



Who has the longest life expectancy -- the conductor or the members of the orchestra and what does this have to do with closing a real estate transaction?

Studies show that the conductor has the longer life expectancy! Why? He or she is in control while the members of the orchestra must react – respond to his or her direction -- quickly, precisely, and exactly or suffer the consequences.

How does this relate to real estate? It raises an important question about the closing process. Are you “in control” of your closings or are you “out of control” -- merely reacting to everything that happens to you, to the transaction, to the seller and buyer? Many real estate licensees spend much of their business life in the “out of control” mode, because they have no or poor systems or simply don’t follow the ones which are available to them. Many companies even furnish closing checklists and systems for their associates but the licensees fail to use them. If you rearrange

the word “use” it becomes “sue!” Since we all know that consumers are more demanding today than they have ever been, an probably more litigation oriented, it’s even more significant to use closing systems, excellent record-keeping techniques, and “cover your assets” practices!

Even children recognize that Murphy’s Law says whatever can go wrong will go wrong! In real estate transactions, that translates to whatever can go wrong during the closing process will go wrong. Furthermore, it means that if we leave the closing alone and don’t monitor it, whatever could possibly block the closing will!

On the other hand, Pasteur’s Law (which states that “Chance favors the prepared mind.”) tells us that if we’re prepared, keep closely in touch with the steps of the closing and the key people involved, we’ll be ready for any obstacles thrown in our way. Pasteur doesn’t contradict Murphy. He never said that things won’t go wrong if we’re prepared, he simply states that when problems arise, the prepared person is ready for them. For example, in college basketball, there will be problems, there will be tied games or games in which “our” team is down in the last minute. Therefore, coaches train their players in last minute, bell-beater plays and patterns to take the win or overcome the point differential. The problems still arise, but the players are prepared, have “systems” in place and will practiced, and win the game despite the challenges!



A number of common “contract challenges” can cause problems during the closing process and they often begin with the contracting negotiations themselves. One of the ways that you can prevent problems during the closing is to know your contract forms upside down and backwards! Why do I say “**upside down and backwards**”? Simple! Most of the time, you’ll be sitting across the table, or discussing the forms by phone, or explaining them by email, text message, or online chat!

Don't forget that when consumers ask contract questions, **you can not give legal advice!** You're not an attorney, so you don't give legal advice. However, you need to be prepared to answer questions about the form. Learn your forms well enough to be able to explain them to sellers and buyers in simple layman's terms. Remember also to always suggest that consumers or clients consult a real estate attorney if they have legal questions, whether those questions deal with the contract form or their own legal situation. Also, you cannot give accounting or tax advice because you are not a CPA or a tax attorney. Even if you were one of these professionals, you must not wear both "hats" without the express, written permission of the parties to the transaction. License law forbids practicing law, accounting, or other fields for which we are not sufficiently educated, trained, certified or licensed to give that advice!

Be sure to secure all necessary signatures and dates for all signatures. If you miss one signature or initial space on a contract, you endanger its success! When the required signatures or initials are omitted, the contract may be voidable! Notice, we didn't say "void" but rather we stated that the agreement may be "voidable" by one or the other party. This gives that party an "out" to cancel the agreement and may leave your client or consumer left hanging without a closable sale.

Contract and lease forms are frequently created to **favor one party over the other.** For example, most new construction contracts favor the builder/developer in clauses such as the earnest money deposit clause which may allow the builder to hold the deposit. Also, watch for buyer costs to be "hidden" in new construction contracts or their addenda. For example, the buyer may be committed to paying for bringing utilities to their new lot but this commitment could be buried in the "Plans & Specifications" forms prepared by the builder and made part of the contract by verbiage in the main contract document. If you and your customer or client don't thoroughly read the document – whether it is a new construction sale, a commercial or residential lease, or an option to purchase real estate – the consumer may be required to pay or perform something that he didn't realize. These types of "hidden" clauses and agreements must be found before the consumer signs the offer to purchase!

Also **don't use the term "contract" for an offer!** These are two very different items. The "offer to purchase" or "counter offer" is simply what it says, an offer by one party to the other. On the other hand, a "contract" clearly means that an offer has been accepted and you have a meeting of the minds between the two parties. By using the incorrect term, you mislead members of the public who really don't understand the difference. Don't feel that because you hear other licensees using the incorrect term it is correct for you to do so.

When your company, your real estate board or association releases **new contract forms**, be sure to read the new form thoroughly. If you have questions about the meaning of a clause, ask your broker or attend a course explaining the forms. **Do not use out-of-date forms** which may be illegal or at least may not handle current situations. New forms are generally released by your board or your firm due to a change in circumstances, practices, or laws! Even if you are required to pay for contract forms by your firm and you don't want to waste that cost, you still must dispose of all out-of-date forms because they may cost you far more by including no-longer-legal verbiage in your customers' or clients' agreements. In addition, using out of date forms can cause the real estate commission's auditors to write up you and your firm for illegal documents. In some states, these mistakes can cause fines as well as the embarrassment of being reported

in the state real estate commission's published newsletter or on their website! Your broker will not appreciate your saving pennies which then cause problems for both yourself and your company. Be sure to keep up with form changes and be sure to participate in training sessions for new forms. It is helpful to secure a "cheat sheet" which pinpoints the exact changes and the reason for these changes. Sometimes these are prepared by your firm, your association, or a title firm in your area.

The seven "P's" of negotiating an offer are the phrase *PRIOR PROPER PLANNING PREVENTS PRETTY POOR PERFORMANCE!* If you do your homework, gather the statistics and information necessary, you will succeed in negotiating win-win contracts! Prior to presenting the offer to the seller, gather facts and information about the buyer:

- What do they like best about the property? (a buyer motivation issue!)
- What is causing the move? (a buyer motivation issue!)
- Have they secured written pre-approval from a lender or are they simply "pre-qualified" by a lender or by a real estate agent? (Another buyer motivation issue because if they are strongly motivated, they've probably been pre-approved!) Remember that all "pre-approvals" are not created equal. If a pre-approval has so many conditions that it is basically a pre-qualification, it provides no benefit to the buyer and is a problem for the seller.

When you **receive an offer to purchase from a cooperating selling agent**, there are a number of questions you must ask yourself:

1. Is the offer written on a standard form? (company form or board form)
2. If not, what choices does your seller have? (a) They may reject the offer, asking that it be re-written on a standard form, or (b) They may have their attorney review the offer. This second alternative involves cost to the seller and may therefore be less attractive!

There are two instances in which **preparing a seller's net sheet assists the seller in making key decisions**. (1) At the time of the listing, prepare an estimate of the sellers' proceeds based on the *projected sale price and terms* rather than on the list price. Only base your estimate of proceeds on the listing price if you expect the property to sell for that price without any seller-paid concessions! (2) Kansas license law demands that we prepare an estimate of sellers net proceeds prior to their signing an offer to purchase! If you're also licensed in Missouri or other states which do not require these estimates of proceeds, it's certainly still an excellent idea to prepare them. How can a buyer decide upon an offer price or how can a seller determine how to respond to an offer if neither know what it will cost them or, in the seller's case, leave them in net proceeds.

Before presenting an offer to purchase to the seller, review the following facts:

1. How many times has it been shown? Too many showings with no other offers indicate overpricing. Too few showings can also indicate overpricing.
2. Updating your CMA can show you if any other sales have occurred that will assist the seller in deciding what price and terms to accept.

3. Consider the list price to sale price ratio in the area in the past six months and determine if the offer falls within these parameters.

As you present the offer to the sellers, remember that your demeanor and the way you handle their questions and concerns will directly affect their ability to sell their property and to meet their personal goals. Consider yourself the referee of the process, setting the attitude and creating the atmosphere within which your customer or client can achieve his or her goals.

Here is a list of negotiating pointers to utilize when working with your seller or buyer customers/clients in the contracting process:

- Be the calming influence in a generally highly-emotionally-charged experience.
- Be positive, supportive, and ready to answer any questions or concerns!
- Take control! You're the professional they hired to guide them through the process.

One helpful technique used in presenting offers is **the “humanizing” the buyer technique**. It is easy for sellers to see only terms on paper rather than individuals choosing to purchase their property because they, the buyers, have become involved with it! Describe the buyers to the seller. Explain what they like best about the property and what their concerns are. The buyer's agent or selling agent may be willing to assist you in this because it presents the purchaser in their best light. Remember though to be realistic and representative of your sellers, so don't “puff” the buyers!

Set the “ground rules” for the offer presentation! Be the “referee” of the negotiations, setting the ground rules and keeping your customer or client on track to a decision. It can be totally non-productive for you to allow them to react emotionally rather than considering that they are selling/buying what is perhaps their largest financial investment!

Here are several pointers for setting the ground rules for the benefit of the consumer:

- ❑ Present the entire agreement prior to discussing any one element. If you allow the seller or buyer to fixate on one item, perhaps the price, they can overlook the best benefits for them in other terms such as closing date, earnest money deposit, or inclusions/exclusions from the offer of personal property or from the inspection process.
- ❑ Once you've reviewed it all, ask about their concerns, one at a time, making a list of their objections. By delineating these concerns, you keep control of the process.
- ❑ Prior to answering their concerns, ask “Are these all of your concerns?” If not, add more to the list! Be sure that you have the final list before addressing any of their concerns.
- ❑ Once they've committed to the concerns, deal with them and see if they can be accepted or countered. If you don't isolate their concerns, you might handle all of those they identify and then they'll bring up more! That's called “craw-fishing” and can totally derail negotiations when you're not in control of the process.



Remember that questions secure agreement better than statements. By asking them about their concerns, fears, and objections, you'll find what is most important and what is simply a "smoke screen." Involve the sellers in **brainstorming possible alternatives** rather than stating them yourself. Sellers are more comfortable with possibilities they create than those you suggest! Ask questions rather than making statements. This questioning technique allows them to solve their own challenge!

Using the facts you've researched prior to meeting with the sellers, you can assist them in determining their best course of action.

- ❑ Does the offer provide enough proceeds to meet their goals and expectations, even at the bottom end of their acceptable range?
- ❑ Has the market changed and is their projected sale price no longer valid? Your seller or buyer may be out-of-touch with the true value of a property. **Be their consultant and be "on their side" in this learning process.** The market controls price and value, not the seller, the buyer, or you! Help them to understand that you're helping them in the current market – letting the market, the statistics, be the bad guys not you or the other party to the transaction!
- ❑ Has their motivation increased and therefore is their "price" different?

What happens when the seller counters? Be sure that sellers understand the effects of countering before you allow them to sign a counter offer form. Here are the buyer's options once the seller counters their offer:

1. The buyer may choose to "walk away" and make an offer on their second property choice!
2. The buyer may accept the sellers counter offer.
3. The buyer may counter offer again themselves.



Don't let the seller think that she can counter and then, if the buyer doesn't agree, accept the buyer's first offer. Once the seller counters, the first offer is terminated! Buying your house back for \$500 simply means that the seller must not counter over small amounts, small differences in possession, etc.

A traditionally successful negotiating strategy, "feel-felt-found" says "I understand how you **feel** because other sellers have **felt** exactly the same way. However, they've **found** that..." For example, if the seller doesn't want to pay a certain closing cost you might say... "I certainly understand how you feel and many of my sellers have felt exactly the same. However, they've found that selling for \$100,000 and paying \$2,000 in the buyers closing costs nets the same as accepting \$98,000 which you said would work for you."

Countering by telephone, fax, or email may be customary in your marketplace. However, there are **dangers to phone countering!**

- ❑ Technological-countering can mean that no one is signing the counter offer. By not securing signatures, the counters are not enforceable!

- ❑ If a seller or buyer agrees late in the evening but doesn't sign, he or she may wake up – after a night of seller or buyer remorse – and refuse to sign the offer that was acceptable the night before!
- ❑ Be sure to secure signatures, initials, and dates every where they are required in any offer/contract! Without them the entire agreement may be voidable!

Use each contract presentation and negotiation as a learning experience. Some top agents use a digital voice recorded, telephone voice recorder, or miniature tape recorder (with the seller's permission, of course) to record the offer presentation. They later listen to the conversation and spot errors in their technique which they can correct.

When you've experienced a positive negotiation, ask for **specific testimonials from your clients**. If it's been a difficult negotiation, ask your client to write a recommendation about your handling of the situation! Again, use technology to secure testimonials, using your digital voice recorded, your phone, your digital camera or your still digital camera which makes short video clips to record testimonials for use in your promotions, on your website, in your emails. Again, be sure to get the written permission of the seller or buyer to use their testimonial in print or digitally.

Keep control of the closing progression!

- Use a system to track the closing of your transactions.
- You may track the closings with a worksheet or checklist.
- You may choose to use a software package to tract closings such as Top Producer, Online Agent, or Prep which may be purchased through your firm, your board, or online.

The advantage of using these tools is that you don't overlook items which might be forgotten or might "slip through the cracks" without a list to follow.



Each firm requires its own contract worksheet or contract information form that the agents must complete when turning in a completed contract.

Complete your required form as soon as possible after it has been signed by all parties.

Process the earnest money check ASAP so that it may be deposited within the time frame required by license law. If you hold the check until after the deadline, you may be responsible for the fine which may be imposed by the real estate commission. In Kansas, you have five business days for the earnest money to be deposited in the bank, i.e. actually recorded by the bank as being deposited. By this we mean that the money must be credited to the account. For example, most banks cut off deposits at 2:00 or 3:00 pm each day. If the earnest money

reaches the bank after that hour on the fifth day, it will show as deposited on the following day! That means it is in violation of license law! In Missouri, you have ten banking days to deposit the earnest money but the same requirement applies that it actually be credited to the account. If your firm uses a third party to hold earnest deposits, you must have an official form receipt from that title company or escrow firm showing that the earnest money reached them during the correct time period, i.e. the five business days in Kansas or the ten banking days in Missouri.

A significant part of the contract process is **completing all required brokerage relationships documents**. These documents are not only required by real estate license law but are also checked during audits by the real estate commissions in your state. These brokerage relationship documents include the following:

- Provide the **Broker Disclosure Brochure** to all sellers and buyers prior to their signing a listing agreement/buyer agency contract.
- Make sure that all seller and buyer clients have signed a listing agreement/buyer agency contract.
- Complete the **agency addendum** to the contract describing the relationships of all agents/brokers involved.

In the event that the transaction involves Transaction Brokerage in either Kansas or Missouri or Disclosed Dual Agency in Missouri, another addendum or additional verbiage must be added to the contract forms.

- Kansas: only transaction brokerage is allowed, therefore you will use the Transaction Brokerage Addendum to the listing agreements which provides for the seller and buyer to amend their relationship with their agent/broker.
- Missouri: the disclosed dual agency addendum or required verbiage must be used.

When working through the closing process, **inspections can be a major stumbling block**. To protect the interests of your client, provide her with a list of the best inspectors available. Inquire about what training and experience the inspector has acquired. For example, are you aware of whether the inspectors **on your list have either accreditation, certificate, or designation in their field**, such as the ASHI (American Society of Home Inspectors) accreditation? Also, does the **inspector carry E&O (Errors and Omissions) and liability insurance**? If not, does this place your client at more risk? Does your contract form call for renegotiating after the inspections have been completed and the results conveyed in writing to the seller by the buyer/buyer's agent? If so, what choices does the seller have?

- The seller may choose to make the repairs at his expense. In this case, the buyer agrees to accept the property as repaired.
- The seller may refuse. However, once these "defects" have been brought to the seller's attention, he will generally have to disclose them and therefore probably repair them for any future buyer!

The **PTR or preliminary title report** provides both the buyer and seller with important information about each of their ability to close the transaction or challenges which must be handled before they can close. Questions which need to be answered about PTR's include:

- Who orders the PTR?
- When does it arrive? (How long before closing? Do you have time to work out the challenges?)
- Who receives it? (Are both cooperating real estate licensees sent copies as well as the seller and the buyer?)
- What do I need to review?
- Who will solve the challenges for the seller and/or the buyer which are included in the Schedule B of the preliminary title report?
- Are there are brokerage relationships issues in dealing with the preliminary title report?

When the PTR is presented to the seller and buyer by the title company, you must read the report and review it with your client. You may need to secure their cooperation in handling any conditions. The buyer has the right, under most contract forms, to raise objections within a specified time frame which the seller must then solve prior to closing.

Attached to your course outline is a sample PTR prepared by Bill Perry of a real estate attorney and title/escrow company executive in Overland Park, Kansas. It is what we affectionately call the “PTR from Hell” because it incorporates most of the possible title defects you might find in your seller’s preliminary title report. Although it is prepared with “tongue in cheek” it does point out situations which you might find in more ordinary situations! In most PTR’s the sections include Schedule A which lists all the “facts” about the property, the seller and the buyer. Schedule B-1 lists all the conditions which must be solved prior to closing. Schedule B-2 lists the exclusions which are not insured.

The last processing details include coordinating the closing itself.

- Determine who is going to do the actual closing.
- Where will it happen?
- When will the seller sign their “papers” such as the deed, affidavit, and HUD Settlement Statement?
- When will it be recorded, if there is a rush to close subsequent transactions?

Call each person involved in the closing and then inform your client about the details.

The **HUD Settlement Statement** or closing statement details all the expenses and credits of both the seller and the buyer. The preparer must balance the monies so that both parties are charged with all their expenses and are credited with all their proceeds. Read the HUD prior to closing and check it against the contract to make sure that everything is charge and credited correctly. If it isn’t, correcting the mistakes prior to closing is far superior to doing it during the closing with clients present!

A resource for sellers and buyers concerning the HUD Settlement Statement is the HUD site, www.hud.gov which includes an excellent description of the HUD form and what each line means to the parties.



Once the transaction has closed, secure a copy of the HUD and use it as an excellent and very helpful mailing to your client after the first of the following year. It will be necessary for their tax preparation! By scanning your HUD Settlement Statements and storing them with the clients other information, you can email the HUD with your New Year’s greetings to your clients! You might also ask if your HUD forms are available by email from the closers to save your scanning time!

Closing gifts or thank you notes are a matter of choice for each agent. If you use closing gifts, making them promotional tools can be a win-win for you and your clients!

Establish a post-closing follow-through system such as the one described here. Be in touch to be helpful and to secure referrals from satisfied clients. The most common post-closing follow-through system involve contacts at each of the following times:

- One day after closing
- One week after closing
- One month after closing
- Three months after closing
- Six months after closing
- Nine months after closing
- One year after closing
- Each anniversary of the sale's closing

Note:

[To receive your completion certificate, send your completed workbook, your examination with at least 90% correct, and your course fee to Corky Hyatt Seminars at the addresses listed below! You may pay via www.paypal.com or by mailing a check . If “snail” mailing, allow at least 14 days prior to your renewal deadline.]

Sale to Closing Checklist

Property Address _____ Home Phone _____
 Client/Customer Name _____ Work Phone _____
 Client Email Addresses: _____

Activity/Task/Document to Complete	*Responsibility of:	
	Listing Agent	Selling Agent
Buyer & Seller received/signed broker disclosure brochure?		
Contract, addendum, and/or counter offers, estimated cost sheets, etc., been signed by all parties and copies given to all parties?		
Buyer & Seller received/signed Seller's Disclosure-Statement of Condition?		
Both parties signed agency agreements valid through closing? Copy in file?		
Turn in earnest money check within 5 business days/Kansas or 10 banking days/Missouri		
Complete sales worksheet; turn in with copy of documents to branch secretary?		
Has the sold sign been installed? Lock box turned in? Key in file?		
Buyers scheduled loan application in time period stated on the contract (if not pre-approved)?		
Buyers been pre-approved for loan? Approval letter in file?		
Appraisal ordered by lender? Appraisal packed prepared & delivered?		
Buyers scheduled all inspections?		
Seller approved dates/times for inspections?		
Seller has utilities on for inspections and appraisal.		
Septic inspection? Buyer selected type of inspection? Seller to clean-out prior to inspection?		
"Notice of Unacceptable Conditions" completed and delivered?		
Seller's agreement to "Resolution of Unacceptable Conditions" amendment?		
Other contingencies: written removal of contingencies by both parties?		
Deed restrictions, Homes Assoc. documents, or other applicable forms been delivered to the buyers?		
Letter to seller/buyer with important dates/facts for closing process, keeping copy in file.		
Home Warranty: verify title company includes in closing documents/costs.		
Final loan approval received?		
Loan approval conditions communicated to buyer & completed?		
Check the preliminary title report for any problems. Make sure client/customer has read. Consult with title company to see if everything necessary to close has been completed.		
Follow up repair completion with seller. Buyer walk-through to check repairs?		
Verify with any lender that required repairs were completed and have appropriate party approve repairs.		
Contact lender and closer regularly to follow up and learn if problems exist.		
Call your client/customer once a week to update.		
Arrange with buyer for homeowners insurance and notify closer.		
Order & review Settlement Statement prior to closing.		
Check estimate of funds due client against your cost estimate.		
Inform buyers of exact amount for closing in cashier's check or certified funds.		
Set up Closing with Buyer		
Selling agent attends closing with buyers; securing referrals!		
Make arrangements for keys; deliver as per possession in contract.		
Help coordinate water, electric, gas, etc. change of billing names.		
Make sure that possession goes smoothly; deliver closing gift.		
Place past customer in follow-up program to secure referrals!		

CONTRACT THROUGH CLOSING: ORCHESTRATING A SMOOTH CLOSING!

A KANSAS CONTINUING EDUCATION COURSE

[TO RECEIVE YOUR COMPLETION CERTIFICATE, SEND YOUR COMPLETED WORKBOOK, YOUR EXAMINATION WITH AT LEAST 90% CORRECT, AND YOUR COURSE FEE TO CORKY HYATT SEMINARS AT THE ADDRESSES LISTED BELOW! YOU MAY PAY VIA WWW.PAYPAL.COM OR BY MAILING A CHECK . IF "SNAIL" MAILING, ALLOW AT LEAST 14 DAYS PRIOR TO YOUR RENEWAL DEADLINE.]

SCHEDULE B-1

Order No.: 1234

(Requirements)

The following are the requirements to be complied with:

1. Payment to, or for the account of, the sellers or mortgagors of the full consideration for the estate or interest to be insured.
2. Instruments in insurable form which must be executed, delivered and duly filed for record:
 - a. Properly executed **Warranty Deed** From WILLIAM JEFFERSON CLINTON AND SPOUSE, if any, to GEORGE W. BUSH AND LAURA BUSH, HUSBAND AND WIFE.
 - b. Properly executed **Mortgage** From THE REPUBLICAN NATIONAL COMMITTEE to GEORGE W. BUSH AND LAURA BUSH, HUSBAND AND WIFE, in the Amount of \$300,000.
3. **Release of Mortgage** executed by Bill Clinton and Hillary Clinton to James McDougal, Trustee for Madison Guaranty Savings dated January 12, 1993 and filed January 13, 1993 in Volume 1993 at Page 1 showing an original principal amount of \$350,000.00.
4. **Satisfaction or Release of Judgment** filed in Johnson County, Kansas as Case No. 940001, said case being a registration of foreign judgment rendered in the District Court of Hope, Arkansas, dated February 29, 1993, entitled Paula Jones, Plaintiff vs. Bill Clinton, Defendant, in the amount of \$250,000.00, plus any costs or interest due.
5. **All child support payments** due Plaintiff, from Defendant, as set out in Johnson County District Court Case No. 990001, dated June 1, 1999, entitled Monica Lewinsky, Plaintiff vs. William Jefferson Clinton, Defendant, must be current as of the date of the recording of this transaction.
6. **Release of Mechanic's Lien** filed by former White House Travel Agency employees claiming \$200,000 for labor and materials used to improve the premises.
7. **Satisfaction or Release of Attorney's Lien** filed by Kenneth Starr, claiming attorney fees in the amount of \$15,000,000 dollars, plus the Clinton's first born child.
8. **Satisfaction and/or release of Federal Tax Lien No.** 987654321 filed December 7, 1994 against William Jefferson Clinton in the amount of \$35,000.00 plus interest and penalties.
9. **Release of Lis Pendens** of District Court Case No. 2099 filed July 1, 2000 by Albert Gore and Tipper Gore claiming title to the property by reason of adverse possession.
10. Payment of the **1999 Real Estate Taxes** in the amount of \$5500.00, now delinquent, not including penalties and interest.

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SCHEDULE B-2 (Exceptions)

Order No.: 1234

Schedule B of the Policy or Policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company.

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate of interest or mortgage thereon covered by this Commitment.
2. Rights or claims of parties other than Insured in actual possession of any or all of the property.
3. Unrecorded easements, discrepancies or conflicts in boundary lines, shortage in area and encroachments which an accurate and complete survey would disclose.
4. Unfiled mechanics' or materialmen's liens.
5. Terms and provisions of the **Homes Association Declaration** filed January 1, 1776 in Volume 2 at Page 3 which provides for, among other things, the levy of assessments, which if unpaid, may become a lien thereon.
6. Terms and provisions of the **Declaration of Restrictions** filed January 1, 1776 in Volume 2 at Page 20
7. **Utility easement** along the North 10 feet of the Lot 1 and the West 5 feet of Lot 1 as set forth in the instrument filed in Vol. 5 at Page 25.
8. We are advised that for a long period of time, members of the United States Congress have used a gravel path across the property as a short-cut to work. Any policy issued will contain an exception for the possible assertion of **prescriptive easement rights** along this path.
9. **Encroachment** of the premises over the side setback line as shown on the survey by Abe Lincoln Surveying dated February 20, 1864, as Job No. 1.

NOTE: Our policy when issued will insure against any loss or damage occasioned by the forced or attempted forced removal of the improvements on the insured property as a result of said encroachment.
10. We will eliminate Standard Exceptions 2 and 4 upon receipt of a properly executed affidavit as to Real Estate by the sellers herein. Note, however we have been advised that the current occupants of the property have indicated that they will not vacate the until sometime well past the early January closing date. Our policy, when issued, will contain an exception for the rights, if any, of the parties remaining in possession.
11. For questions concerning the closing of this transaction, please contact Linda McCall at our Escrow Office at (913) 381-9820 (Ext. 3039).

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CODE OF ETHICS & Closing the Transaction!

Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation of absolute fidelity to the client's interests is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/93)

Article 2

REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. (Amended 1/00)

Article 6

REALTORS® shall not accept any commission, rebate, or profit on expenditures made for their client, without the client's knowledge and consent.

When recommending real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.), REALTORS® shall disclose to the client or customer to whom the recommendation is made any financial benefits or fees, other than real estate referral fees, the REALTORS® or REALTOR®'s firm may receive as a direct result of such recommendation. (Amended 1/99)

Article 11

The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. (Amended 1/95)

Article 13

REALTORS® shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction requires it.

Article 17

In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® associated with different firms, arising out of their relationship as REALTORS®, the REALTORS® shall submit the dispute to arbitration in accordance with the regulations of their Board or Boards rather than litigate the matter.

In the event clients of REALTORS® wish to arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall arbitrate those disputes in accordance with the regulations of their Board, provided the clients agree to be bound by the decision. (Amended 1/97)

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A.S.H.I. Frequently Asked Questions on Home Inspections

What is a home inspection?

A home inspection is an objective visual examination of the physical structure and systems of a house, from the roof to the foundation.

What does a home inspection include?

The standard home inspector's report will cover the condition of the home's heating system; central air conditioning system (temperature permitting); interior plumbing and electrical systems; the roof, attic and visible insulation; walls, ceilings, floors, windows and doors; the foundation, basement and structural components. The American Society of Home Inspectors (ASHI) publishes a [Standards of Practice](#) and [Code of Ethics](#) that outlines what you should expect to be covered in your home inspection report.

Why do I need a home inspection?

Buying a home could be the largest single investment you will ever make. To minimize unpleasant surprises and unexpected difficulties, you'll want to learn as much as you can about the newly constructed or existing house before you buy it. A home inspection may identify the need for major repairs or builder oversights, as well as the need for maintenance to keep it in good shape. After the inspection, you will know more about the house, which will allow you to make decisions with confidence. If you already are a homeowner, a home inspection can identify problems in the making and suggest preventive measures that might help you avoid costly future repairs. If you are planning to sell your home, a home inspection can give you the opportunity to make repairs that will put the house in better selling condition.

What will it cost?

The inspection fee for a typical one-family house varies geographically, as does the cost of housing. Similarly, within a given area, the inspection fee may vary depending on a number of factors such as the size of the house, its age and possible optional services such as septic, well or radon testing. Do not let cost be a factor in deciding whether or not to have a home inspection or in the selection of your home inspector. The sense of security and knowledge gained from an inspection is well worth the cost, and the lowest-priced inspection is not necessarily a bargain. Use the inspector's qualifications, including experience, training, compliance with your state's regulations, if any, and professional affiliations as a guide.

Why can't I do it myself?

Even the most experienced homeowner lacks the knowledge and expertise of a professional home inspector. An inspector is familiar with the elements of home construction, proper installation, maintenance and home safety. He or she knows how the home's systems and components are intended to function together, as well as why they fail. Above all, most buyers find it difficult to remain completely objective and unemotional about the house they really want, and this may have an effect on their judgment. For accurate information, it is best to obtain an impartial, third-party opinion by a professional in the field of home inspection.

Can a house fail a home inspection?

No. A professional home inspection is an examination of the current condition of a house. It is not an appraisal, which determines market value. It is not a municipal inspection, which verifies local code compliance. A home inspector, therefore, will not pass or fail a house, but rather describe its physical condition and indicate what components and systems may need major repair or replacement.

How do I find a home inspector?

You can ask friends or business acquaintances to recommend a home inspector they have used. Or, you can use the [Find An Inspector](#) search tool for a list of home inspectors in your area who belong to the non-profit professional organization. To have a list mailed to you, call 1-800-743-ASHI (2744). Also, real estate agents and brokers are familiar with the service and may be able to provide you with a list of names from which to choose. Whatever your referral source, you can be assured of your home inspector's commitment to professional standards and business ethics by choosing one who has membership in ASHI.

What is ASHI?

Since 1976, ASHI has worked to build consumer awareness of home inspection and to enhance the professionalism of its

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membership. The ASHI Standards of Practice and Code of Ethics serves as a performance guideline for home inspectors, and is universally recognized and accepted by many professional and governmental bodies.

Who belongs to ASHI?

ASHI is an organization of independent, professional home inspectors who are required to make a commitment, from the day they join as ASHI Associates, to conduct inspections in accordance with the ASHI Standards of Practice and Code of Ethics, which prohibits engaging in conflict-of-interest activities that might compromise their objectivity. ASHI Associates work their way to ASHI Certified Inspector status as they meet rigorous requirements, including passing a comprehensive, written technical exam and performing a minimum of 250 professional, fee-paid home inspections conducted in accordance with the ASHI Standards of Practice and Code of Ethics. Mandatory continuing education helps the membership stay current with the latest in technology, materials and professional skills.

When do I call a home inspector?

Typically, a home inspector is contacted immediately after the contract or purchase agreement has been signed. Before you sign, be sure there is an inspection clause in the sales contract, making your final purchase obligation contingent on the findings of a professional home inspection. This clause should specify the terms and conditions to which both the buyer and seller are obligated.

Do I have to be there?

While it's not required that you be present for the inspection, it is highly recommended. You will be able to observe the inspector and ask questions as you learn about the condition of the home and how to maintain it.

What if the report reveals problems?

No house is perfect. If the inspector identifies problems, it doesn't mean you should or shouldn't buy the house, only that you will know in advance what to expect. If your budget is tight, or if you don't want to become involved in future repair work, this information will be important to you. If major problems are found, a seller may agree to make repairs.

If the house proves to be in good condition, did I really need an inspection?

Definitely. Now you can complete your home purchase with confidence. You'll have learned many things about your new home from the inspector's written report, and will have that information for future reference.

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Thanks to First American Title's site for this Closing Cost Amount & Payee Chart:

Possible Lender/Broker-Related Fees:	Amount Range :	Paid to:
Loan Origination Fee	Generally 1% of loan amount	Lender
Lender or Broker Fee	\$1,500-\$200	Lender/Broker
Discount points		Lender
Application Fee	\$400-\$100	Lender
Administration Fee	\$1,000-\$250	Lender
Commitment/Rate Lock Fee	\$750-\$300	Lender
Document Preparation Fee	\$400-\$25	Lender
Underwriting Fee	\$500-\$100	Lender
Processing Fee	\$750-\$50	Lender/Broker
Lender's Title Insurance	.2%-.5% loan amt.	Title Company
Appraisal Review Fee	\$150-\$75	Lender
Tax Service Fee	\$250-\$70	Lender
Warehousing Fee	\$100-\$50	Lender
Funding Fee	\$450-\$100	Lender
Wire Transfer Fee	\$50-\$10	Lender/Broker
Courier Fee	\$100-\$30	Lender
Possible Third-Party Fees:		
Appraisal	\$750-\$200	Appraisal Company
Inspection	\$500-\$50	Licensed Inspector
Pest/Termite Inspection & Report	\$100-\$75	Pest Inspector
Flood Certification	\$250-\$25	Flood Certification Co.
Home Warranty	\$1,000-\$500	Warranty Company
Settlement Fee/Attorney Fees	\$1,500-\$50	Settlement Co., Attorney
Lender's Inspection (442 Inspection)	\$300-\$100	Inspector
Title Search, Report, Name Search	\$750-\$100	Title Company
Owner's Title Insurance	.3%-.6% purchase price	Title Company
Notary Fees	\$100-\$10	Notary
Loan Tie-In Fees	\$100-\$25	Escrow/Settlement Co.
Escrow/Settlement Fee	\$100-\$25	Escrow/Settlement Co.
Sub-Escrow Fee	\$100-\$25	Title Company
Credit Report Fee	\$75-\$8.50	Credit Agencies
Survey	\$450-\$50	Surveyor
Postage/Courier	\$100-\$25	Escrow/Settlement Co.
Homeowner's Assoc. Transfer Fee	\$100-\$25	Homeowner's Assoc.
Possible Government Fees:		
Recording Fee	\$250-\$20	State/local govt.
Transfer Tax	\$1,000-\$25	State/local govt.
City/county/state Tax Stamps	\$5,000-\$50	State/local govt.
Property Taxes	Often % of sales price	State/local govt.
Possible Impound Acct./Pre-paids:		
Pre-paid Mortgage Interest	Depends on date of closing	Lender
Hazard/ Homeowner's Insurance	Up to 1 year of premiums	Lender, for impound account
Property Taxes	Up to 1 year of taxes	Lender, for impound account
Private Mortgage Insurance	Up to 1 year of premiums	Lender, for impound account
VA Funding Fee (VA loans)	2-3% loan amount	VA
Up Front Mortgage Insurance Premium (FHA loans)	2.25% loan balance	FHA

No or Low Cost Loans: Lenders often offer a type of loan called a One Fee, or Low or No Cost Loan which rolls all of these fees up into one tidy package. Usually they cover the costs by giving you a slightly higher interest rate, but it can pay to check. If you are interested in this, ask your mortgage broker or lender about a No Cost or Low Cost loan to see if you qualify.

Affordable Settlement Services Bundle: First American offers a package of discounted title insurance and related services for low-to-moderate-income families. Ask your First American title officer whether you qualify for this low cost option.

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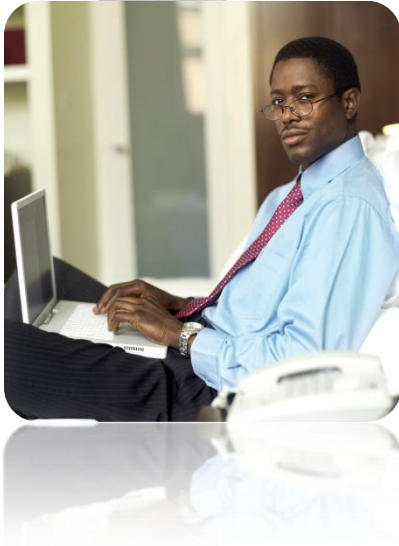
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Web Site Resources for Consumers Whether Selling & Buying!

Credit Union Consumer Facts,

http://www.cuna.org/data/consumer/advice/retire_home/hometoc.html



EnergyGuide.com

www.energyguide.com provides an easy way to assess energy use and get quick tips on saving energy.

Environmental Protection Agency

www.epa.gov gives the consumer a 1-stop shop for advice on testing for and mitigating pollutants, from lead paint to radon to mold.

Equifax

www.equifax.com features a source of credit reports.

Experian (formerly TRW)

www.experian.com offers a source of credit reports.

Federal Citizen Information Center

<http://www.pueblo.gsa.gov/results.tpl?id1=17&startat=1&--woSECTIONSdatarq=17&--SECTIONSword=ww>

Offers a list of consumer articles about home sales, financing, and maintenance.

Ginnie Mae, <http://www.ginniemae.gov>

Provides advice to buyers on affordability and homeownership, including calculators.

U.S. Department of Housing and Urban Affairs

<http://www.hud.gov/buying/index.cfm> offers advice to buyers on finance, fair housing, and more.

ImproveNet

www.improvenet.com provides links to contractors and architects for remodeling projects for buyers and repair services for sellers. For a small charge, buyers can use the site's Estimators to determine how much renovating a property they're considering would cost.

Moving.com

www.moving.com Helps buyers and sellers with packing tips and timetables, online mover links, and places to store belongings so that homes look less cluttered.

REALTOR.com

www.realtor.com Offers consumer information for buyers and sellers as well as home listings and links to service providers.

Real Estate Buyer's Agent Council (REBAC)

<http://www.rebac.net/hbk.html> offers a homebuyer's kit with useful information and checklists.

Trans Union Corporation

www.transunion.com provides a source for credit reports.

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CORKY HYATT

CRB, CRS, GRI

AUTHOR, TRAINER, COACH, & CONSULTANT



Corky Hyatt's approach to Real Estate can be summed up in two words, **service** and **enthusiasm!** A full-time Realtor for over 29 years, Corky was an annual member of the Multi-Million Dollar Club, closing more than 75 sales a year before turning her attention to training. Her brokerage experience includes both residential and commercial, including new home project sales. She's attained the GRI (Graduate REALTOR® Institute), CRS (Certified Residential Specialist), and CRB (Certified Residential Broker) designations.

In 1990, Corky was recognized as "REALTOR® Salesperson of the Year" for the Johnson County Board of REALTORS®, the largest board in Kansas. She has been an officer of that board, serving as President in 1993, and currently serves as a Director of the Kansas Association of REALTORS®. Corky was a founding Director of the Heartland Regional MLS and served as President of Heartland Multiple Listing Service in 1995. A past president of the Kansas Chapter of WCR, Corky served as Kansas WCR Governor in 2001. President of the Kansas chapter of CRS in 2003 and 2004, Corky was awarded CRS of the year for Kansas, 2001. In 2006, Corky received the Kansas Association of REALTORS Distinguished Service Award, presented at the KAR state convention in October.

A graduate of Emory University in Atlanta, Corky's teaching credentials include high school and junior college teaching as well as company training for firms such as J. C. Nichols Residential, Reece & Nichols, N. P. Dodge (Omaha, NE), Carpenter GMAC (Indianapolis, IN), and a number of RE/Max firms in Kansas and Missouri. She served as a GRI instructor for both the Kansas and Missouri Associations of REALTORS for more than thirteen years, consistently maintaining excellent ratings from her students! She has instructed courses nationally for the National Association of REALTORS, the National WCR (Women's' Council of REALTORS), the Texas Certified Residential Specialists, & the San Antonio Board of REALTORS. Corky presents continuing education courses across the Midwest as well as those available on her website at www.CorkyHyatt.com. Her Kansas continuing education courses are presented in association with the Kansas Association of REALTORS®.¹

Corky and her husband Jim, Broker/Owners of Hyatt Real Estate, live in Stilwell, Kansas, and have five sons, four daughters-in-law, and the world's six best grand daughters and brand new grandson!

CORKY HYATT, CRB, CRS, GRI

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CALL: 913.897.2200; FAX: 913.440.4858; EMAIL: CORKY@CORKYHYATT.COM

CHECK OUT WHAT'S NEW AT WWW.CORKYHYATT.COM!

¹ All Kansas course certificates will be in the name of the Kansas Association of REALTORS® by Instructor Corky Hyatt.

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More courses available at www.corkyhyatt.com;

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