an economic solution and get on with their lives. The cost of adjourning a closing, because a reasonable solution can't be reached, can quickly exceed \$1,000.00 and may result in any number of unintended economic consequences: fees for adjourning the closing, costs to extend the buyer's expiring interest rate lock, or damages that may be incurred when the seller fails to close on an expected purchase the following day.

The Twenty Year Rule

I have invoked the Twenty Year Rule many times over the years, whether I have been representing buyer or seller—it works. Parties grumble, but reason usually prevails, once the consequences of blowing up a closing over a toilet seat are understood. Sometimes there are issues that arise that will cause an adjournment of the closing: the seller fails to [freeze](#) a line of credit; a

significant lien or judgment can't be removed; material damage has occurred, such as a leak that warps the oak floors; or the flavor du jour—the wire from the bank didn't make it in time for the closing. In those cases, the closing may have to wait for another day.

Residential Reality: Close if You Can

It's incumbent on the professionals in the transaction to guide the clients to the right decisions and not to just process paperwork. If clients are counseled properly, minor adjustments that might have to be made at closing, should not prevent the transaction from closing. In most cases, the issue that is causing atmospheric disturbance should be resolved in twenty minutes, let alone twenty years. Most closings should be “win win” experiences for all concerned. Remember the Rule...

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