

# Delayed Delayed Exchange

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Here are a few techniques for lower stress transactions. Last month I talked about the effects of Brexit on your real estate market. Also the upcoming elections and how the new administration will affect the market as well. Basically, Brexit is just the latest volley in the dismantling of the European Union. When there are problems in Europe, it has an impact here as people pull back and interest rates rise and the stock markets dip.

Historically, the US economy declines upon the change of an administration in DC. Thus, whichever candidate wins, the US economy will contract. This will take the stock market and the real estate market down with it. I do not expect a major drop in the market. It may just be a slowdown in the velocity of market transactions.

If you have been actively participating in the buying or selling of buildings or just watching from the sidelines, you have seen the frenzy in the market. We were seeing multiple offers on apartment buildings. The prices are often bid over the asking price. This heightened level of transaction activity can make it difficult for many people to compete in the market.

I have talked to many owners who say "I will never sell because the tax liability will be too large!" Then they go on, "I can't move quick enough to find a tax deferred exchange upleg."

I have a strategy that I have successfully used for the benefit of both Buyer and Seller. The basic technique is to agree on a price and basic terms. Then allow for an extended escrow term so that the Seller can find an upleg. It may sound simple. But as they say, the devil is in the details.

All real estate transactions have bumps and issues to resolve. By extending an escrow it increases the chances for problems to arise unless the broker involved has the skill set to monitor and anticipate issues before they become impediments to a successful close of escrow. It is important for all parties to be open and flexible.

The Buyer needs to have sufficient financial strength to close on short notice. The Buyer's lender (if any) needs

to understand that the escrow may be extended and be willing to stand by with their loan commitment. It is important for the Buyer to promptly complete due diligence and remove contingencies. Also, releasing funds to Seller or Seller's exchange accommodator gives the Seller greater confidence and financial ability to hunt and successfully tie up the upleg.

Here are two success stories. Three sisters inherited a large brick building 20 years ago. The 100 year old building needed substantial rehab which they did not have the time or skill to complete. They had never bought or sold an apartment building before. They knew that they could not find an upleg in a short time frame. Sellers entered into escrow that gave them the right to extend for up to a year. They could give Buyer a 60 day notice to close at any time. Buyer removed contingencies in 10 days and release funds. If the Buyer released funds directly to them it would have been taxable boot. Therefore, Buyer released to Seller's accommodator. The Seller could use it as earnest money deposits for their uplegs.

Eight months later Seller found two newer buildings that were not brick. They gave notice and all transactions closed smoothly. We are all still friends today.

An old time real estate professional had a large rent controlled building in Santa Monica. She also had three grandchildren that she wanted to provide for. Her goal was to find three triple net properties so that each grand kid could get one. We used the same basic techniques. The Buyer gave her six months to locate her uplegs. When she found the right combination of three properties, she gave a demand to close in 30 days. Triple net properties trade very rapidly. There is usually less due diligence time and many trade without financing. The key here was to have a buyer with sufficient financial strength to close in 30 days.

It requires a lot of experience and skill to successfully navigate longer escrows. Especially when there is a possibility of closing on a moment's notice. All parties need to be well matched with complementary goals. Each need integrity and flexibility. Most importantly, a skillful broker to guide all parties toward a successful close. **AA**