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Phil McCollum's Real Estate Articles & Advice Newsletter



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Articles and Advice

Contingencies frustrate buyers, sellers

By Dian Hymer

There are many frustrating aspects associated with buying or selling a home today. One is that contract contingencies -- such as inspections, financing or the sale of another property -- often aren't removed on time. It's not uncommon for closings to be delayed, usually due to the buyer's lender.

Your purchase contract should include a provision to deal with deadlines that are not met on time. For example, in the home purchase contract used by many REALTORS® in California, sellers can give buyers a 24-hour notice to perform. If the buyers don't meet this deadline, the sellers can cancel the contract. This notice can't be delivered earlier than 24 hours before the contingency is due.

You might want to issue a 24-hour notice, or some similar remedy included in your contract, if you're in contract with buyers who don't remove their inspection contingency on time and have made no effort to line up inspectors, especially if the buyers' agent thinks her clients are flaky. If your contract doesn't provide for a simple remedy for missed deadlines, consult with a knowledgeable real estate attorney.

In most cases where buyers can't remove contingencies on time but they're serious about moving forward, there's just a glitch that needs to be addressed. A seller wouldn't want to jeopardize the deal by invoking a demand to perform if there's a good chance the delay is just that.

Recently buyers who were applying for a jumbo mortgage hit a roadblock when the house didn't appraise for the purchase price. The loan and appraisal contingencies were due 14 days from acceptance -- a near impossible time frame in the current lending environment.

The buyers were committed to buying the house, and the sellers were committed to selling to these buyers. The buyers requested an extension of time for the loan and appraisal contingencies; the sellers agreed.

HOUSE HUNTING TIP: At the first indication there could be a delay in a contingency removal or closing, your agent should let the other agent know so that it doesn't come as a surprise. Your agent should be as specific as possible about the situation, without violating your privacy rights. If it turns out that there will be a delay, make a written request for an extension so that there is no question about whether or not the contract is intact.

Some residential purchase contracts include a passive form of contingency removal. In this case, if the contingency is being removed, the party removing the contingency does not need to do so in writing. However, the preferred method for contingency removal is the active form where the party removing the contingency gives written notice that the contingency is lifted from the contract. This avoids any ambiguity as to whether or not a contingency has been satisfied.

Sometimes a contingency or closing is missed by a day. In this case, a written request for extension might not be made because the delay occurs at the last minute. For example, a final, unanticipated condition of loan approval required one buyer to prove that her Social Security number was, in fact, her Social Security number.

The buyer, a busy doctor, had to take off work and go to the local Social Security office to get the documentation the lender required. The loan contingency was removed a day late. But the escrow closed on time.

THE CLOSING: Patience and flexibility are a necessary part of getting through current home-sale transactions. However, if a delay is going to be more than one day, it should be agreed to in writing. Oral agreements are not binding.

Dian Hymer is a nationally syndicated real estate columnist and author.

Six ways to green your pool

By Michelle D. Alderson

It's always a good time for pool owners to think about ways to save both money and water. Not only are utility companies offering rebates for "green" upgrades to existing pools, also many states, including California, are on the verge of droughts and the state will soon call on homeowners to ration their water usage. In response, we've compiled a few ways you can green your pool, which will benefit both your pocketbook and the environment.

Variable Speed Pumps

The hottest product on the market right now is the variable speed pump. It helps that both Pacific Gas & Electric (PG&E) (<http://www.pge.com/myhome/saveenergymoney/rebates/seasonal/poolpumps/>) and Southern California Edison (SCE) (<http://www.sce.com/residential/rebates-savings/pool/pool-pump-motor.htm>) are offering rebates to install such pumps. The pumps act similar to a light dimmer so that the speed can be adjusted as needed, thus saving both energy and water. With these pumps, pools that were using 2,000 watts of energy per hour are now down to 200 to 300 watts. They also cut down on noise, which means you can run it at off peak hours.

Solar Heaters

Using solar technology (<http://www.epa.gov/cleanenergy/energy-and-you/affect/non-hydro.html#solar>) has been touted most recently by the federal government as one of the best ways to conserve energy. Solar heaters for pools have been around for decades, but in time have become less expensive and better made. Essentially, a solar heater uses a pool's water, pumps it through a solar collector, warms it, and pumps it back into the pool. Installation costs between \$2,000 and \$4,000, and homeowners can see a return on their investment anywhere from a year to seven years, depending on the climate and location of a pool.

Pool Covers

Evaporation is the number one cause of energy inefficiency for pools without covers. By using a pool cover, you can conserve water by reducing the amount of make-up water needed by 30 percent to 50 percent. In addition, covering a pool when it is not in use is the single most effective means of reducing pool-heating costs, with a possible savings of 50 percent to 70 percent. There are several types of pool covers: Costs will vary with pool size, type of material used, and whether or not a manual or automatic cover is installed. Check out the U.S. Dept. of Energy Web site at http://www.energysavers.gov/your_home/water_heating/index.cfm/mytopic=13140 for more information.

LED Lights

By replacing a pool's standard light bulbs with LED (Light Emitting Diode) light bulbs, homeowners can save a substantial amount of money on their energy bill. A typical pool light uses 500 watts. The LED light uses 70 watts. Replacing your pool light is one of the least expensive ways to go green. A new LED bulb can range from \$500 to \$1,000. If you want to find out how much you can save each month with LED lights, go to Pentair Pools' calculator (http://www.pentairpool.com/led_calc/index.htm).

Automatic Timers

Installing an automatic timer for a pool's pump and filter allows homeowners to run them in several short cycles during the day, thus conserving energy; manual timers are usually run once continuously for several hours a day. You also can run them at non-peak hours, and set them to automatically adjust your pool filter to run your pump more in the summer and less in the winter.

Organic Materials

First check your pool for any leaks; this can save money and conserve water. If your pool needs new paint, lining, or textiles, replacing them with organic materials is another way to go green. Good for the environment and your health, waterborne acrylic paint emits little to no VOCs (volatile organic compounds) (<http://www.epa.gov/iaq/voc.html>) and is strong enough for pool use. You also can install insulating concrete form (ICF) (http://www.energysavers.gov/your_home/insulation_airsealing/index.cfm/mytopic=11640) made with recycled materials. Tiles that use recycled materials, such as bottles made into glass, can be used for a pool's walls or floors.

Finding middle ground for home repairs

By Dian Hymer

Today's home sales are all about negotiation. Negotiating the purchase price is the first step. A second round of negotiations can occur after the buyers complete their inspections. For sellers who negotiated to their rock-bottom price, this can be disappointing and a possible deal-breaker.

Buyers who are willing and able to buy in this market need to feel they are getting a good value. Property condition is a big consideration. Correcting defects adds to the cost. If the buyers still want to buy after completing inspections, and the sellers need or want to sell, an attempt should be made to reach an agreement on inspection-related issues.

First, sellers should carefully review the buyers' reports and their request for repairs, price concessions or credits. Keep in mind that there is a certain amount of subjectivity in inspectors' opinions. For example, one roofer might think a roof needs to be replaced. Another may feel that the roof is serviceable with routine maintenance and is not at the end of its life.

HOUSE HUNTING TIPS: Sellers have the right to get another opinion for repairs. A second opinion could result in a lower estimate, or it could be higher. Seller disclosure requirements vary from one state to the next. Even if it's not required, it's a good idea for sellers to give all reports and estimates to the buyers. In California, sellers who concealed reports they didn't like have been successfully sued by buyers.

Sometimes sellers have work done before they put their home on the market. Occasionally, a buyer's inspector finds damage that was to have been repaired but was not. In this case, the sellers should have the original inspector visit the property to make sure the work was completed.

Recently, an Oakland Hills, Calif., homeowner had a wood-destroying -- commonly called "termite" -- pest inspection done and had the damage corrected before marketing the property. When a second pest company inspected the house, damage was found at some areas where the previous pest company had done work.

The first pest company agreed that the job hadn't been completed. The company agreed to finish the job at no additional cost. This eliminated an inspection issue at no cost to the sellers or buyers. Defects in items that are under warranty may be corrected at the company's expense.

Sellers can get bogged down on principle, particularly if the buyers make an "as is" offer, had reviewed presale inspection reports before making an offer and then asked the seller to repair defects included in those reports. Some sellers feel this is not playing fair.

The buyers may not have intended to make repair requests when they initially negotiated the purchase agreement. But, after researching costs to repair defects, they may find themselves outside their financial comfort zone.

Buyers should focus on health and safety issues when they approach sellers for help repairing defects. Sellers will often take care of these. However, buyers shouldn't expect sellers to pay to upgrade the property.

It's hard for some sellers to repair items they have lived with for years with no adverse consequence. At some point, defects need to be corrected to prevent further damage to the property.

Buyers should prioritize their request for repairs. Then buyers should ask for help with the most pressing issues, unless they already factored the cost into their initial offer price.

Before walking away from a sale due to inspection-related defects, sellers should seriously consider if they will do better piecewise if they put their home back on the market, particularly if prices in the area are declining.

THE CLOSING: Before giving up, buyers should consider how easy or difficult it will be to find another home they like as much.

Dian Hymer is a nationally syndicated real estate columnist and author.

Hurricane strips owners of rental rights

By Benny Kass

DEAR BENNY: I purchased a condo in Florida in 1990. I lived there for 17 years, and then moved with the assumption that I would be able to rent it, as was the case all the time. After Hurricane Charlie, the board said that the insurance company was going to charge too much of a premium if we had rental units. Only if your unit was rented at the time of this ruling could you rent it, and when the leases ran out, it could be rented for only four months in a calendar year. Is this allowed for original owners? We knew circumstances might change in our life, and that is why we bought it. Your opinion is greatly appreciated. --Kathleen

DEAR KATHLEEN: Generally, I do not like to identify the state in which the question came from, since my column is general in nature. In this case, however, I have to reference the state of Florida, because of the hurricane. My response is applicable to any situation where the insurance company tries to dictate policies and procedures to the association board of directors.

If your legal documents permit renting, the board can impose some restrictions. For example, the board can require that a tenant give a copy of the lease to management, and can require that the tenant be required to adhere to the legal requirements of the association. However, if the bylaws allow renting for not less than one year, the board cannot impose a requirement that leasing must be for not more than four months.

That's my legal interpretation. But I understand the board's position -- if they ignore the requirements of the insurance carrier, they may lose coverage. What is the board to do? My suggestion is that the board should hold an open meeting for all owners and explain the situation. Tell the unit owners that although the bylaws allow renting, the board does not want to lose its insurance coverage, and accordingly will have to go along with that requirement.

Of course, the ideal approach is to try to amend the bylaws, but that always takes a super-majority vote. And such a vote does not come easy in most community associations.

This is a difficult issue, but transparency -- full disclosure -- to all members is the key to resolving this problem.

DEAR BENNY: We recently refinanced our 30-year loan. However, when the lender completed the initial escrow account disclosure statement for our closing, it miscalculated the annual amount for county property taxes at \$398, rather than the correct amount of \$2,788.

Needless to say, no one at closing noticed the error and our monthly escrow account payment has been short by \$197 each month. Now, after the first year with the new mortgage, we have received the first annual escrow account disclosure statement from the lender and learned that our escrow account has a \$1,839 negative balance. The lender now wants us to either pay the entire negative balance or make an additional monthly escrow payment of \$496.

Since the negative escrow account was not our error, do we have any legal recourse or options against the lender or the title agency? --Terry

DEAR TERRY: I am afraid you are out of luck. When you went to settlement (escrow in some parts of the country) you signed a large number of papers. One of them was an agreement that should there be clerical errors, you agree to allow those errors to be corrected by the lender.

I suspect that you signed a similar document in favor of the title or escrow company.

You state that this was not your error. While you are correct, there is a valuable lesson to be learned from your experience: When you go to closing, don't sign any documents until you have fully reviewed -- and understand -- them. To some extent, you were just as much at fault.

But, although you will have to repay the escrow, perhaps you can use the error as leverage in order to negotiate a more comfortable payment schedule -- say two years instead of one.

DEAR BENNY: I live in a 16-unit condominium, of which around half of the owners rent out their units. The absentee owners are never involved, resulting in a few owners doing all of the board work, etc. Can the association vote and elect to charge the absentee owners -- as a class -- higher monthly dues to help cover the true cost of properly running things? Or on the other hand, do we all have to pay equally more dues and hire a management company to do everything? It seems like involved owners are penalized either way. --John

DEAR JOHN: The general rule of law in community associations is that you cannot treat one owner different from another. All owners have to pay assessments based on the percentage interest of their unit. This percentage interest is generally found in your legal documents at the end of the declaration.

Do you have a legal board? Has it been properly elected? Did all owners -- including the eight absentees -- have an opportunity to vote for the current board of directors?

If the answer to these questions is positive, then the elected board should give serious thought to hiring a management company. This would, unfortunately, raise all of your monthly assessments, but would relieve the eight of you from having to do all of the work.

Benny L. Kass is a practicing attorney in Washington, D.C., and Maryland. No legal relationship is created by this column.

Insulation tips for 1920s home

By Paul Bianchina

Q: I recently bought a house built in 1927. It's a two-story with a finished attic (total of three floors of living space). It appears to have no insulation whatsoever. The third floor has access to the tops of the exterior walls, all of the roof rafters, and the tops of the second-floor ceilings. What would you recommend for insulation? Should I blow cellulose insulation down the exterior walls from the attic space?

A: Unfortunately, you're going to get a lot of conflicting opinions on whether blowing insulation into the exterior cavities of an older home is a good idea or not.

With a home as old as yours, you have the possibility that the weight and pressure of the blown insulation can damage wiring in the walls, crack plaster, and even possibly damage old water pipes. Also, older homes tend to leak a lot of air through the walls. That means that moisture is being drawn into the walls as well, which can dampen the cellulose and cause all sorts of additional moisture problems to the structure. For all those reasons, retrofitting insulation in an older home is very site-specific, and there is no "one-size-fits-all" solution.

The best thing I can suggest is that you have two experienced, licensed insulation contractors come out and inspect the house and make specific suggestions as to what you can do to insulate it. Compare their suggestions and their cost estimates, and see if there is a consensus of opinion on how best to proceed.

Another option is to contact your local utility company and see if they have a weatherization consultant available that can come out and check the house. This should be a free service from the utility, and in addition to making specific suggestions about how to insulate and weatherize the house, they may have grant money or low-interest loans available to help you with the work.

CHANGING OUT THAT OLD COOKTOP

Q: I do hope you can help me. My budget is low and I have a kitchen from the early 1980s. The electric countertop is still the one that came with the house, and only one of the six burners is now working. The space is 48 inches; I wanted to replace, it but the cost of the one that fits exactly the same is more than \$1,500 and most of them are gas. I just can't pay this much. How can I make the 48-inch opening of the old one fit a standard 36-inch?

A: You didn't mention what type of material was used for your counters, but to be honest, there

is no way of patching a countertop to make an opening smaller, no matter what type of material was used originally. Anything I have ever seen tried is either unsightly, unstable or both.

If budget considerations make replacing the counters impractical at this time, you have two other choices. Rather than looking for a cooktop that's an exact fit, see if you can find one that is larger than the existing opening - you can then enlarge the opening to fit. If that's not possible, I would suggest that you take the existing cooktop in to an appliance repair shop and have them get the burners working again, which will be a lot less expensive than replacing the top. If desired, you can also have an automotive body shop repaint the cooktop with a baked-on enamel that will give it a fresh new look.

THOSE CLOSETS ARE TOO COLD

Q: My husband and I have a fairly new home (built in 2001). The problem we have had since day one is that the closets are like refrigerators and so are a couple of the back rooms. I climbed up into the attics above these rooms and closet and there appears to be ample insulation blown in. Yet you can actually feel a "breeze" coming from wherever. Who can I contact to help fix this?

A: Since you mention that the back rooms are cold in addition to the closets, there could be a problem with the heating ducts. They may not be properly connected, or they could be undersized. A problem with the duct connection at the fittings that come through the floor could also account for the draft. So, one of the first things I would do is contact a heating contractor and have the ducts checked to see if that could be the problem.

While the heating contractor is there, as them to check around and see if they can determine other sources of air leakage. They may not be able to fix it, but if they see anything wrong it will be a big help. From there, you would probably want to contact an insulation and weatherization contractor help plug up whatever leaks were discovered.

If you can get the bedrooms warmed up but the closets are still cold, you might want to consider removing the solid closet doors and replacing them with louvered doors. This will allow warm air to circulate into the closets and help keep them from being so cold, and is also good for bringing fresh air into those spaces.

Features

Sellers think twice about high offers

By Dian Hymer

Sellers who are lucky and receive more than one offer should carefully consider all aspects of the offers before accepting the one with the highest price. Even if you receive only one offer and it's lower than your asking price, you might want to consider bending some on your price in exchange for a transaction that is likely to close.

Ideally, you want a committed buyer who has a good credit score and financial resources, and who has been preapproved for a mortgage, as lenders have tightened their qualifying criteria considerably.

HOUSE HUNTING TIP: Your real estate agent should ask the buyer's agent for permission to contact the buyer's mortgage person directly to find out if there is any reason the buyer wouldn't receive credit approval. An offer from a gold-plated buyer at a lower price may be a better deal than a higher-priced offer from a marginally qualified or low-cash-down buyer.

Another issue to consider if you receive more than one offer is the likelihood of the property appraising for the higher price. Appraisals have become a problem recently, particularly in declining markets. Appraisers make downward adjustments for properties that are deemed to be in declining markets.

Are there at least three comparable sales that closed within the last three months that can be used to justify the buyer's offer price? If not, the appraiser might have difficulty appraising your property for the purchase price.

Buyers usually include an appraisal contingency in their offer. If so, the buyer usually has the option to withdraw from the contract if the property appraises for less than the contract price. Some buyers won't buy a home that appraises for less than they've agreed to pay.

A buyer who is committed to making the deal work is more likely to be able to accept an appraisal that is lower than the purchase price. In this case, the buyers and sellers negotiate a mutually acceptable resolution. For example, the sellers could agree to accept a lower price if the buyers agree to increase their cash down payment.

Many buyers don't have additional cash. In this case, if the seller wants to keep the deal together and the buyers won't or can't complete the purchase at a price higher than the appraised value, the contract price will need to be reduced or the deal will fall apart.

There are a lot of uncontrollable elements in a home-sale transaction. One is that you have no control over who represents the buyer. That is, unless you receive more than one offer. In some cases, it may be worthwhile to accept a lower-priced offer from a buyer who is represented by an agent with a good track record in your area -- one who is experienced, trustworthy and diligent.

A clean offer is one that is not loaded up with contingencies. Typical contingencies are for inspections, and loan and appraisal approval. An offer that's contingent upon the sale of another property is riskier than one that's not. A noncontingent offer, even at a lower price, might be the best offer because it has more certainty of closing.

An offer that is contingent upon the close of another escrow may be worth the risk, particularly if all contingencies have been removed from the buyer's contract. Request confirmation from the buyers that contract contingencies have been removed and find out from the closing agent or escrow officer when the closing is likely to occur.

THE CLOSING: The uncertainties in the current market make it important to carefully consider the terms of an offer, not just the price, before you accept it.

Dian Hymer is a nationally syndicated real estate columnist and author.

Deferred maintenance often a deal-breaker

By Dian Hymer

Three years ago, when the home-sale market peaked, buyers frequently bought "as is" regarding deferred maintenance, like wood-destroying pest or "termite" work.

Home prices were rising in many areas, and buyers were flush with cash and could line up a mortgage even if they didn't qualify. Today, prices are still declining with a few exceptions; many buyers are cash-strapped; and they need to put more cash down and go through a rigorous qualifying process to get a mortgage.

In the hot seller's market of several years ago, many sellers invested money to make their homes look pretty in order to attract multiple buyers and drive the sale price up. But they usually didn't spend much curing deferred maintenance, because buyers bidding in competition often bought "as is." Sellers focused their fix-up-for-sale efforts on cosmetics -- paint, staging, and replacing outdated light fixtures and flooring.

HOUSE HUNTING TIP: A home still needs to look good to sell in today's market. However, a difference between this and the previous market is that a property that has a lot of deferred maintenance can be hard to sell unless the price is discounted significantly. And, even at a discounted price, it may be impossible to sell if there is a lot of inventory of similar homes on the market that don't require as much work.

One issue from the buyers' perspective is the hassle of getting the work done. A more restrictive concern is finding the cash to pay for the work.

The ideal way around this problem is to have defects that might impede the sale of your home corrected before you put your home on the market. This requires planning in advance and finding a way to pay for the work.

Sellers who don't have cash readily available should look into using a home equity line of credit (HELOC). For instance, Charles Schwab offered a HELOC with an interest rate of 3.99 percent as of mid-May 2009. However, there must be sufficient equity in the property to qualify for a HELOC.

Marketing a listing with a clear "termite" report or a new roof can help sell your home. Buyers don't have to worry about how they'll pay for these necessary repairs because the work has already been done.

Sellers may object to paying to correct defects on a home they're leaving. However, home maintenance is an integral part of homeownership. Sellers who keep their homes well maintained usually don't have a large deferred-maintenance bill when they sell.

It's wise to have presale wood-destroying pest and home inspections done months before you plan to sell. Ask the inspectors and your real estate agent to help you prioritize the work that needs to be done. Then, take the most cost-effective approach.

For example, if the roof is old, you could replace it. But, if it's not leaking, and a roofer says the roof is serviceable, consider doing a roof maintenance that might include replacing cracked and missing shingles, sealing vent pipes and skylights, and replacing deteriorated gutters and downspouts.

If all the wood-pest work doesn't need immediate attention, do the work that's critical, like a deck that's deteriorated to the point that it's dangerous. At least the buyers won't have to worry about how they're going to find the cash to have the work done soon. They can save over time and budget for than less urgent items.

THE CLOSING: Another argument in favor of correcting glaring defects before you sell is that even if the buyers accept the property in its present condition, the appraiser might not. Then you'd have to try to get the work done before closing or lose the deal.

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Pulling the trigger on nail gun purchase

By Paul Bianchina

For professionals and do-it-yourselfers alike, nothing makes a job easier and faster than a power nailer. Nailers not only substantially speed up your work and save a lot of stress on your arm, hand and wrist, but they reduce wood splitting and hammer dents, eliminate predrilling in hardwoods, and accurately set your nails at or below the surface of the wood.

COMPRESSED AIR

The most common power supply for a nailer is compressed air, which is created by an air compressor and routed to the nailer through a hose. Compressed air is reliable, easily adjusted and consistently powerful, but requires the additional expense of an air compressor that needs to be taken to the jobsite and set up.

With compressed air, you have more nailers to choose from, ranging from big framing nailers to smaller, more precise finish nailers. One example of a professional-quality, air-powered framing nailer that would also be at home in the do-it-yourselfer's shop is the new Paslode PowerFramer 350 (\$279). At 7.5 pounds this is one of the lightest framers on the market, but the PowerFramer was designed with enough power to drive 3-inch nails into dense engineered-lumber products. This nailer shoots a variety of different nail types, in sizes ranging from 2 inches to 3 1/2 inches in length. And it's definitely durable, with -- according to the manufacturer -- the ability to withstand a drop from a two-story building.

At the other end of the spectrum are the finish nailers, which are designed to drive thinner nails with much smaller heads. An example of a very nice finish nailer is Paslode's new 16-gauge Angled Finish Nailer (\$199, with fitted case). The angled head on this nailer makes it easier to get into tight locations, and at 3.75 pounds it's light, powerful and very well balanced. The thinner 16-gauge nails reduce the chances of splitting the wood and also leave a smaller hole to putty. This particular nailer will drive nails ranging from 1 1/4 inches to 2 1/2 inches in length, which adds versatility.

CORDLESS

Cordless nailers offer the convenience of not having to set up an air compressor and not being tethered to an air hose, but the tradeoff is less power and the need to keep a charged battery available.

DeWalt, another manufacturer of professional-grade tools that are also very suitable for home improvement use, offers several very nice cordless finish nailers that range in voltage from 12 volts to 18 volts (average cost \$349 to \$379, with case and batteries). These nailers are available with a straight magazine for faster nailing in higher-production applications, or with a 20-degree angled-head magazine for tight spaces and greater single-shot accuracy. The DeWalt guns shoot 16-gauge nails in sizes ranging from 1 1/4 inches to 2 1/2 inches long, and an 18-volt battery will give you enough power to shoot upwards of 800 nails.

FUEL CELLS

Fuel-cell nailers are something of a hybrid between compressed air and battery-powered nailers, using a combination of a rechargeable battery and a small, disposable fuel cell that contains compressed liquefied gas. Like the cordless nailers, fuel cell nailers offer freedom from a compressor and air hose. And like compressed air tools, they offer quite a bit of power, making them capable of shooting larger framing and siding nails. On the downside, you have the additional cost of the fuel cells themselves -- average cost is around \$5 to \$6 each.

Paslode has long been known for its tough and very reliable fuel-cell nailers, and they have several to choose from. For framing, take a look at the excellent new CF-325 Cordless Framing Nailer (\$399, with case, battery and accessories). A comfortable 7.5 pounds with a nonslip handle, the CF-325 has a 30-degree-angled magazine and is capable of shooting several different types of nails up to 3 1/4 inches in length. A fresh battery will drive about 4,000 nails, with a fuel-cell life of around 1,200 nails. This is a true framing nailer with the convenience of a cordless, and for building a fence or framing a shed in the back of the yard this gun is unmatched for its combination of power and versatility.

For finish tasks there's Paslode's 16-Gauge Straight Finish Nailer (\$299, with case, battery and accessories). This nailer sets up quickly -- just insert the battery, fuel cell and nails, and you're ready to go. The nailer weighs 4.75 pounds, and is very comfortable to hold and use for extended periods. It has a nonmarring tip for delicate woods, and an easily adjustable depth setting that ranges from flush to deep setting of the nails. For versatility, you can shoot nails ranging from 3/4 inch to 2 1/2 inches in length.

EYE PROTECTION

Eye protection is no joke when using a power nailer. Most manufacturers provide safety glasses with their guns, and if they don't, be sure you buy a pair. NEVER use a nail gun without eye protection!

How do appraisals impact estate tax?

By Benny Kass

DEAR BENNY: Please explain the process of an appraiser for estate property. Also, I need to know the effect the appraisal has on income tax or estate tax. I have been unable to find anything in detail on this subject except the fact that you need to get appraisals. --Joe

DEAR JOE: State probate laws vary, but generally real property needs to be appraised as of the date of death for probate purposes. In the District of Columbia, where I practice law, it is sufficient to use the government's real estate tax-assessed value to report the property value in the petition for probate.

For federal estate tax purposes, an appraisal is required to be filed with the estate tax return. For date of death in 2009, a federal estate tax return is required only if the gross estate is greater than \$3.5 million. Last year the threshold for filing a return was \$2 million. If a return is required (or if the IRS could argue that it was required), an appraisal as of the date of death should be prepared. An "alternate valuation date" using the date that is six months after the date of death can be used if the appraised value on that date is lower than the date-of-death value.

Federal income tax is imposed on the gain on the sale of the decedent's property. The gain is determined by taking the difference between the date-of-death value (or alternate valuation date, if that date is used) and the sales price of the property. The taxpayer cannot use one valuation for estate tax and another for income tax purposes, so it is important to consider both

estate and income tax consequences when choosing the valuation date.

State estate tax and income tax would also need to be considered, but the laws vary state to state as to what, if any, amount is exempt from tax. In the District of Columbia, for example, the decedent's assets up to \$1 million are exempt from estate tax. The federal valuation and alternate valuation rules are followed.

I hope this general statement is helpful, but you really should consult your own tax and financial advisors regarding the law in the state where the decedent died.

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