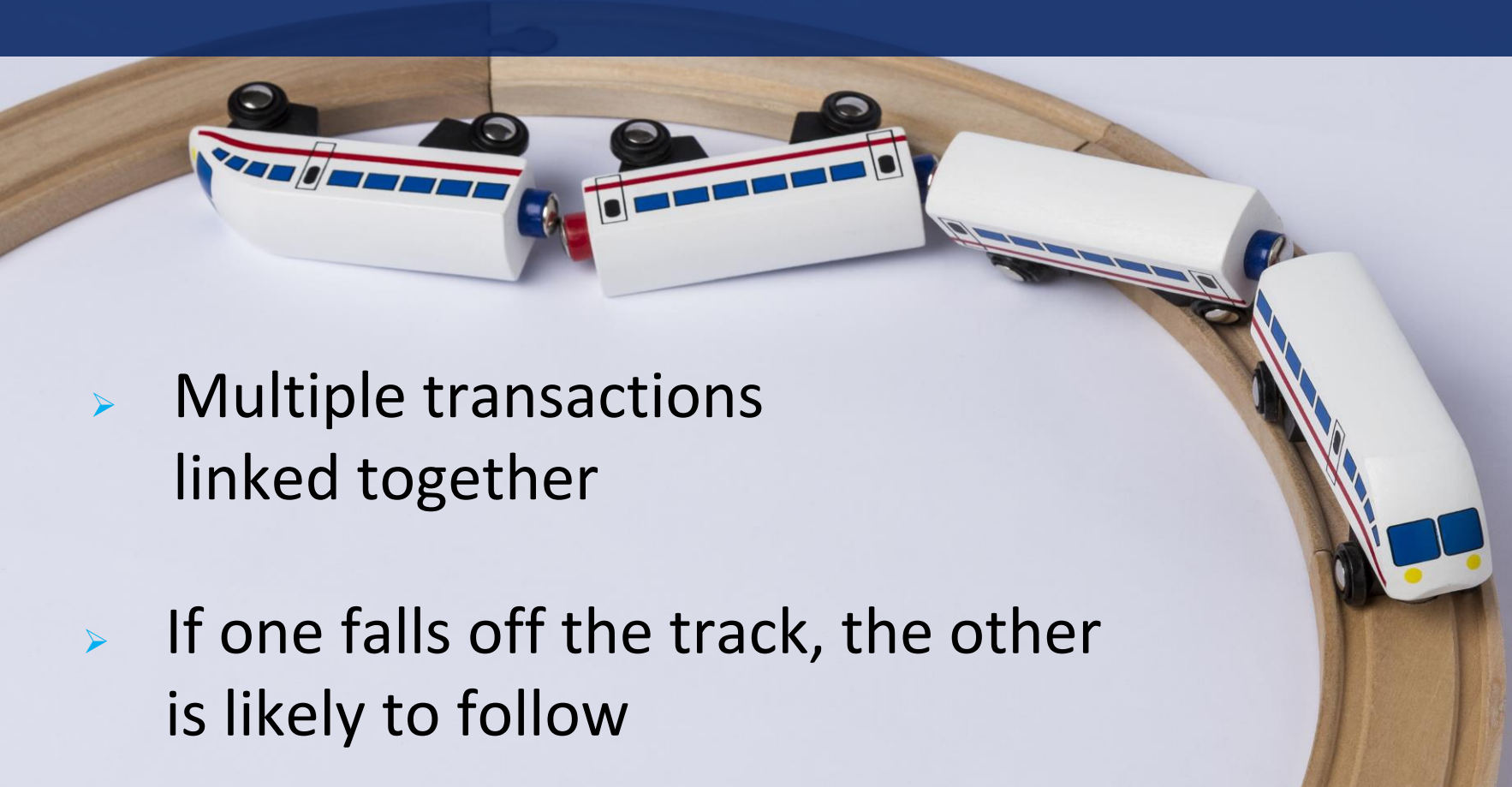


Chain/Train Transactions: Keeping Them On Track



What is a Chain/Train Transaction?

- Multiple transactions linked together
- If one falls off the track, the other is likely to follow



C.A.R. Form COP

Contingency for Sale of Buyer's Property

- ❑ One of the most complicated C.A.R. forms
- ❑ Each paragraph has a specific purpose

If a paragraph applies to your transaction, you will
be glad it is there!



What is the Purpose of C.A.R. Form COP?

As with other contingencies...

If “The Event” fails, buyer has the right to cancel contract without penalty

In this case...

“The Event” can be either the entering into contract to sell buyer’s property, or successful close of escrow on buyer’s property – or both.

Breaking Down the Component Parts

Rather than look at C.A.R. Form COP as
“one difficult form...”

- Let's break it down, piece by piece
- See how component parts make the contingency work



Paragraph 1: Identifying the Contingency

Default (A) is two contingencies;
Entering into contract for sale of
buyer's property AND closing on
sale of buyer's property.

Option for entering into
contract, only (paragraph B)

Option for closing escrow only
(paragraph C)

If contingency is close of escrow
only...

Buyer must provide proof
property already in escrow,
including contract, escrow
company and escrow #

Paragraph 2: Contingency to enter into contract

- ◆ Buyer has 17 days to enter into contract
- ◆ Buyer shall prove to seller that buyer in contract

FOR SALE

IN ESCROW

SOLD

Any seller would want to know that,
don't you think?

Paragraph 3: Listing Buyer's Property

If buyer's property is not in escrow, the seller should be told:

- If the property is listed
- With whom the property is listed
- Whether the property is submitted to the MLS, and if so, the MLS number, so the listing agent can verify if the representation is true



Paragraph 4: Contingency to Close

Default is buyer has until the scheduled close of seller's property.



Paragraphs 5: Keeping Seller Informed

The buyer must:

-  Tell seller about changes to sale of buyer's property
-  Prove to seller that buyer's buyer has removed contingencies, upon request

The seller should not just have to take the buyer's word!

Paragraph 6: Attempt to Cancel

Since the entire purchase hinges on the buyer's property being sold, the buyer needs to tell the seller if there is an attempt to cancel the buyer's sale



- Maybe the buyer's buyer is cancelling because of a contingency
- Maybe the buyer is cancelling because the buyer's buyer won't remove contingencies

Either way, the seller is being affected because it decreases the chance the buyer actually will close

Paragraph 7: Seller Continues to Market Property

Even after accepting the buyer's offer, the seller can:

- ❑ Continue to market the property, but for back-up offers only
- ❑ If a back-up is accepted, buyer can stay in the transaction after being notified by the seller
- ❑ Otherwise, the seller can cancel



Paragraph 7: Reasons Why...

The reason for removing the contingency for the sale of the buyer's home is obvious

Most lenders will not lend if the buyer has a property to sell. If the buyer was allowed to keep the loan contingency, that would effectively be a hidden contingency for the sale of the buyer's home

Even if the buyer removes the other contingencies, if the buyer cannot perform, the seller's property still will not close

True, the buyer will be in breach of contract, but that doesn't help the seller achieve the desired goal of selling the home!

Paragraph 7: The Seller's Back-up Offer Rights

The seller's back-up offer rights begin immediately

But, by checking "C(2) or (3)", the buyer can delay the seller's right to force the buyer to remove contingencies

This could give the buyer the chance to get the buyer's property in escrow or find out if the buyer's buyer will remove contingencies and thus increase the likelihood the buyer's property will close

Paragraph 7: Back-up Offers

Some agents think the buyer has to match the back-up offer's price and terms

NOT TRUE!

What the buyer has to do is:

1. Remove the contingency for the sale of the buyer's home
2. Remove any loan contingency
3. Provide proof of funds to close without the sale of the buyer's property

Paragraph 9: Seller's Right to Cancel

Six Possible Reasons:

1. Buyer's property doesn't enter escrow
2. Buyer's property doesn't close on time
3. Buyer doesn't provide escrow evidence
4. Buyer's doesn't provide listing evidence

In any of the **above** cases, the seller must first give the buyer a Notice to Perform

5. Buyer doesn't remove contingencies if seller accepts back-up offer
6. Buyer's property cancels

Paragraph 10: Buyer's Chance to Back Out

- The contingency gives the buyer the right to back out
- Buyer has three chances to do so...
 - If the buyer's property doesn't close escrow
 - If the buyer's buyer cancels
 - If buyer's property does not enter escrow
- Buyer still may be able to find another buyer and close seller's property on time (difficult, but possible)

Rather than continue to spend money on the purchase, the buyer has the right to "back out"

Paragraph 11: Buyer's Purchase Proceeds as Normal

Buyer's purchase of seller's property will proceed as any other purchase

- Buyer has a certain number of days to make the deposit, conduct inspections, remove all other contingencies and close escrow

It is possible to delay these actions by checking a box. Doing so will protect the buyer from incurring certain costs, but likely will weaken the buyer's offer as the seller may question the buyer's commitment to the purchase.

Summary

To better understand the C.A.R. Form COP...

- Take the paragraphs one at a time
- Consider how each affects your buyer or seller

The possible events and consequences have been thought-out by the C.A.R. Standard Forms Committee over many years. If you have been tempted to write your own clause in the past, hopefully this presentation has convinced you not to do so in the future.



Additional Resources



LEGAL ARTICLE

California Real Estate magazine

June/July 2017 Issue

[Confronting Contingencies](#)

LEGAL Q & A

[Contingency & Contingency Removal](#)

C.A.R. VIDEO SHORTS

Audience - Buyers

When Buyer's Home Purchase is
Contingent on the Sale of
Buyer's Home

Audience - Sellers

When Seller's Home Sale is
Contingent on the Sale of the
Buyer's Home

Audience – Buyers & Sellers

When Buyer's Home Purchase is Contingent
on the Seller Finding a Replacement Home

All videos are available on the C.A.R. website in the [Legal Tools](#) section