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What Sellers Need to Know About Dealing With Your Mortgages Just Before the Closing

Most sellers have one mortgage on their property and may also have a home equity line of credit as well. These mortgages are liens on title and must be removed before or at the closing. You may also have paid off a mortgage and it still appears on title. How do you deal with these different mortgage situations when you are selling your home?

If you have a first mortgage on your property, you need to keep paying the mortgage until just before the closing. If you do not, the lender will charge you late fees and then may put your mortgage into foreclosure status. But, you don't want to make a payment if it is due a week or so before the closing. The lender will not have enough time to receive the payment, process it, and deduct it from the principal balance still due. When you close on your sale, you need to fully pay off each mortgage. If the amount sent in to pay off the mortgage is not enough, the lender will not consider the mortgage paid off. You, the seller, will need to send in more money to make up the shortfall in order to clear title.

In order to know how much you need to pay each lender, you request a payoff statement, letting the lender know what the closing date is. The payoff statement will show the principal balance due, the amount of interest due through the closing date, whether there are any late charges that need to be paid, the fees to discharge the mortgage (removing it from public record), and the amount of daily interest. You will need to pay an extra 2-3 days of interest past the closing date because the buyer's lawyer will be making that mortgage payoff for you (to ensure that her buyer client gets clear title) and that payment will go out the next business day after the closing.

If you have a home equity line of credit on your house, even if you haven't drawn on the line, you need to get a payoff statement. The payoff statement may show a $0.00 balance but it will also ask you if you want to close the line of credit and have the mortgage discharged. The buyer's lawyer again will take care of getting this mortgage removed from record by sending the payoff statement to the lender, marked with your request to close the line of credit and have the mortgage discharged. Again, once the payoff statement is produced, do not write checks or otherwise use the line of credit.

I have been involved in home sales where the seller has paid off a mortgage but it is still of record. All mortgages must be removed from record, so what happens in these situations? The seller's lawyer must contact the payoff department of the lender and present proof that the mortgage has been paid off together with a request that the lender produce a document discharging the mortgage. This can take some time and may even delay the closing. The problem is worse if the lender has gone out of business. When banks go out of business, they are typically bought by another bank, so the lawyer must discover which bank merged with or took over your bank. The new bank must have the records of your old bank before they will agree to issue the Discharge of Mortgage document.

Your real estate lawyer will do some of the legwork to get you to the closing with the proper payoff statements and Discharge of Mortgage documents. Privacy laws prevent her from doing all the work for you without your written authorization to the lender. But, an experienced real estate lawyer will know exactly what steps need to be taken to ensure that all mortgage issues are handled in a timely manner. Make sure that you follow all of the instructions that your real estate lawyer gives you to get to a headache-free closing.

Email Robin Gronsky at Rgronsky@Gronskylaw.com or call her at 201-251-8001 to find out how she can represent you when you buy or sell real estate.