

BUYING PROPERTY IN ARIZONA



**Complimentary Buyers' Report
Courtesy of The Murray Group
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HAVE A BUYER AGENT REPRESENT YOU. Traditional real estate, for the most part, was designed to benefit the seller. In fact, the listing agent is the agent of the property owner, the seller. Within the past 15 years the pendulum has swung, with buyer agency becoming not only more common, but required by many companies, especially in Arizona, when their agents write a contract in your behalf.

Sometimes a listing agent will represent you well, looking out for the best interests of both of you, the buyer, and the seller, but some are interested first in selling their own listings. If an agent represents both you and the seller, he/she is a Dual Agent, but he/she is obligated to disclose anything material to the property. The agent should also be bound not to reveal fiduciary confidences, not to disclose what the least the seller will accept or the maximum that you, the buyers, are prepared to pay. However, the Dual Agent should provide you with all the statistics available to help you make a wise and informed offer. A Buyer's Agent or a Dual Agent, who represents you, should do everything possible to educate you as to the Tucson real estate market, show you your many options, and negotiate your best price.

After you have met with an agent or agents and feel comfortable working with him/her, you will be asked to sign a form which explains BUYER AGENCY and DUAL AGENCY. All commissions are paid by the seller, and, usually, the representation costs you nothing (even with most For Sale By Owners).

What most people do not know is that most real estate agents are "independent contractors," represented by the broker of the firm with which they are affiliated. In our case, that is Long Realty, the dominant firm in southern Arizona.

CLOSE OF ESCROW MEANS RECORDATION. Unlike in many areas of the country where the buyer and the seller jointly sit down at the table, sign the closing documents, with lawyers present, in Arizona you will most likely go to the escrow company, one to four days ahead of the closing date to sign the paperwork. (When financing is involved, the sale cannot record until the funds arrive at the escrow office.) You will be in the presence of the escrow agent (third party) and your real estate agent who is there to watch for errors and to help answer questions. (Not all agents do this.) If you wish to close escrow from out-of-town or out-of-state, it is very easy. Fed Ex provides excellent service and you can sign papers from wherever you live or wherever you are at the moment. You will not receive keys to the property until it records at the county courthouse (official COE or Close of Escrow). Certain new home builders will require two to seven days between signing and recordation.

YOU MAY HAVE A LAWYER, BUT IT IS NOT NECESSARY.

By constitutional amendment, a real estate agent has the legal authority to write the purchase agreement in your behalf. You are welcome to invite a lawyer to oversee or approve the paperwork, but it is not required. Real estate agents cannot provide legal or tax advice. We can refer you to real estate attorneys or appropriate tax professionals, if you wish.

ALLOW A MINIMUM OF 30 TO 45 DAYS FOR CLOSING.

Unless it is a cash sale, in which case you might be able to close in as few as a week to ten days, the lending process normally takes 30 days for all the paperwork, credit applications, etc. to be processed, longer if a VA or FHA loan is involved. What is important is to work with a reputable lender who has a track record for efficient and on-time closings. With all the Internet lenders, located in other parts of the country, you might find that things are not done on time and in keeping with practices in Arizona. Our local loan professionals (particularly any whom we might recommend to you) are extremely competitive and close their loans “on time.”

If you will have a VA loan, even more time should be allowed (at least 45 days). While we have had 30 day VA closings, it required skillful jumping through many governmental hoops. Without a skillful loan officer, who obtains a prompt appraisal, you can be troubled and worried down to the eleventh hour.

Working with a superior team of buyer's agent, lender, escrow agent, and seller's agent, one of our clients was amazed at their "Perfect Transaction." We closed in just nine days from contract acceptance (including inspections, repairs, and funding a new loan)! New government requirements, however, would make a nine day closing with a loan next to impossible. There are strict new standards and timelines regarding loans which lenders must follow.

NEW CONSTRUCTION: YOU MAY HAVE YOUR OWN BUYER AGENT WHEN BUYING NEW CONSTRUCTION. Thanks to the cooperation between builders and brokers in Southern Arizona, most builders honor a **SINGLE PRICE POLICY**, quoting you the same price whether you buy directly from the builder or have your own real estate agent(s) represent you. Buyer Agent(s) oversee the transaction, framing walk-throughs, closing statements, and punch list. The requirement is that the agent **MUST ACCOMPANY** you and register you on your **FIRST VISIT**. Then you may return as often as you like on your own, as well as with your agent. Builders pay all commissions, so that it costs you nothing to have your own representation. Remember, the agents at the models are employees of the builder. Sometimes they look out for you, the buyer, but not always. If there is a problem, it is very helpful to have Long Realty's broker fighting for your best interests.

THE PROCESS OF FINDING YOUR NEW HOME. Sit down with the agent and have him/her explain to you the purchasing process. Some agents will require you to sign a Buyer-Broker Agreement before showing you properties; others, as we prefer, will spend time with you to discuss the process, listen to your needs and special concerns, so we have an understanding of your **IDEAL SCENARIO**. Then we will introduce you to a number of current listings and show you those of greatest interest.

Then, if you are comfortable with the agent, and the agent with you, you will be asked to sign a Buyer-Broker Agreement, which states that you employ the agent to represent you in a fiduciary relationship, honoring all confidences, to assist you in finding and purchasing property.

THE PURCHASE CONTRACT WAS CREATED BY THE ARIZONA DEPARTMENT OF REAL ESTATE. The contract currently consists of nine (9) pages, spelling out the terms of the purchase, the requirements for obtaining financing, the inspection periods and buyers' and sellers' rights and

responsibilities, the appraisal contingency, how disputes are resolved, and deadlines for the buyers and sellers to respond. It is very important for you to examine the contract ahead of time, so that you may ask any questions you might have, before you find the perfect house and write the contract with emotions involved. There are Addenda for different purposes and standard Counter Offer or Multiple Offer forms, depending on the situation. You must be prepared to write a check, **earnest money**, as a deposit, made out to the title/escrow company, to accompany your offer. The earnest money normally applies to the down payment at closing. With re-sale homes your money remains in the escrow account until closing; the check will be cashed when you and the seller agree on the contract terms and escrow is “opened.” New home builders are allowed to use their own contracts and will deposit your earnest money directly into their bank accounts.

WORK WITH YOUR AGENT AND LENDER TO HAVE A PRE-APPROVAL LETTER ACCOMPANY YOUR OFFER. If the seller knows up front that you are financially qualified to purchase the property, he/she will look at your offer more seriously. You need a pre-approval to enhance your negotiating position. Your pre-approval and substantial earnest money deposit may give your offer priority when there are multiple offers. The Loan Status Report (LSR) is required with every purchase agreement.

Your agent may recommend two or three lenders to you whom he or she trusts and knows will be committed to processing your transaction efficiently and who will provide excellent service. It is your decision, not the agent’s, as to which loan officer/company you wish to work with.

CASH OFFERS: Be prepared to provide proof that you have the wherewithal to purchase the property for cash, a letter from your bank, proof of funds in a portfolio, or other source of the cash. There have been cases of fraud where a buyer writes a contract for a cash transaction and then fails to produce the funds to complete the transaction.

Don’t be offended if the seller requests proof of your ability to pay cash! He/she is simply being wise.

THE INSPECTION PERIOD IS VERY IMPORTANT. This is your opportunity to discover any problems with the home, learn how the mechanical systems operate, require a survey if you deem it advisable, or verify the square

footage, if you wish. In short, the inspection period gives you a specified time period (usually 10, sometimes 15 or more days), with which to verify that the MLS information is accurate and that the home is in a condition acceptable to you. You will be asked to initial and sign the Sellers Property Disclosure form (SPDS) following contract acceptance. You are signing that you have read the disclosure, not that you accept it.

It is required for the seller to provide you with a copy of a Claims Loss Statement (otherwise known as a CLUE Report) stating any claims against their homeowners' insurance policy for the previous 5 years. This gives you a glance at what may have happened to the property and a peak into what obstacles may lay ahead in obtaining your own homeowners' insurance.

If there are repairs needed, you will request that the seller resolve/repair them on the Buyers' Inspection and Sellers' Response Contingency Removal Form (nick-named "BINSR"). The seller then has the opportunity to agree to your requests, to agree to some of them, or to none of them within five (5) days. If you do not agree with his/her response and no longer want to complete the transaction, based on information obtained during the inspection, the contract states that you may put in writing to the seller that you wish to cancel the contract and the reasons why, within five (5) days, and request that your earnest money be returned to you by the escrow company.

TERMITE INSPECTION: There is an old saying in Arizona: "There are two kinds of homes--those that have termites and those that will." You will need to have a qualified termite inspector check your new home for evidence of current or past termite activity during the inspection period. If the inspector finds active termites, the home will need treatment prior to close of escrow. Most of the termites we deal with are "subterranean." It is wise to main a contract with a qualified company to check and treat termites. A **clear termite report** is required by most all lenders. It is the buyer's responsibility to pay for the termite inspection, frequently paid at closing.

ADDITIONAL INSPECTIONS: We may suggest a roof inspection, or you may request a mold or other additional inspection. The roof inspections are available at no charge to you, while the buyer will be responsible for paying other inspectors.

APPRAISAL CONTINGENCY: All home purchases with a loan will require an appraisal. The appraisal may be ordered by the lender immediately after your contract is accepted, or the lender may wait to make sure you approve of the home following the inspection period and agreement between buyer and seller as to any requested repairs.

A common misconception of appraisals is that the appraisal is done for the Buyer in the transaction to attain the Fair Market Value of a property they are buying. While the buyer does pay for the appraisal, the appraiser is working not for the buyer or even the lender, but for the lender's Mortgage Insurance Company. The reason for an appraisal is to "Justify" the sale price for the risk of the Mortgage Insurance Company. This is why the vast majority of appraisals come in at exactly the sale price. That is the appraiser telling the lender's Mortgage Insurance Company that it is a justified price for the risk of the mortgage.

The appraisal process changed dramatically in May 2009. Because of abuses and close relationships between certain appraisers and lenders prior to the "collapse" of the housing market, the Federal government created an appraisal board which randomly assigns appraisers to give the opinion of value on your purchase.

If the home does not appraise for the sale price, you may elect to terminate the contract, to negotiate the price with the seller, or to increase your down payment to cover the difference between the appraised value and the agreed upon sale price.

SECURING HOME INSURANCE DURING THE INSPECTION PERIOD HAS BECOME VERY IMPORTANT. During your inspection period is the time for you to find out everything about the property, including your ability to obtain proper Homeowners' Insurance and what the cost required will be. If a property is in, on the edge of or too close to a flood plain, there may be required flood insurance in order to obtain a loan. We are more than happy to refer you to a trusted insurance agent who is experienced in the Tucson area if you have the need.

HOA ASSOCIATIONS: HOMEOWNER ASSOCIATIONS ARE VERY POWERFUL IN ARIZONA. You may or may not be familiar with "HOA's." Their purpose is to help preserve the character of the neighborhoods; they

publish C C & R's (Conventions, Conditions, and Restrictions) which give you all the requirements of the particular subdivision, for your review and for your approval, prior to the close of escrow. The title/escrow company will mail you these documents, once escrow is opened. In many older subdivisions CC&R's have expired, but they're very prominent in all the newer areas. For example, in some older neighborhoods there may be no restrictions against parking boats or RV's, while in strict areas, these items might be prohibited. Fees vary depending on the services they provide. In a condo or resort community, you may find them "very high", but often many basic utilities (garbage, water, trash, sometimes exterior painting and insurance) are included. They will be higher in gated communities, especially those with manned guard gates or those that have a community pool. These rules are for everyone's benefit, but it is important that you as a buyer review the regulations before you consummate a purchase.

NEW CONSTRUCTION: YOU AND YOUR BUYER AGENT WILL WRITE UP A "PUNCH LIST" FOR THE BUILDER WHEN BUYING NEW CONSTRUCTION. At the final walkthrough, prior to closing, the builder's representative will show you and your agent the workings of the mechanical systems, how to care for various products and systems, and give you the opportunity to request repairs to the property. By law, the builders must give you a two-year warranty on the structure of your new home and a five-year termite pre-treatment warranty. (One year manufacturers' warranties come with the appliances.) At this time your agent with the construction supervisor will write up a "punch list" of repairs to be done by the builder. (These may or may not be completed by the day of recordation.)

If your builder does not respond to your requests for follow-up repairs after you own and occupy the home during the two-year warranty period, you may register a complaint with the Arizona Registrar of Contractors. While we hope you will not have to go that far, builders do not want complaints on their record and an inquiry frequently brings your desired results!

BEWARE! In the new Internet Age, multiple companies/corporations are actively advertising to win a piece of your new real estate purchase. Known as "Affinity groups," it is a little like your favorite airline tempting you with offers for rental cars, hotels, cruises and more. In real estate, Costco (among others), Homegain, Lending Tree, and many others solicit your help with real estate. Why? They offer you a "come on" such as "cash back" or recommendations for van lines. In turn, they charge the real estate broker a large "chunk" of the

“gross commissions” (in many cases without performing services for you, but they collect some 25% - 35% that the broker pays to Costco, Lending Tree, USAA, etc). Frequently this fee is to refer you to a real estate agent. Before you agree to any “affinity” offers, be sure of what the cost is, what your benefits are, knowing that as reputable and client-based agents, we will work to find you what is best for you (regardless of the arrangement).

PRIOR TO CLOSING you will need to notify the title company of *how you wish to take title* and the hazard *insurance company you wish to use*. If you and/or the seller opt for a Home Protection Plan, your agent will order it and the fee will be a part of your closing statements. It is the buyer's responsibility to **call the various utilities** and notify them to transfer service to you well in advance (especially the phone company). Use the “closing date” as the date on which to transfer service. You also will want to do a final walk-through of a resale home to be certain that requested repairs were done and that the home is in similar condition to when you wrote the purchase agreement.

THINGS YOU WILL NEED AT CLOSING. (A) photo ID; (B) certified funds, usually a cashier's check, made out to the title company or a direct wire from a financial institution. If you choose to wire funds to the title company, it is important to obtain exact wiring instructions well in advance of closing. (Certain out-of-state financial institutions require your request "in person" to release the funds.) Recently there have been instances where two forms of photo identification have been required.

Your real estate agent will call you when the deed records--then it is time to ***celebrate, receive the keys, and unlock the doors to your new home.***

We have built a referral-based business by thrilling one client at a time. This is done by listening to our clients' thoughts, dreams, concerns and fears to be able to make sure everyone of them is addressed. We put our knowledge and expertise to work to make your purchase and relocation as ***Hassle-Free*** as possible!