



Southeast Mortgagee Advisory Council Quarterly Meeting, November 2017

Legal & Closing –

Process Overview, Coordinator Role, Best Practices, Hurdles, Bond & LIHTC Timing Issues



The four W's of Multifamily Transformation

Where is my closing?

- Check commitment for point of contact information. Coordinator will inform you who the assigned closing attorney is prior to submission of the draft closing package.
- Technical review will likely be conducted by staff in the office that issued the commitment. Legal review & closing might be in a different office.

When do I send my package? When do I close?

- Four (4) complete packages should be sent no less than 30 days before projected closing date. Note Legal's package may be going to a different location. Wait for the attorney assignment!
- The package should include a cover letter indicating whether the rate has been locked and if so, what the terms are. It should also indicate whether the draft loan documents are based on the rate lock or the commitment terms.
- Coordinator will inform you once deal has been cleared for closing. Do not assume the date requested on the cover letter is confirmed!

Who needs to attend?

- Representatives of the borrower, lender and lender's counsel with decision and signature authority are required. Be out at your own risk!



What do I need to know & do?

- Provide your counsel with a copy of the entire commitment with all attachments and notify them if requesting a rate lock amendment. Engage counsel early on!
- **Closing Forms** – make sure the most current version of the forms is being used.
- **Special conditions**
 - If commitment calls for evidence of completion or assurance of something, prepare a certification or add to Agreement & Cert indicating so, with appropriate attachments, i.e. critical repair. Include 1010 warning language!
- **Attachments in commitment – Use them!**
 - Special documents which are program specific. i.e. use agreement, MARS certification, HUD executed 2328, repair exhibits, etc.
- **Surveys & Surveyor's Report**
 - Review them before submitting them. No disclaimer language.
 - Last day of "on-the-ground survey" must be within 120 days, not the same as the date when the surveyor signs. Dates must match on the report.
- **Review Title issues and exceptions**
 - Legal description must be identical to the one on the survey.
 - Check restrictive covenants, and use restrictions from other agencies.
 - Make sure restrictions do not conflict with HUD requirements.
 - Obtain subordination from agency early on.
 - Cross easements (with adjacent properties) must include language indicating it will remain in the event of a foreclosure or deed in lieu of.