



Real Estate Talk: When the buyer backs out

Description

What happens if all conditions are satisfied and the buyer decides not to buy?

By **Joseph Marovitch**

Your residence has been on the market for three months. There have been several visits and open houses. Because you have asked a below-market price, multiple offers have been generated. One promise to purchase has an offer close to your asking price but the finance condition is forty-five days from accepted promise to purchase.

The second promise to purchase is a lower offer but the closing is thirty days away and the buyer has included a pre-approval document. The third promise to purchase is very close to your asking price. The third offer is an all-cash deal with proof of cash provided. The only other condition is an inspection within seven days of the accepted promise to purchase.

The third offer is accepted. It is an all-cash deal, proof of cash provided and an early closing. All you must worry about is the inspection. After four days of anticipation, the inspection day arrives. The process lasts two and a half hours. The inspector examined every faucet, light fixture, floor, ceiling and roof. The inspection indicated a few minor issues worth not more than a few hundred dollars.

Within four days after the inspection, is the period the buyer must provide written notice if there are any serious issues. The four days pass and no written notice arrives. Once all conditions are satisfied and the notary has checked for servitudes and illegal views, the property is legally sold. All that is left is the formality of the signing at the notary.

I have experienced this scenario with a client. It is devastating to the seller. There is insurance to cover damages in a scenario like this.

Remember there were two other offers at the beginning and because all conditions were not satisfied during the



due diligence time, the broker continued selling the property. Prior to the fully satisfied conditions, another offer, called a second rank offer, arrived. A second rank offer is an offer that is conditional upon the present offer failing. All other offers went by the wayside as the current offer finalized.

The day arrives and the seller is at the notary's office waiting for the buyer. All the funds are in the notary's trust account. The buyer is an hour late. The notary calls the buyer but there is no answer. An hour and fifteen minutes later, the notary reaches the buyer on the phone and asks where the buyer is. The buyer states he had to go out of town at the last minute and tells the notary he has had second thoughts and that he will call the notary next week.

I have experienced this scenario with a client. It is devastating for the seller. There is insurance to cover damages in a scenario like this. Different real estate agencies offer this insurance. However, in the event the buyer does not show at the notary after all conditions are satisfied, by choice, the process entails the notary sending a registered letter to the buyer stating they must show at the notary's office to sign on a specific date, usually one week later. If the buyer still does not show up to sign, the seller can place the property back on the market.

If the seller should accept another offer that was less than the amount the default buyer offered, the default buyer can be sued to make up the difference. Do not forget all the other damages that may have been incurred. The seller, assuming their house was sold, may have purchased another property, placed a deposit for a moving company, already moved, cleared their sold house of all their belongings, the list can be endless. The defaulting buyer is responsible for all the damages he or she may have caused.

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The situation can also be the seller changing their mind and not showing at the notary even though the property is legally sold as all conditions have been satisfied. Either situation is rare but has occurred. The seller not wanting to sell after all conditions are satisfied is extremely rare and very complicated to solve when it occur.

Should you have questions or comments, please refer to the comments section at the bottom of the page. As well, to view past articles, go to the search link and type in Joseph Marovitch.

Have a great week!

Next article: **What to do when the buyer requests an extension of deadlines in the promise to purchase**

State of the market

If you are an investor in Montreal who is acquiring an income property portfolio, it is time to look forward as prices rise across the board.

Most income property investors look at the capitalization rate or percentage rate of return when searching for income properties. The cap rate is very important when determining if there is profit to be made from an income property.

In the early 90s and late 80s, investors would find income properties with cap rates of 19 to 22 percent. Today cap rates are much lower because interest rates are much lower. If a property with a cap rate of 5.5 comes on the market, the property receives offers 24 hours after it comes to market. If the cap rate is 6 or higher, the property is



sold just as fast.

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However, there are smart investors out there who are purchasing income properties with cap rates of 3 or 4 percent. They are not looking at the short-term rental value but rather the long-term capital gain value in the property. Each area of Montreal grows at a different pace. Values increase faster in Westmount than Pierrefonds for instance, but all property rises in value under the current market conditions and the scarcity of space on the island. However, some properties rise faster in value if they are in certain locations due to proximity to the downtown core or near a new hospital like the Glen on Decarie or the new mega shopping centre to be built on the corner of Decarie and the TransCanada.

Developers in Montreal are aware of the long-term investment strategy, which is why they built so many condos in the downtown core. Developers were aware that prices were going to rise and single homes would become more and more expensive as new construction decreased. People had to live somewhere, so they built less expensive condos when the market was slower and now more than half those condos are sold and prices for condos are rising fast. The best advice for an investor is to buy what you can today because five to ten years down the line affordable property will be in the suburbs across the river only.

Image: Zoe Pappas from Pexels

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Joseph Marovitch has worked in the service industry for over 30 years. His first career was working with families from Westmount and surrounding areas, hosting children between the ages of 6 to 16 as the owner and director of Camp Maromac, a sports and arts sleep away summer camp established in 1968. Using the same strengths caring for the families, such as reliability, integrity, honesty and a deep sense of protecting the interests of those he is responsible to, Joseph applies this to his present real estate broker career. Should you have questions please feel free to contact Joseph Marovitch at 514 825-8771, or josephmarovitch@gmail.com



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