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LAND ACQUISITION

Choosing and obtaining the land on which to build is a very important procedure. In order to avoid any serious problems in building, it is best to obtain a purchase agreement option to buy on the selected site for, say, a \$200 deposit. Then, in effect, build the house and exercise the option. By that is meant, pay the balance due, and pick up the warranty deed. It has been the writers experience that this really works, and saves a lot of headaches.

The above procedure isn't quite that simple. To elaborate step by step:

1. First a deposit is put on the desired property. This amount must be negotiated but should initially be under \$200 for a \$4,000 to \$30,000 lot.
2. In two or three working days an offer to purchase is drawn up with a larger deposit required. Again, this is negotiated in terms of the value of the property and the custom of the real estate people handling the deal. The purchase offer should require a warranty deed to be drawn up and held in escrow for a time long enough to get started building – say a three-month period. After this time the total amount for the lot is due and the deed delivered to the buyer from the escrow agent. The escrow holder is not the seller or anyone connected with the seller. This disinterested party (bank, title company, or other third party) holds the warranty deed for the specified time. Then he delivers it to the buyer when the seller has received the balance of funds at the end of the three-month period.
3. In this three-month period the house is well on its way. Barring bad weather, strikes or other holdups the professional builder could complete it in this period.
4. Even if the job is not completed, at least it should be past the stage where there is any doubt about the completion of the house. In this case, the option is exercised, that is the balance owing paid.
5. If any problems develop which would prevent building, your deposit should be cheerfully refunded. This situation will clarify itself before three months are up.

Two examples of the writers experience best illustrate the necessity of following this plan. A young couple came to me with the Offer to Purchase already executed, and a written sanitary test issued by the county on the property indicating that soil percolation was satisfactory for a three-bedroom house with one bath that they wanted built on this lot. They selected the plans, signed the contracts, and in a matter of days we applied for a building permit. After a week's delay (a holiday intervened), the building department of the

local community informed me that the building permit was not approved because sewers and water weren't available. At first I thought this meant that the sewer was across the street or down the block, as this was in a relatively small subdivision and a 100 x 300 ft. lot, not acreage. If that had been the case, it would have been easy to cut the street and extend the sewer or water in the same trench, or even bring it up from down the block, with each lot paying its share. However, the sewer was a mile away and the community estimated it would be two years before it reached the lot. As it turned out, the buyers received a refund on their deposit and went on to another lot in a different community. If they had bought the lot outright and received a warranty deed the sale would have been final and they could still have been waiting for sewer and water.

Another example was a lot in a big city on an unpaved street. Down the street, the writer had just finished a nice ranch home. This lot looked good and was slightly underpriced, but not enough to indicate any problems. It was a city lot with houses on either side indicating that the property was suitable for houses. A small deposit was given to the owner's real estate company to draw up an offer to purchase.

The lot front size was 50 feet, with the sewer location under the unpaved street in the center, and 20 feet deep. This is quite deep for a residential sewer but not a big problem, and possibly the reason for the good price. The excavator would have to be reminded that he needed a large machine to handle the depth. A small machine usually is used on narrow lots between houses for maneuverability. With this in mind, we called an excavator to explain it to him, advising him of the lot number, sewer depth, size of sewer, tap location and the nearest manhole.

It would be necessary to haul 45 truckloads of dirt away from the job since the lot was level and the proposed basement deep. The excavator has a job getting rid of dirt in a big city and may sell it or give it away if it is sand. If it is clay, it expands when dug, with 5 yards of hard clay expanding into 10 yards loose. Because this doubles the trucking volume, everyone is vitally interested in the type of dirt. The excavator quickly, by phone, contacted the original sewer contractor and found that this lot was fine yellow sand all the way down. So the excess dirt that would need to be hauled away would not cost anything because it was sand.

However, the trouble is that sand at that depth is under pressure and will flow like water. A special casing or hood is required to dig and tap the sewer in this situation. The work involves a minimum of \$2,000 in extra cost. Since the lot itself was worth only \$2,100, the situation was obviously impossible from a financial standpoint. Houses on each side were on septic tanks and fields not connected to the sewer, a procedure outlawed long ago by the city, but practiced when these houses were built. A request for the return of our deposit was made. At this point, the agent had prepared the offer to purchase and had done quite a bit of work so that the deposit return was strictly up to him because there were no restrictive clauses in the offer to purchase. But he did return the deposit.

Here again, imagine what would have happened if a warranty deed had been obtained with full payment and final closing. Further, the sand-versus-clay problem is not the only

possibility. There are others such as zoning problems, structural complications, underground obstacles and potential title difficulties.

There is really no way to foresee these hidden problems. You simply have to smoke them out. In many areas, offers to purchase usually include a septic tank clause or a clause that says the offer is subject to the land supporting a septic system. This is a critical point that could prevent building and should be covered in the offer.

Electronic or pump septic systems are available and will soon be priced down to the homeowner level. They are now practical for commercial buildings, hotels, motels, offices, and restaurants, and may well solve a major land-use problem for residential, once the price is reduced through improved production and development.

To protect your interest in making out an offer to purchase, indicate at this time that you are only interested in the property to build a house on it, and the offer should include a clause to the effect that the deal will be completed only if a house can be built.

OFFER TO PURCHASE REAL ESTATE

THE UNDERSIGNED hereby offers and agrees to purchase the following land situated in the { City
Township of
Village
_____ County, Michigan, described as follows:

ADDITIONAL CONDITIONS, if any: subject to the proposed house being built on this property. Included as part of this agreement, drawings and specifications attached hereto.

IN PRESENCE OF: _____ L.S.

_____ L.S.
Purchaser

Address _____

Dated _____ Phone _____