

RENTING BACK TO SELLERS

What to watch for to ensure a smooth closing through escrow



WHAT IS A "RENT-BACK"?

If your transaction includes an agreement for the buyer to rent to the seller after closing (Form 65B – Rental-Delay Occupancy), or if there are already renters under contract living in the home, the agreement is generally referred to as a "rent-back." The agreement created with Form 65B changes the relationship from buyer and seller (before closing) to landlord and tenant (after closing). Rent-backs carry with them a few things you should be aware of if your clients have this included in their sale contract.



IS THE SELLER RENTING BACK AFTER CLOSING?

Escrow will not automatically handle any rents paid to the new owner. The rentback addendum is between the landlord and tenant. Escrow only handles buyers and sellers. A separate addendum can be used to ask for the first payment to be handled by escrow at closing and signed by all parties.



PROPERTIES WITH TENANTS AFTER ESCROW

Nothing in the purchase and sale agreement tells escrow that there are tenants remaining in the property. If you would like escrow to handle rents and deposits at closing, escrow will need a separate addendum asking that it be handled through escrow at closing. A detailed list should be provided on that addendum of what the rent amounts are for each unit and when they are paid up to. A detailed list of deposits for each unit also needs to be on that addendum.



UTILITIES: TRANSFERRING AND PAYMENT

The buyer/landlord and seller/tenant should be aware the utility companies may require that the utilities are transferred into the name of the buyer/landlord at closing, so that post-closing unpaid utilities (if any) will be charged to the buyer/landlord after closing. The seller will need to call each utility to see how they want it handled.

As soon as possible prior to closing, the buyer/landlord and seller/tenant should contact the utility companies to find out whether transferring the utilities into the name of the buyer/landlord is required. Some utilities will not allow the seller to stay on the account (mostly water and sewer).

Most of the utilities are paid by the tenant. Discuss this with the seller to find out which ones. If box 12 is checked on the Residential Real Estate Purchase and Sale Agreement, CW Title and Escrow has been instructed to pay off the seller's utilities at closing and CW will comply with that instruction. When CW Escrow is asked to handle final utility bills, we usually pay water and sewer. In some areas we also pay electricity and garbage.

All of the utility bills will be taken out of the seller proceeds even if the tenant is paying them. This service can be waived and the seller can pay what they are responsible for directly to the utility companies.

If the buyer and seller agree to waive the requirement of escrow to pay final utilities, in this case, the seller will need to pay all final utility bills when they move out of the property or the buyer could get stuck paying those bills. The seller can call all utilities to see how they should have this handled.