

**THE MOST COMMON ITEMS THAT SLOW DOWN (OR STOP)
A BUSINESS SALE, MERGER OR ACQUISITION**

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Many clients have asked how long it takes to close on a merger, acquisition, stock sale or business asset transaction. Unfortunately, the time period depends on myriad factors - some of which are out of our control. The following is a list of some of the most common items which slow down (or even stop) a closing even after the purchase agreement is signed (in no particular order):

Title Company Has Not Finished Its Work:

- Liens, judgments or other encumbrances have been discovered and not satisfied
- Seller has failed to produce requested documentation
- Buyer objects to items on the title commitment which title company will not adjust
- Title plant has not completed its work

Liens and Tax Balances Have Been Discovered and Not Paid Off and Released:

- Lien searches and tax certificates show outstanding claims and liens
- Seller is slow to request the appropriate written lien releases, payoff quotes and authorizations from third parties holding such claims and liens
- Third parties holding such claims and liens are slow to produce written lien releases, payoff quotes and authorizations

Lease Consents Have Not Been Given:

- Seller is slow to notify landlords/Lessors of need to assign leases
- Landlords/Lessors are slow to deliver consents to assign (or refuse to give consent)

Due Diligence:

- Seller is slow to deliver requested records
- Buyer (or its agents and professionals) is slow to analyze the delivered records and business materials
- Items or issues in due diligence arise unexpectedly which cause the parties to readdress or amend the core terms of the deal
- Outstanding contractual obligations or liabilities are discovered
- Key employees leave or are slow to agree to sign employment agreements

Third Party Lending Issues:

- Lender/Financing requirements have not been met
- Borrower has not produced the required documentation or fails to qualify
- Business financials do not meet lender requirements
- Lender is unorganized in its information requests or slow in loan document production

Third Party Consents:

- Third Party has not given their required consent to the assignment of an important contract to the Buyer
- Third Party demands to be paid a fee for giving consent
- Third Party is slow to respond for a request to consent

Change of Priorities:

- Either Seller or Buyer gets “cold feet”
- The parties become involved in holiday activities
- Either party finds a different transaction that is of higher priority or will replace this one

Required Licenses, Permits and Tax Certificates Are Slow to be Issued

These are just samples of the types of items which can slow down or terminate a closing. While we nearly always can find a way to resolve such issues with time, it is important to recognize that many of such items are completely out of our control. Finally, it is also important to note that (long term) some of our happiest clients have been those whose business sale/purchase transaction was terminated prior to closing.

The key to a successful closing is to anticipate what might slow (or stop) down the process and work early to resolve the issues. With a proactive approach, both Buyer and Seller can be satisfied with the results at Closing.

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