

November 2013

ChicagoBlog

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Happy Thanksgiving!

LAST DAY TO CLOSE ESCROW IS WEDNESDAY, NOV 27, 2013

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By  CHICAGO TITLE

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November Fun Facts & Events

1. November Birthstone: Topaz
2. Zodiac Signs: Scorpio (10/23-11/21), Sagittarius (11/22-12/21)
3. November Flowers of the month: Chrysanthemum
4. November is National Good Nutrition Month
5. November is Peanut Butter Lovers Month
6. November is National Pepper Month
7. November is National Sleep Comfort Month
8. November is National Pomegranate Month
8. November 11 is Veteran's Day
9. November 18 is Election Day
10. November 28 is Thanksgiving Day

ESCROW CORNER

Common Law Marriage

cont'd from last issue

The transaction involved a beneficiary to a deed of trust who would not cooperate, third parties who kept trying to influence the escrow officer to close the deal without proper instructions and a seller who went MIA. As usual, our escrow officer never wavered from sound, basic escrow practice – protecting the Company, the Real Estate Agent and preventing a potential claim.

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From last issue we stated that the liens were for the benefit of the State Board of Equalization and against the seller's wife. The amounts due were just over \$62,000. RaeAnn called the seller and left a message stating she needed to discuss an inter spousal deed and additional liens which would have to be paid.

Meanwhile, the buyer signed his loan documents. The seller's business partner, Tommy, called RaeAnn back. She explained to Tommy she needed to speak with the seller directly. Tommy indicated the seller was unavailable, and asked what she needed. RaeAnn asked where he was. Tommy again avoided the question, offering to help her himself. She reiterated she needed to speak with the seller.

Tommy told her the seller's wife has been appointed as his attorney-in-fact so RaeAnn should contact her. Knowing she needed to have the wife sign an interspousal deed, RaeAnn contacted the wife to schedule an appointment for her to come into the office. RaeAnn knew she was going to be pressured into allowing the attorney-in-fact to sign the final closing statement. She was very uncomfortable since the new liens being paid would financially benefit the wife. Additionally, she did not understand why the seller could not be contacted. All she needed was a fax number or email to send the closing statement to him. She did not need an original signature.

RaeAnn contacted National Escrow Administration for a second opinion. The Corporate Escrow Administrator agreed with RaeAnn's concerns. Armed with the backing of National Escrow Administration she confronted the wife when she came in to sign the interspousal deed. RaeAnn looked the wife in the eye and asked her if they were married or not – pointing out the language included in the POA which stated they had been married since 1996. The wife explained they had a civil ceremony and they never signed or filed a marriage license. At this point they assumed they were married by common law. RaeAnn explained to the wife in order to proceed she would treat them as if they were husband and wife and have the wife sign a deed conveying her spousal interest. Then RaeAnn asked her where her husband was. The wife finally admitted he was arrested and being held in a New York jail!

RaeAnn explained to the wife she needed to obtain her husband's signature on the closing statement. The wife asked why, reiterating she was his attorney-in-fact. RaeAnn explained she was not willing to move forward without the husband's approval of the closing statement.

The wife reluctantly provided RaeAnn with the fax number for her husband's New York attorney. RaeAnn faxed the closing statement over to the attorney along with specific instructions requiring a copy of the attorney's business card be faxed back to her. The attorney called her and asked what she needed.

RaeAnn explained she was handling the sale of a home owned by his client and she needed his signature on the closing statement since it included the payment of over \$62,000 in state tax liens for the benefit of his wife. The attorney said he needed to check with the U.S. Attorney's office to see if the sale of this home was allowed.

RaeAnn called National Escrow Administration to provide an update. The Corporate Escrow Administrator pointed out the Company needed to know if this property was subject to seizure or a RICO lien. In order to insure the new owner, the Company needed confirmation there was not a lien filed and whether one was going to be filed against the property. In the U.S., federal agency liens have priority over purchase money mortgages and are good for 20 years.

RaeAnn called the seller's attorney back. The attorney had obtained the seller's signature on the closing statement and explained the U.S. Assistant Attorney indicated they did not intend on seizing this property. RaeAnn asked for the U.S. Assistant Attorney's contact information. He provided it to her along with the inmate and case numbers.

The Corporate Escrow Administrator consulted with Rod Pasion in Underwriting to ensure we were taking all measures to safely insure the buyer and new lender on this sale. Rod explained the U.S. Attorney's office met with the title insurance industry years ago, and they agreed to promptly record their notice of seizures. Since then they have been quite diligent in timely recording their notices.

As an extra precaution the Corporate Escrow Administrator called the U.S. Assistant Attorney and confirmed they had already filed liens against the properties they intended on seizing. If a lien was not of record, it was not a property they intended to seize. There was no seizure notice, but another lien against the wife showed up; an IRS tax lien for just over \$13,000. The buyer had just signed loan documents, for a second time. The lender indicated the lock on the loan would expire in two days.

RaeAnn delivered the latest update to all parties. She explained it would take a few weeks to obtain a payoff statement from the IRS, assuming the deal would be dead since the buyer's lock was expiring. All the parties agreed to wait. The buyer really wanted the house and the seller needed to sell. RaeAnn ordered the payoff from the IRS and everyone waited for it to come in. The seller's attorney was also on standby to obtain the seller's signature on the final closing statement along with the IRS payoff.

Although this story had several twists and turns – starting with an uncooperative beneficiary, then a surprise wife and finally a missing seller – RaeAnn made very reasonable requirements in order to proceed with the closing and protecting the clients and the company.



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