

What are my rights if the buyer refuses to sign the transfer documents?

What are the seller's rights and the agent's rights where the buyer obtains a loan, the bond instruction is already with the bond attorneys, the bond and transfer documents are drafted, and everything is in place for the transfer, but the buyer suddenly refuses to sign the bond and transfer documents?

This clearly constitutes a breach of contract by the buyer. The seller can therefore pursue the following two avenues:

1. **Specific performance:** The seller can sue the buyer for specific performance, meaning obtaining a court order allowing the sheriff to sign on behalf of the buyer so that the transaction can proceed.
2. **Cancellation of the agreement:** As an alternative to a claim for specific performance, the seller can cancel the agreement in accordance with the procedure provided for in the contract and the seller can claim damages from the buyer for breach of contract.

The drawback of the first option is that it involves legal costs, and the relatively slow court process could lead to frustrating delays, especially if the buyer defends the legal action. Therefore, in most cases, sellers would prefer the second option and to rather find a new buyer. When determining damages, it's crucial to consider any benefits the seller may have as a result of the cancellation, such as not having to transfer the property anymore. The value of the property is therefore relevant.

From a business perspective, the best approach for the seller would usually be to first explore if they can find another buyer for the same or perhaps even a better price, thereby ensuring they may not suffer any loss at all.

Regarding the agent's commission, the sale agreement would typically stipulate that the agent is entitled to claim their commission from the buyer in such a case.