

# Make sure you really have closure at closing

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The closing attorney is the final piece of the puzzle in a real estate transaction – and the most important. If the closing attorney fails in that role, the transaction might not occur, even if both parties – buyer and seller alike – sign every document.

Things can go horribly wrong there, and have in the Nashville market over the years.

Not so long ago, one title company was shuttered after the funds from the buyer's loan failed to make it to the seller or, more importantly, to the seller's lender.

In my 35-year career, I have seen three high-profile title companies close as a result of misappropriation of funds. They closed several hundred transactions each month. Two were steeped in tradition with highly regarded principals, but, as it turned out, no principles.

To better understand how this can happen, here's how closings work:

The lender wires funds from the loan to the buyer's closing attorney, and the buyers provide that company the funds required of them to close. With those funds in hand, the title company has all of the cash required to close the sale.

The title company, or closing attorney, then disburses the funds to pay the taxes, any fees for the recording any documents, real estate commissions, perhaps a termite contractor, the national title insurance company and the existing loan from the seller. It then pays its own fees and sends what is left to the seller.

In most cases of fraud, the seller and the other closing attorney get their money, so as not to raise any flags. At that point, before paying off the loans, criminals take the money for their own use.

In most cases, they use the following closing to pay some of the expenses of the previous closing, a shell game or musical chairs. When the music stops or the pie grows too large, trouble ensues.

So the buyers are in houses for which they have secured loans, but the funds from their loans did not pay off the previous owners loans, so that lender has a mortgage on the house.

Mail from sellers' lenders arrive at the house, and the buyers get nervous.



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Unfortunately, in many of these cases, the buyer owes the bank the money and does not own his house. Buyer beware.

## Sale of the Week

Recently the Adelicia condominium complex had a unit sell for more than \$1,000 per square foot.

Perhaps the long-awaited market crash has occurred, as unit #1602 sold last week for a mere \$731 per square foot.



The Adelicia, Unit No. 1602

However no tears need be shed for the owner, who paid \$330 per square foot having bought for \$604,000 in 2008 and sold for \$1.35 million last week.

In any market of any commodity, 100 percent return works.

While the Adelicia is reaping considerable attention in the media, the other high rises also are faring rather well.

For example, when the Icon units sold in 2008, they sold for \$365 per square foot. Last years' highest sale was for \$657 per square foot, and while that

seems to be an anomaly, there were numerous units selling for more than \$500 per square foot.

The granddaddy of them all, The Viridian, had sales of \$313 per square foot in 2008 and as high as \$523 last year for a penthouse unit. The Viridian penthouses are on the 30th floors, while the Adelicia penthouses are on the 16th floor.

Michelle Maldonado of The Lipman Group Sotheby's International Realty and a mainstay in the Adelicia, was the listing agent of the \$1.35 million sale, as she often is. Joanne Staler, one of a few women who can look Maldonado in the eye, represented the buyer. Staler, like Maldonado, is a superstar Realtor and is with RE/MAX Choice.

Those curious as to what a buyer may expect for \$1.35 million in the Adelicia will find two bedrooms with two full baths and 1,825 square feet. The price includes a storage room for the furniture that won't fit, or the storage rooms are nice enough to stash the visiting in-law or college buddy.

Kitchens are well-appointed with granite and stainless steel, and ceilings are finished and painted drywall, an unusual but nice touch. Maldonado also noted the home has 48 feet of floor-to-ceiling glass with 180 degree views.

While 2008 seems like a century ago, it is interesting to remember that many of the residential real

estate brokers in town would not show clients high-rises and warned them the developers would go broke. They equated high rise to high risk.

One commercial developer boasted he planned to wander into The Gulch and buy the Icon for 25 cents on the dollar.

To recap:

The Viridians started at \$260 per square foot and now goes as high as \$523.

The Icons could have been purchased for \$245 per square foot, but now goes for \$500.

Adelicia units were bought at \$330 per square foot and now can command \$731 – and at least one sold for \$1,019 per square foot.

The 1212 at \$585 per square foot is in the midst of closing 125 units as this is being written.

Hmm. I wonder what that fellow did with his quarters.

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