

Checklist and Best Practices for Buyers

Help your transactions run smoothly and avoid the most common pitfalls with these best practices:

- Insist your deposit be held in trust by your own attorney.
- How should title vest? Consider available options for besting title, e.g. tenancy by the entireties, joint tenancy, co-tenancy, life estate, enhanced life estate, revocable or irrevocable trust, etc. The way you hold title will affect your future rights.
- Insist that you prick the person conducting the closing. Insist on using an **attorney**, who represents **you** instead of a non-attorney title company that cannot practice law and cannot protect your interests. Controlling title puts you in a better position in terms of strength and control.
- Beware of special assessments from homeowner's or condo associations: pending assessments can represent major obligations. Be sure to correctly address pending assessments in your contract.
- Tax consequences: consider the homestead and portability consequences of your purchase and the manner in which you hold title.
- Plan for your liquidity needs. If you need to sell securities to obtain cash for closing, beware that it can often take several days for cash to become "clear", Sell securities plenty early.
- Use caution if you have "other sale" contingency—ensure all deadlines and conditions adequate.
- Beware of FIRPTA when dealing with foreign sellers. When seller is subject to FIRPTA, serious tax consequences will flow to the buyer if the transaction is not properly completed. Having your own attorney conduct your closing is even more important when FIRPTA is in play.
- Beware of looming special assessments that may be on the tax rolls; allocate those obligations correctly in your contract or you could be left footing the bill.
- Always get a survey (except when buying a condo, in which case the concept of a survey is inapplicable).
- Wire fraud has become very prevalent in the real estate industry. Be careful and verify wire instructions directly with a verified source.
- Cash is king—a cash offer is the strongest offer. If you can pay cash, consider cash offers as a means of negotiating the best price.
- If borrowing, use a local lender.
- If borrowing, leave some cushion in your projections—a healthy cushion

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will ensure you don't end up in a cash crunch. Often unexpected items (e.g. recording fees and documentary taxes) sneak up on borrowers.

- Beware of shock to your tax bill if the seller is a new construction product or a homesteaded property.
- If using one of the template contracts used by most real estate agents, consider both forms—the “as-is” form designed to give the buyer a free look; and also the “standard” form which locks the parties in with no free look. The different forms provide different benefits and drawbacks.
- Watch your deadlines—inspection deadline; financing deadline; title objection deadline; survey objection deadline; etc.
- Beware new construction. Often builder / developer contracts for new construction heavily favor the developer at the expense of the buyer.

