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Time is Money!

Addressing time/date references in the CBR standard purchase contract

 By [James Zitesman](#), Attorney


In preparing for this article about "time" I conducted a few internet searches to see how some of the people in history have commented on the subject of "time." Albert Einstein determined that, "The only reason for time is so that everything doesn't happen at once." Sir Francis Bacon said, "Time is the measure of business." Will Rogers observed, "Half our life is spent trying to find something to do with the time we have rushed through life trying to save." Ben Franklin cautioned, "Remember that time is money." And when Mick Jagger turned 30 years old, he sang, "Time waits for no one, no favors has he. Time waits for no one, and he won't wait for me."

While these are thought provoking quotes, what does time have to do with a real estate purchase contract? Everything -- and it is a vital element that needs to be recognized and managed.

Paragraph 12.3 of the Columbus Board of REALTORS® /Columbus Bar Association Real Estate Purchase Contract (Contract) states, "Time is of the essence regarding all provisions of this contract."

Black's Law Dictionary 5th Ed. defines "time is of the essence" as, "Means that performance by one party at time or within period specified in contract is essential to enable him to require performance by other party (citation omitted). When this phrase is in a contract, it means that a failure to do what is required by the time specified is a breach of contract." Essential is defined as, "Indispensably necessary; important in the highest degree; requisite. That which is required for the continued existence of a thing."

One should pay close attention to the following sections of the Contract:

Paragraph 1.2, Lender Pre-Approval has a blank for a number to be filled in for the number of days in which to provide a letter meeting the requirements of the paragraph. This number is selected by the Buyer. In selecting the number to insert, it is important to remember the following: a) it is optional; b) it is calendar days -- plan accordingly; and c) failure to deliver "said letter" "shall terminate" the contract.

Paragraph 1.3 Loan Commitment also has a blank for the number of calendar days in which to deliver the Loan Commitment. Refer to the three points listed for Paragraph 1.2.

Paragraph 1.4 Attorney Approval Clause also has a blank for the number of calendar days. This number is originally selected by the Buyer, but applies to both parties. Further in the paragraph there is a 2-day period for acceptance of proposed changes.

Section 4, Inspections and Tests has blanks in both 4.3 and 4.4 for number of days to be inserted. The ramifications for missed deadlines may have severe unintended consequences.

Paragraph 9 has references to specific time frames in the event of damage or destruction. If there is a casualty to the premises prior to closing it is very important to not miss the deadlines set forth in the Contract.

Paragraph 13 sets forth the dates for closing and possession. The closing date is probably the one date that every one involved in a transaction already knows is essential. The possession date is also very important to both buyers and sellers.

Paragraph 14 provides the period of time in which the Contract may be accepted by the other party. Often, this concept of a period of time an offer is open for acceptance is not given the weight it requires. "Signatures to follow" is not legally binding. Signatures must be dated within the time allowed. Remember that delivery is an essential component to acceptance. If the accepted document is not delivered it does not count.

I will leave you with some more quotes to ponder. Abraham Lincoln said, "And in the end it's not the years in your life that count. It's the life in your years." According to Benjamin Franklin, "Lost time is never found again." And finally two from John F. Kennedy: "We must use time as a tool, not as a couch" and "The time to repair the roof is when the sun is shining."

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