

**The Fine Points of Buyer Representation**  
**(A 3-Hour Kansas Elective Continuing Education Course)**

(Be sure to send your completed workbook, exam with at least 90% correct, & course fee to Corky Hyatt Seminars at the numbers/addresses listed below!)



# The Fine Points of Buyer Representation

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Check out our website at [www.CorkyHyatt.com](http://www.CorkyHyatt.com); Email [Corky@CorkyHyatt.com](mailto:Corky@CorkyHyatt.com); FAX 913.440.4858; Call 913.897.2200

Snail Mail to 8501 W 194<sup>th</sup> Terrace, Stilwell, KS 66085

**THIS IS A KANSAS CONTINUING EDUCATION ELECTIVE COURSE!**

## **The Fine Points of Buyer Representation (A 3-Hour Kansas Elective Continuing Education Course)**

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The purpose of the “Fine Points of Buyer Representation” is to assist buyer agents in each of the following key activities:

1. Presenting brokerage relationship options to consumers
2. Present buyer representation services clearly to consumers
3. Providing the information and resources buyer clients desire
4. Providing “knock their socks off” service to buyer clients.



### **BUYER PRESENTATIONS:**

The purpose of your “buyer presentation” is to explain to consumers the steps in purchasing a property as well as the benefits of buyer representation.

There are two main formats which your buyer presentation may take: the computerized presentation and the “book” style presentation. To be more specific, these presentations may take a number of forms including:

1. A desktop, laptop, tablet or palmtop computer presentation using software programs such as Microsoft PowerPoint or real estate presentation programs such as those provided by Top Producer/Presenter or Envision. These may be presented in person, via internet conference, or from your website. They can also be presented on a CD or DVD or transmitted by email or an email link. The style, type, and method of presentation depends upon your own resources as well as the location, wants, and needs of the buyers.
2. A resource manual utilizing color-flyer style pages with dividers, describing and picturing the brokerage relationships and buyer representation services. This is presented by the potential buyer’s agent and not left with the buyer client.
3. A “Buyer’s Guide” to the home purchase process is an excellent handout for buyers to explain the process.

All of these tools can be easily personalized to the wants and needs of each consumer based on an interview questionnaire that can be used by phone, by email or website, or in person.

When you use a buyer resource manual (whether as a standalone presentation tool or as an additional resource when using laptop or web-based presentations), there are a number of excellent inclusions such as any or all of the following:

1. The benefits of home ownership
2. The benefits of buyer representation
3. How to find the right home
4. What price home?
5. Location, location, location. What’s the right location for me?
6. My pledge of quality
7. Loyalty pays off!
8. Why work with me
9. Why work with my firm

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10. The Steps in the Home Buying Process
11. A Guide to Buying New Construction
12. After the contract ... then what?
13. Closing your transaction
14. Buyer Services and Vendors

Ideas for these pages can be found in your firm's forms and presentation tools as well as on the internet, specifically at [www.realtor.org](http://www.realtor.org) or on top real estate trainers' sites such as [www.mikeferry.com](http://www.mikeferry.com), [www.davidknox.com](http://www.davidknox.com), and [www.gostarpower.com](http://www.gostarpower.com) (Howard Brinton's site). Add pages to your presentation as buyer needs and concerns dictate!

Every buyer's packet must include the appropriate forms for the home purchase. Be sure to include these in a easily readable but non-usable form! (It's not your job to supply a home buyer with a contract to buy a "For Sale By Owner!")

Forms can be included with the word "SAMPLE" written across each page. When using computer-generated forms, they can be printed with a "watermark" that says "Sample" or with a background with "Sample" that prints in a shadowed format on each page.

Forms in this buyer packet may include the following:

1. Loan application
2. Real Estate Sale Contract
3. Financing Addenda
4. All generally used contract addenda
5. Closing documents

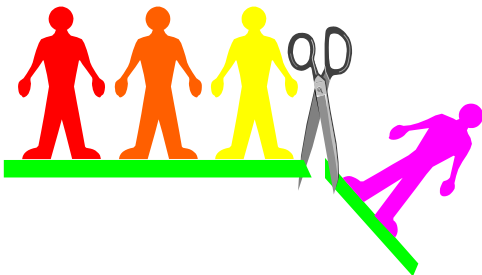


The purpose of this packet is to familiarize buyers with the forms before they are ready to write an offer to purchase a property. It doesn't make sense for them to have to deal with a strange form at the same time they're experiencing the stress of making an offer and negotiating their new property's purchase!

Whenever you use forms which are provided exclusively for your use because you are affiliated with a specific firm or franchise or which are provided to you because of your membership in any board, association, or designation group, be sure that you notify the buyer prospect that they may not use these forms themselves. In other words, they can not purchase a FSBO using your forms. To be sure that they don't use your forms, print "SAMPLE" across the forms. If your forms do not come in a "Sample" format, you can use the "watermark" feature in your word processor to print a "SAMPLE" watermark across every page of your forms packet.

### YOUR SERVICE TEAMS:

As a buyer's agent, you will build a series of "teams" to support your own business tasks as well as supporting your home buyer clients through their home-finding process. To determine what teams you may chose to assemble and who must be members of your teams, let's look at two important considerations:



(1) Address team possibilities based on the needs of your typical buyer clients.

(2) Consider the risks in making "team member" recommendations to buyer clients.

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### The Risks of Recommendations:

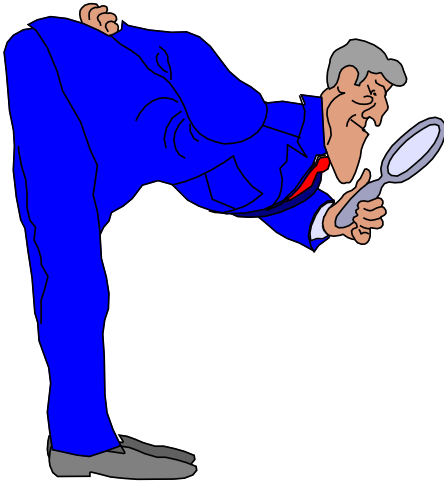
First, if you are a newer real estate licensee, be sure to protect yourself by always using company generated lists of recommended vendors. When your firm supplies these lists, those vendors placed on the company list will be proven professionals already tested by your firm and your fellow agents. Why use company lists? If you direct a consumer to one specific inspector and then the buyer has problems with this inspector, you have created liability for yourself and your firm. However, if your buyer client chooses an inspector from a company list, the buyers have exercised their own choice and the firm list spreads the liability to your company!

Another excellent resource for licensees wishing to provide lists of vendors is testimonials from past customers and clients. For example, if you have several past clients who were very pleased with "Home Town Inspection Team," ask each of these clients to write a testimonial for "Home Town" which you may use with new buyer clients. Again, this process removes liability from your shoulders by allowing new clients to read the comments of past clients rather than expecting you to make specific recommendations!

Another concern with vendors is whether or not they have [1] E & O (Errors and Omissions) and [2] liability insurance.

You and your firm either pay for E&O insurance or self-insure; but whichever way you "insure" you are taking the responsibility of protecting yourself and your firm from litigation.

Many small vendors do not want to take on the expense of insuring themselves, but do you want to be the only one in the transaction who does insure? Ask your broker if he/she wants you to use only inspectors who carry E&O and liability insurance. Your broker's instructions are your most important directive in this situation!



In addition, most real estate contracts state that any damage done to the seller's home by the buyer's inspectors must be paid for by the buyer! Therefore, don't you want to be sure that any inspectors on your "list" have both E&O and Liability Insurance? The liability insurance generally covers damages done to the property during the inspection. There is little reason for damage because generally home inspections are specifically designed to be "non-invasive," meaning that the inspector will not remove paneling in the basement to see if the basement walls are sound nor will he/she pull up carpeting to see if the floor below is sound, whether it is concrete, hardwoods, sub-flooring, etc.

**ASHI (The American Society of Home Inspectors)** and other inspector support groups often require examinations and experience to become a member of their group but generally don't require these types of insurance!

Another "team" that you utilize to represent buyers is your "office team." Your office team consists of

1. Your broker/owner or broker/manager
2. For larger firms, your corporate leadership
3. Your office secretary
4. Your office receptionist
5. Your firm's trainer and his or her team
6. Your firm's relocation personnel

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7. Your firm's marketing department
8. Your firm's IT (Information Technology) department

All of these people support you and your buyer clients throughout the home purchase process. Do you have photos of these professionals in your buyer presentation so that buyers can understand the scope of the support you offer them?



Your personal "team" may include both equipment and personnel. For example, your computer system is part of your "team" because with it you can provide enhanced services above an agent who is not technologically savvy! Your technology systems include

1. Laptop, desktop, and tablet computers
  2. Buyer support software
  3. Digital cameras including both still and video
  4. Digital voice recorders
  5. Transaction management systems, including internet based systems that allow buyers to check the status of their transaction 24/7/365! (24 hours a day, 7 days a week, and 365 days a year whether or not you are personally available to them!)
- In addition to the equipment, your team may include showing partners and personal assistants.

Another important "team" for buyers is your lender team, including the following:

1. Conventional lenders
2. Government lenders doing FHA and DVA loans
3. B & C paper lenders (for credit challenged purchasers!)
4. Special program providers such as "Community Home Buyer" programs for low down conventional programs using special education for buyers and MHDC or other local programs which encourage home purchases in specific areas that may be re-vitalizing after periods of poor sales or areas with poor economies.
5. Investment purchase financiers
6. Credit counseling agencies, many not-for-profit agencies, which assist credit challenged purchasers to correct their credit history problems so that they can secure "A" loans!

Your **inspection team** includes a number of different types of inspections, including:

1. "Whole House" inspectors who do all the systems of the home including plumbing, electrical, structural, roof and foundation, and may also do any or all of the following individual item inspections.
2. Pest inspectors
3. Radon inspections
4. Asbestos and other environmental hazard inspections
5. Mold inspections
6. Lead paint testing
7. Surveyors (stake surveys not mortgage/loan surveys)
8. Water quality and septic system inspectors

Most real estate sale contracts allow purchasers to hire any or all of these inspectors at the buyer's expense to check the property.

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Other **service “team” members** may include:

1. Real Estate attorneys to review the contract whether for a newly built home, an existing home, or a commercial/industrial property as well as vacant land.
2. Decorators, painters, carpet layers, etc.
3. Suppliers of materials and repairs for the property including appliances, furnace/a.c., lighting, etc. for the interior and trees, shrubs, plantings, and sod for the outside.
4. Repairmen for bringing a property up to serviceable condition including electricians, plumbers, heat and air conditioning specialists, etc.
5. Remodeling contractors who can handle major updates to a property such as finishing a basement, adding a bath, remodeling a kitchen, or adding additional garages.



The **process of counseling buyers** includes all the interviewing that allows you to match your buyer client to the correct property. Points to research in your interviews include

1. What do the buyers want in their new property?
2. What do they need? (Separate wants from needs!)  
Needs generally represent the features or amenities which are required by the purchaser before he/she will make an offer to buy a property. Wants generally include those items which would “be nice to have” but which are not mandatory in the house choice.
3. What’s their financial ability to purchase? What payment can they “stomach”? (Many buyers may qualify for more than they can live with!) There are four key questions which need to be asked of a potential purchaser to determine their financial ability to buy. If the buyer has already secured These four questions are as follows:
  - What is your monthly income and how may that be verified?
  - How much do you have available for your down payment and closing costs; and where are those funds today?
  - What is your monthly family debt?
  - Is there anything in your credit history which will cause you a challenge in securing a new mortgage loan to purchase your new home?
4. When do they have to be in their new home?

Educating consumers at the beginning of the process saves time and money later! Be sure that their expectations can be met. Many problems arise because buyers do not understand what they can afford, how the process works, and what challenges are likely to occur based on their needs and timeline. There are many “types” of buyers who have specific needs. For example, retiring or senior buyers have different needs from first time buyers who have different needs from resort buyers or investment buyers! Asking the right questions before you look at properties can save months and thousands of dollars for you and for the buyers!

Be sure that you and your buyer clients discuss and understand each other’s availability for looking at properties and the best means to communicate with each other. Don’t let buyers believe that you’re available whenever they want you to be. It can’t happen! You’re not a “pop tart” but a professional with other clients, with families, and with other time commitments! Make sure that they have realistic expectations about your time. Remind them that not all sellers will allow short-notice showing appointments!

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Be sure to have their numbers and let them have yours (not your home number!) Be sure that they understand that they can leave a message and you will return your call within whatever time period you can achieve.

Discuss holidays and previous commitments and secure a backup agent when necessary. It's better to "hire" a backup agent in your company and pay them a fee or a percentage of your commission than to lose a qualified buyer!

Get their numbers too and their email addresses. Email is an excellent tool for keeping in touch no matter where they or you are! If your office has unused voice mail boxes, you may secure these for loan to out-of-town purchasers while they are in town. Make arrangements to fax<sup>1</sup>, email, or over-night documents for contract negotiations and closing when necessary to meet your out-of-town buyers.

Be sure to have a back-up agent for you when you're out of town yourself. Any buyer client may decide on short notice to make an offer! When you're not available, have a colleague on call to cover these emergencies!



### **Showing Properties**

When it's time for buyer clients to begin viewing properties, you may elect to begin with a "cook's tour" of areas before you show individual homes. Many buyers can eliminate areas simply by driving through them! This can be especially true for out-of-town buyers who haven't experienced areas before you begin working with them.

Another option is "internet touring!" With all of the video tours available today on the internet and company television/cable shows previewing properties, many buyers can eliminate without showings. In fact, the internet is saving both buyers and their agents time by allowing pre-elimination of properties that don't suit the buyers wants and needs.

In addition to prepared video presentations of listings, you can make your own video tours with your digital camera or digital video camera. Virtually all digital cameras take short digital videos which can be emailed, compiled onto a CD/DVD or web site, and sent to prospective purchasers for previewing properties before you invest time in showing them. Countless hours can be saved in your time and your buyer clients' time when they can preview these properties from the convenience of their own homes or offices!

More buyers utilize [www.realtor.com](http://www.realtor.com) to look at properties than any other web site but there are thousands of sites today that "show" properties. Don't be afraid of this process because statistics show that "internet-first" buyers buy faster, look at fewer houses, pay more, and earn more! (Sounds like an excellent prospect group! Source: National Association of REALTORS® 2004 Profile of Home Buyers and Sellers)

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<sup>1</sup> If you have not investigated internet/email based faxing, consider this service choice. Internet based faxing allows you to send faxes from your email as well as receive faxes into your email. It provides clearer documents and, in many cases, editable documents as compared to low-quality faxed documents that are never editable.

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### **LOAN APPLICATION & APPROVAL:**

Loan application no longer follows property selection but precedes it for most buyers. Today, buyers may be fully approved prior to your meeting with them for the first time. They may have their “approval letter” in hand when they walk into your office or your open house.

If they're not pre-approved, suggest to your buyer prospects that they immediately go to the appropriate lender to secure an approval letter. They will buy “better” if their offer to purchase is not contingent upon loan approval but only on final approval by a lender who has already given them a preliminary approval for a set amount of loan at a set rate under specific terms.

Loan applications may be made today in person, via phone, via email, or via fax. In fact, loan applications are far easier than in the past and make the home-finding process shorter and more convenient for buyers.



Remember that the properties you show are those which the buyers want not those which are convenient for the licensee to show!

Let's address the “showing” part of the home purchase process.

### **NEW HOMES:**

New homes generally rank about 20% of the home sale volume, so you will probably be selling new homes as well as resale properties. New homes, whether they are completed (Spec or speculative homes) or are to be built (Build Jobs), require additional information and different forms than resale properties.

Sources of information for buyers include:

1. New homes magazines
2. Websites for new home communities
3. Sample packets you compile from new home communities in your market area
4. Videos on home construction such as the “Hometime” (A PBS cable television show) videos which are generally available in home centers such as Home Depot and Sutherlands.
5. HGTV now offers several regular series for home buyers including new and resale homes

### **“FSBO’S”**

Another source of properties to show buyer clients is the FSBO (For Sale By ~~Own~~-Owner) market. In any community at any given time, there will be a number of properties being offered by their owners without a listing agent.

To track these properties, you will have to review the local newspaper, drive areas, and check the FSBO sites on the internet.

Keeping a database of these non-MLS properties can assist you when you regularly represent buyers. You may also know of properties that will be coming on the market in the next few months which might be available to show buyers with the proper written permissions from the owners.

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### **OTHER AGENTS' INFORMATION:**

Other agents in your firm and in your market area can provide leads for properties to show your buyer clients. These include:

1. "Pocket Listings" is a term which describes those friends, past clients and customers, and neighbors who say to their licensee friend, "I'm not ready to put my home on the market but if you find a buyer please let me know!"
2. "Haves" in your database includes the properties owned by your center of influence members and your past clients and customers. By accumulating this information, you always have a ready list of potential properties for your buyer clients.
3. Colleagues in your office may know of potentially available properties, so ask them!
4. Do you have a "mastermind" group of area agents? If so, they may also be a resource for potential listings you may show.

In any market area, there are properties that might be called "un-favorables!" These include the following:

1. Properties listed by agents who offer unusually low selling commissions.
2. Properties listed with agents whom you personally dislike or with whom you've had difficult transactions in the past.
3. Properties that are difficult to show because of no lockbox, difficult to access properties because of security systems, and properties with day sleepers who make it difficult to show.

In each of these cases, you may not want to show the "unfavorable" property. However, we are legally and ethically bound to show our buyer clients the properties that meet their requirements – whether or not we like the agent, the situation, or whatever the challenge!

### **GIVE IT AND THEN TAKE IT AWAY!**

One of the best tools for assisting buyers to make a decision as they look at properties is the "Give it and Take it Away" technique. When you show properties, you will print out showing "flyers" for each home from your MLS, perhaps using special software that prepares "showing sheets." These are preferable to those flyers that they buyer can pick up in each house because those flyers tend to sell the listing agent as much if not more than the property!



When you put these sheets together into a showing notebook, you are assisting the buyer in keeping track of what he sees and giving him a place to take notes. The technique forces a choice because after each showing, you will ask the buyer to eliminate a property. Therefore, after they've looked at two or three houses, take a sheet away from them. You may even wad it up and throw it into a trash bag!

By taking one away after each house, you force the buyers to keep no more than two or three properties "in consideration!" If you don't do this, they will attempt to keep them all in mind and will get confused. Some buyers even create an ideal house by taking elements of several and combining them in their memory!

Once the buyers have chosen the right property, it's time to write the offer to purchase that property. In order to assist your buyer clients, you must know your real estate sale contract form "upside down!" By this we

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mean that you will need to know it well enough to explain sections and answer questions when sitting across the table from the buyer.

Negotiating a purchase is not the time to read your contract form. Learn it well! Practice explaining the difficult paragraphs and answering common questions so that you can do so comfortably when buyers ask. New construction contracts and addenda naturally differ from contracts used for existing property. They require allowance addenda, warranty addenda, plans and specifications, and legal descriptions as well as special earnest money deposit agreements when the builder holds the deposit. Be sure to learn these forms as well so that you can sell both types of properties.

When you're selling in a hot market, consider what your buyer client can do in making her offer that will entice the seller to accept her offer over others that may be made at the same time!

We call it "right bait" offers! What might the buyer offer the seller to make her offer more attractive?



Consider the following tools for seller baiting!

1. Price is almost always the seller's first concern. So, full-price or above offers always lead the list of seller enticements. Be sure however that your CMA (comparative market analysis) supports the price because you represent the buyer not the seller!

2. A higher than normal earnest money deposit can attract seller attention. However, make the buyer aware of what can happen with his EMD when a dispute arises with the seller.

3. Inspection clauses may become negotiation ploys but be sure that your buyer client does not give away too much by softening up the inspection clause! Asking for no repairs can attract sellers but only works if the buyer can pay for the

repairs from his own funds. Lenders will often required that these repairs be made pre-closing, so the buyer may have to make special contract arrangements to pay for these buy protect him for the eventuality that the sale doesn't close.

As the buyer's agent, you have the ability to be his or her advocate in presenting the offer to the seller or seller's agent. If the listing agent presents the offer, be sure that he or she understands the benefits of your buyer's offer. If you need to present the offer to the sellers, request that the listing agent allow you to do so. Remember that you may only present the offer and answer any questions that the seller or his agent asks. You must leave them for their negotiation discussions but may remain close by, i.e. in another conference room in the office or waiting in your car near the sellers' home.

Be sure that all offers and counter-offers are written whenever possible. Remember that verbal offers are "worth the paper they're not written on!"

If you do verbal countering, be sure that your client authorizes it and understands that he does not have a deal until everything is signed!

Once the real estate contract is completed negotiated and executed by securing the signatures and dates of all the parties in all the appropriate places, it's time to satisfy all the contingencies so that the purchase may close on time. The inspections are generally the most serious stumbling block and often require renegotiating once they've been completed. The buyer client must chose his inspectors (from your firm-approved list is best). Should you attend the inspections? Some people say that you shouldn't for either time reasons or liability reasons. However, until your annual closings top 75 or 100, you need to be at your inspections. You do not interfere or make statements of fact. You role is to represent your client and to be the calming influence if the situation gets difficult. If statements by an inspector frighten a buyer about the

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condition of the property, being there may help them to stay calm until they understand the situation fully and can make sound decisions about the information provided by the inspector. Remember that inspectors are also hired by the buyers and are there to protect the interest of the buyers by revealing hidden defects in the property.

Once the inspections have been completed, the written or printed reports are presented to the buyer (and the seller if the contract provides for them to receive a copy).

- Review the inspection yourself first and then review it with your buyer clients. Differentiate between maintenance items, major and minor repairs, and serious concerns. Be sure that your buyer client understands what can be costly and what can be a minor repair, having the inspector explain any area that the buyer does not understand. While the inspector's job isn't to do the repairs, he or she can help explain the problems and give estimates of repair costs.
- Assist the buyer in prioritizing the necessary items on the inspection and setting aside those that are minor and not of serious concern.
- Write up the appropriate form to ask the seller for repairs, take the property in its current condition, or void the purchase. Negotiate the buyer's desires with the seller or the seller's agent. Remember, win-win negotiations lead to closings while win-lose negotiations frequently lead to voided contracts. They buyer may win the battle (the inspection) and lose the war (the purchase) if the seller is not willing to do the whole list!



It is your responsibility as the selling/closing agent to track the process from contract through closing. This is the most critical period of the purchase because if any element is overlooked or handled poorly, the sale probably won't close and all is wasted.

Use a "transaction tracker" form or computerized checklist to make sure that everything happens as the contract dictates.

Remember that the best way to keep things moving smoothly is to monitor each step. Murphy's Law tells us that whatever can go wrong will go wrong and this is especially true in real estate closings. If you ignore a problem, it will block the closing!

When anyone raises a problem, ask for a complete explanation and also ask for two possible solutions to the challenge. This process aids in overcoming problems and secures good assistance from the professionals involved.

### CLOSING THE TRANSACTION:

Passing title to the new owners is as important a part of the closing process as paying the monies! If the seller can't deliver clear title, the buyer won't close.

The Preliminary Title Report provides all the necessary information to prepare for a smooth closing. The PTR includes the following:

1. Schedule A listing the facts of the purchase including the names of the sellers and buyers, the common and legal addresses of the property, the type of title being provided (fee simple to life estate), the lender's name/address, and frequently the tax information.
2. Schedule B1 lists the conditions or the "hoops" thought which the parties must jump to reach the closing, including liens, easements, judgments, etc. against the seller, the buyer, and the property.
3. Schedule B2 lists the exemptions, the title encumbrances that are not insured against by the policy.

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Your real estate sale contract defines the time periods for delivery of the PTR to the parties, the time for the buyer to raise written objections to the report, and the timing for the seller to correct these objections. In most contracts, only when the seller can not clear the objections does the contract fail.

Once all the hoops have been cleared including securing financing, completing the inspections and all negotiated repairs/replacements, and the preliminary title report objections handled, it is time to schedule and hold the closing of the transaction.

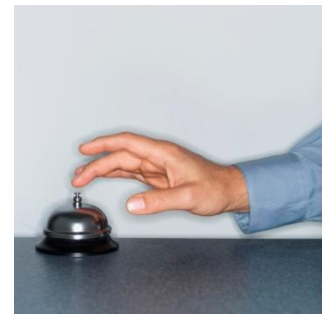
Generally a title or escrow company will close the transaction for the lender or for the real estate firm. The closer will make arrangements for both the seller and the buyer to close, i.e. sign their appropriate documents and pay/receive the appropriate funds.

Prior to your buyer client's closing, be sure to secure and review the HUD Settlement Statement from the closer. This document details all the charges to each party and the total amount due to/from each party. Mistakes in the numbers make everyone uncomfortable with all the documents!

### CLOSING & POSSESSION:

Be sure to attend the closing with your buyer client. One of the details you must take care of at this time is securing the keys to the property so that you can give these to the buyer at closing (for a vacant property with immediate possession) or at the appropriate time based on the possession detailed in the contract.

Also, be sure that the buyer changes all utilities into his name prior to possession. Deposits may have to be made in order to transfer utilities, so know what these deposits are in your community so that you can assist the buyer. Provide them with a list of these utilities and their locations and deposit amounts whenever possible.



As you proceed through the sale process, there are other special services that you can offer buyer clients. Here are just a few of these special services:

1. Kid's special services include have bonded day care for the children, car seats for infants, and a "kiddie" box of items that will keep kids busy during the showings and when writing the offer. These can include coloring books and crayons, handheld electronic games, books, videos/dvd's and a player in your car are just a few of the excellent kid's items.
2. Also have clean-up items when kids are along for the ride.

### BUYER FOLLOW-THROUGH TRACK:



Once the sale has closed, add your buyer client to your Buyer Follow-up Track. One of the best includes the following contacts:

1. Closing day
2. One day after closing
3. One week
4. One month
5. Each eight weeks forever!
6. Dave Beson provides a 7-year buyer follow up program for mailing or emailing at [www.davebeson.com](http://www.davebeson.com).