

Suggestions for Writing Offers
On Rural Properties
(Douglas and Elbert Counties)
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This document is not intended to be a comprehensive guide for rural properties. It is intended to help inform agents who are not accustomed to dealing with rural properties. Always consult your managing broker or attorney prior to making an offer on a rural property.

1. Water and well issues

- a. **Permits:** This is probably the single most important issue when dealing with rural properties. Always require the permit and drilling log from the seller in the contract. This permit will determine the usage and annual amount for the well in question. You should verify if permitted use and well use are the same. The permit can be obtained from the listing agent or the Colorado Division of Water Resources at 303-866-3447. www.water.state.co.us
- b. **Inspection:** Two types of tests are typically performed by the buyer. A two hour flow test, GPM (gallons per minute) and a potability test. These tests can be performed by local contractors. It is negotiable between the buyer and seller who will pay for these tests.
- c. **Change of Ownership:** The closing agent will supply a Transfer of Ownership for the well permit at closing. This document is filled out and signed by the purchaser. The form is also available at www.water.state.co.us
- d. **Water Rights:** Additional water rights can sometimes be owned by the seller. These rights will have been determined by a water judge who issues a Decree of water rights. The Division of Water Resources will be able to provide you with this information. Water rights are transferred via Special Warranty or Quit Claim Deed at time of closing.

2. Septic Systems

Contrary to popular belief, there is no law that requires a seller to pump their septic tank prior to closing. It is, however, a good idea and customary to have this done and should be requested in the contract or handled at the time of inspection. While the tank is being pumped, it is a good idea to have the tank and leach field inspected and certified to be in good working order. It is negotiable between buyer and seller as to who will pay for these services.

3. Propane

Propane gas (LPG) is regularly used where natural gas is not available. It is typically stored in above ground 500 gallon tanks. The ownership of the tank needs to be determined during your due diligence. Quite often the gas company owns the tank and leases it to the homeowner for a nominal annual fee. If the tank is leased, it can only be filled by the company owning the tank. The buyer may choose to continue using the existing tank by establishing an account with the propane company or may choose to contract with a new company. If the

existing tank is to remain, the amount of propane in tank on day of closing will need to be measured (by reading meter on tank) the value prorated and paid by buyer to seller at closing. The propane proration should be mentioned in the additional provision area of the contract.

4. Covenants and HOA's

If covenants have been recorded for a subdivision, the title company will provide you with the latest copy of record. The covenants or the CCR's (covenants, conditions and restrictions) will determine how the property can be used. It is not uncommon for a subdivision to have no active HOA (Homeowner's Association). The covenants usually spell out who is responsible for enforcing the covenants (i.e. individuals or the HOA itself). Enforcement of the covenants can sometimes be controversial. The title company can usually help. If there are no covenants recorded, then the county zoning regulations shall prevail. County Zoning regulations are generally available on county websites.

5. Boundaries and Easements

A survey or ILC (Improvement Location Certificate) is usually required by the title company. Who pays for these is negotiable. A survey is usually required for large acreage while an ILC will suffice for a property platted in a subdivision. Sometimes the seller will have one (required by building departments on new builds) and can be provide to buyer.

6. Leases

Livestock leases are common on larger acreages. If it is determined that a grazing lease does exist, a copy of the lease should be obtained and details worked out through negotiation with all affected parties. The existence of such a lease should be noted in the sales contract.

7. Crops

If crops are currently being grown or if a crop lease exists, many details need to be worked out. The following questions need to be asked. Are the crops being sold with the land? Who owns the crops and what kind of access will that person have? What are the responsibilities of the crop owner (i.e. condition that property should be left in once crop is removed, etc.)? How will the profits from crops be shared? Are there any government subsidies?

8. Zoning

The county planning and zoning departments can verify the type of zoning a property has. Each county has rules and regulations pertaining to different types of zoning.

9. Roads

You'll need to determine the property's access is on a county maintained or private road. If the road is privately maintained, you will need to ask current homeowner whether or not there is a private road maintenance agreement.

10. Use classification

Zoning and use classification may be different. For instance a property zoned “Agricultural” may have lost its ag status and thus be taxed using a different formula. It’s wise to check with county assessor for the taxing use on an acreage property.

11. Animals

Check the covenants of record or the county zoning regulations regarding the type and number of animals allowed on an acreage property.

This article is the result of an idea which was discussed at a joint meeting of DERA and SMDRA. Many new REALTORS are not familiar with the complexities of rural properties, but have opportunities to show and write offers on them. A task force, chaired by Jace Glick , RE/MAX Alliance, Parker, compiled these suggestions.)

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