



MARK STEVENS
Just Call Mark! 604-306-5478
JUNE 2011 NEWSLETTER



RE/MAX
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DEALING WITH DEPOSITS

When you buy a house, there is typically a delay between the accepted contract and the day you move in. In order to ensure that you are going to follow through with your contractual obligation, you offer to put up an amount of money that can be forfeited to the Seller if you renege or default and don't follow through. This is called the *deposit*.

In my nearly 9 years in the real estate business, I have only once experienced it when a Buyer went to complete and the bank refused to fund the mortgage. Why did this happen? It turns out the Buyer had taken a trip to Africa (in between the time he removed his subjects and when he was to complete the deal) and had *spent part of his down payment*. The bank refused to fund and my Seller's collected the deposit and put their home back on the market.*

What is a deposit? It is earnest money. It is your monetary commitment to stay in the contract.

What is it not? It is *not* your down payment. Your down payment is the money between what you are paying for the house and what you borrow from the bank. The two amounts, in some cases the same, are separate and have distinctly different purposes.

How much of a deposit do I make? The rule of thumb is 5%. On a purchase of \$200,000, this would be \$10,000.

Where is the deposit kept? In most cases, the deposit is kept "in trust" in the Buyer's brokerage's trust account. If the contract completes and you get the house, the deposit becomes part of the purchase price.

When is it due? It is due in accordance with whatever is agreed upon in the contract. These days it is typically due either upon removing the subjects or within 24 or 48 hours of removing the subject clauses. The subject clauses are conditions you put into the contract to make sure that you are happy with the purchase, such as having your financing approved, having an inspection done, etc.

What happens if I am late with the deposit? If you are late with the deposit, you could *forfeit* the deal. "In the event the Buyer fails to pay the deposit as required by this contract, the Seller may, at the Seller's option, terminate this contract." You *must* have your deposit in on time as "time is of the essence". If you are late, and someone has written a back-up offer that the seller likes better than your offer, he can claim you are in breach of the contract, set it aside, and accept the other offer. A precaution to all parties, is that before taking action, consult your lawyer.

What happens to the deposit if I can't complete the transaction? If it comes to the date that you are to complete the transaction (i.e. the *completion date*) and, for whatever reason, you cannot or do not complete the transaction, you can, and most likely will, lose the entire deposit to the Seller... "the seller may, at the Seller's option, terminate this contract, and, in such event, the money paid by the Buyer will be absolutely forfeited to the Seller in accordance with the *Real Estate Services Act*, on account of damages, *without prejudice to the Seller's other remedies*".

Note that last part?! If the Seller can prove damages above and beyond the amount of the deposit, they can sue to recover those costs as well. For example, in a recent case, where the purchase price was \$1.57 million and the deposit was \$105,000, the Buyer lost the entire deposit *and* there are other penalties being awarded, yet to be determined.

Mark

*Fortunately, it was a rising market and so they were able to sell their home for more than the original contract and made \$12,000 on the deal.

Mark Stevens - RE/MAX Results Realty

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24083 - 102 Avenue
\$379,900
3 bdrms, 2.5 baths
2141 sq ft
2389 sq ft lot
10 years old

10288 - 243 Street
\$374,900
3 bdrms, 2.5 baths
2146 sq ft
2346 sq ft lot
9 years old



MY LISTINGS

19238 Fieldstone Walk
\$599,900
3 bdrms, 2.5 baths
2511 sq ft
3896 sq ft lot
6 years old



**PICTURE
YOUR
HOME
HERE**

S U D O K U

8	9	2	5					
5			2					
4		3	7					
1	5	6						
						3	4	7
					6	4		2
					9			6
					3	1	8	5

Source: Kappa SUDOKU Puzzles

FROM OUR MORTGAGE SPECIALIST:

BARB McCAUGHERTY



Whether you're buying your first home or have a mortgage you'd like to "Switch In" to RBC Royal Bank, our special rate offers allow you to take advantage of low rates and provide security for the long term. We have great sale rates on 6 month, 4, 5, 7 and 10-year terms!

Ask about our "Low Down Payment" Mortgage, our Investor Mortgage Program, our Equity Mortgage Program, or our 90% Mortgage for Self-Employed & Commissioned Sales People.



For more information about these and other mortgage options, contact Barb at: **604-761-7565**
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