

Cover your bases for closing day

Negotiate to ensure you get what you pay for

Buyers are often surprised during our meetings to learn a pre-possession walk-through is not a right.

In fact, technically buyers don't have access to the property until the funds have already been released on the day of closing.

In almost all cases, buyers expect their newly purchased home to be perfect. It is an emotional time and the excitement is palpable. They walk into a dirty home and that excitement disappears.

The first inclination of buyers is to demand money be held back from the seller to cover the costs of the cleanup.

Unfortunately, the reality is buyers are not entitled to hold back money from the closing funds for minor breaches of contract.

The standard form contract in use in Alberta does not give buyers an automatic right to withhold funds unless that right has been agreed to in the



purchase contract.

What constitutes a minor breach? That is not easy to quantify, but examples of this would be where the home has not been cleaned as required, an appliance is not working or there is drywall damage.

This is simply a question of negotiation at the time of your offer.

Will the seller accept a clause in the contract giving the buyer a right to hold back funds if the property is not up to standard at closing?

It is unlikely but certainly something worth attempting to negotiate.

If, for example, a term of your offer obligates the seller to get carpets professionally

cleaned, a clause should also give you the right to hold-back a preset amount at closing pending the production of receipts showing the work having been done.

You should also ensure a term is added to your original offer giving you the right to a walk-through either the night before or morning of closing.

Simply put, if there is work to be completed by the seller before closing, you and your agent must ensure the offer has terms added that protect you in the event those matters aren't resolved as required.

Next week, we'll address holdback clauses you may want to include in your offer to purchase.

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To avoid being stuck with nasty surprises like faulty appliances when you take possession, try to include a clause in your offer that allows you to hold back funds if the property isn't up to par at closing. The seller won't necessarily go for it, but it's worth trying to negotiate.