

The Art of Buying Your Aircraft

Part 3 – The Final Details

The first article in this series highlighted the need to clearly understand what aircraft meets your needs and your budget and how to narrow the selection to a small number of aircraft quickly. The second article focused on how to make your final aircraft selection and the need to write a purchase agreement outlining some of the details of the deal itself. Part 3 and the final article in this series focuses on several of the final items that need to be completed before the end of the deal. After all, you did not think that all you had to do was write a check and take the keys did you?

Before we get too far along in this article, I want to stress that the presumption being made is that the aircraft you are interested in is located some distance from you and not necessarily at your local airport. Otherwise, you could take some of these steps out of order such as flying the aircraft before negotiating the deal or performing the title search. However, all elements discussed in this article and previous articles are still necessary and it is still extremely important to fly the aircraft to ensure that everything is in working order before any money changes hands.

One of the things that should be in the purchase agreement is the seller's responsibility to provide you with a clean and clear title. This may sound simple and obvious but you would be surprised at how many titles have a "cloud" on them for the most minor reasons. If you are financing your aircraft purchase, many (if not all) banks will require a clean title before any money changes hands. Aside from that, as a buyer you have a right to expect the current owner to clear up and address any title issues instead of simply passing them along to you. Otherwise, you may find out some months later that you did not really own that aircraft when a bank shows up to collect their collateral as a result of a previous lien or you have to deal with a mechanic's bill (not from any work you had performed) that is long overdue. It is good to perform a title search because there are a variety of "actions" that can cloud a title and cause problems at closing.

I had an experience that highlights some of the problems that can be encountered. In my case, the previous owner wrote a letter to the FAA years prior to the purchase requesting information about putting his aircraft in a trust. The FAA responded to his letter and the previous owner never took action on this idea but there was a notation in the title search about the letter and the response from the FAA. This was pretty simple to clear up since the current owner had to write a letter stating that the aircraft was not placed in trust and this document was filed with the FAA along with the other documents such as the Bill of Sale and Registration form. However, clearing this title would have been more complicated if the owner had been deceased and this aircraft was being sold as part of the estate settlement. Another personal example occurred during a title

search on another aircraft that I was interested in. It had a lien against it from a bank that was no longer in existence. It had gone under during the S&L fiasco in the 80's and there was no one who could release the lien. Getting this cloud addressed would involve working with the FDIC and would take approximately six (6) weeks and possibly more to clear up. The broker who was handling the sale said he couldn't wait that long to close the deal and sold the aircraft to someone else – with the cloud still on the title. This now becomes the problem of the new owner to address – at THEIR expense.

Most reputable title companies can assist in clearing clouded titles. The fees depend on the amount of time and expense generated in getting the correct signatures on the correct forms. However as a buyer, it should not be your responsibility and expense to clear these issues up and if the current owner has a lien against the aircraft he should provide the release of lien at the time of the closing or the bank who is financing your loan should work with the lien holder to obtain that release at the time of closing.

Title searches are pretty simple and straightforward. There are a variety of companies in Oklahoma City that will do these for around \$50 or \$60 and they can be completed in about two days. AOPA can also provide title searches if needed. When you order your title search, you should also request copies of all 337s on record. While there are different opinions about the FAA's effectiveness in recording all related 337s for a specific aircraft, those that are on record will give you good idea of any modifications or repairs that may have occurred in the aircraft's past. Getting the title search and related 337s on file is a very simple and easy step to complete in closing the deal and should be done before heading out to fly the aircraft.

Presuming that you want to go forward with the deal, your next step is the prepurchase inspection. One of the key items that should be in the purchase agreement are the details around the prepurchase inspection such as, who selects the mechanic, when will the inspection be performed, what items should the seller be expected to address financially, and what constitutes a "pass" on the part of the examination.

The prepurchase examination is one of the most important items to complete as part of your deal. It is up to YOU to select the mechanic that will perform the examination and what items will be covered. Some buyers elect to have an annual performed because they feel it will be the most thorough check of the aircraft. If you are not having an annual performed, the maintenance shop would most likely request that you detail the items you want checked – primarily for legal reasons but they also want to ensure that they address the items you fell are important. Some buyers think that a prepurchase provides a clean bill of health on the aircraft but if the mechanic was not asked to look at a particular item, then it may not be covered and unpleasant surprises may result. Regardless of what path you choose (prepurchase vs. annual inspection), this is

an area where your earlier research can pay off. If you have done your homework on this specific aircraft model, you should know its problem areas (corrosion areas, potential hard landing issues, etc.) and from the Certified Appraisal Report and recorded 337s you should have an idea of any damage that has occurred in the past. You want to make sure that this aircraft does not have any hidden surprises that you will have to pay for later and you want to make sure that all ADs have been complied with. The prepurchase examination should also check the engine and prop for any potential problems. The mechanic you choose should be familiar with the make and model of aircraft and should NOT be the mechanic who has been performing the recent maintenance on this aircraft. Otherwise, you are asking the mechanic to comment on their own work.

At the end of the prepurchase examination, you should receive a report from the mechanic detailing any discrepancies he found and the cost to address each item. As indicated earlier, your purchase agreement should state what items (such as AD compliance) the seller will be financially responsible for. In situations where there are numerous (and expensive) discrepancies, it is not uncommon for the seller to back out of the deal once they are presented with a large bill to correct the key discrepancies. That is their right and if you trust the mechanic you should realize that this is not the aircraft for you – no matter how good it looks. An aircraft owner who has been flying and maintaining his aircraft on a regular basis should not be too surprised by the list of discrepancies from the mechanic. The seller also should have the right to have the mechanic of his choice fix the agreed upon discrepancies. You should also be fair in your expectations in that the seller should not be expected to pay to reupholster the aircraft if there is a minor blemish. The buyer needs to realize what blemishes an aircraft of this age will have and set their expectations accordingly. However, the buyer should walk away from the prepurchase examination with a good feeling about the mechanical “worthiness” of the aircraft and any problems that may be encountered in the future.

Another item in the purchase agreement that protects the seller in this case, is the buyer’s ability to obtain financing. It would be extremely frustrating for the seller to go through all these hurdles only to find out at closing that the buyer could not get financing for the aircraft. As a buyer, you should take the necessary action to find out early in the process what amount you are qualified for and ask the seller what evidence (if any) they need. The amount that you are pre-approved for should not be a big surprise and align with your expectations of the aircraft that you can afford.

The real challenge is to find a bank with the best terms and interest rates that meet your needs and a banker that really understands the paperwork involved in aircraft lending. Given the present interest rates and the state of the economy, it should not be difficult to find a bank that is friendly to aircraft financing. When discussing financing, make sure you understand how long you plan on keeping

the aircraft and any balloon payments that may be involved. However, you want to understand what actions the bank plans to take regarding the aircraft documentation and if they understand what documents need to be filed with the FAA and who will be providing those documents at closing. Some banks do not really understand aircraft financing at all and fail to file the proper documents with the FAA leaving the customer to pay for the loan but not having any legal records (recorded or not) showing transfer of ownership. About three months after closing (and after you have received your registration card from the FAA), it would be a good idea to perform a title search on your own to ensure that all documents have been filed and recorded correctly with the FAA. The Certified Appraisal Report that you received earlier should also serve as evidence of collateral if a bank questions the amount being financed. If the banker is simply looking up a number in a book then an aircraft that requires financing for a higher value is sure to raise an eyebrow. The Certified Appraisal Report can assist in documenting and substantiating the amount being financed and can show the banker how your figure is arrived at.

I certainly hope the readers found the information in this series of articles insightful and useful as they begin their efforts toward their aircraft purchase and I hope that these articles helped to shape your attitude toward the buying experience. I recently spoke with one customer who echoed the fact that buying an aircraft is an exhausting and frustrating experience – and I agreed with him. However, he was asking the right questions and performing the necessary research so that when he made an offer it was based on facts and market research and he was ready to walk away from any deal that did not pass the “smell” test. This is one owner that will most likely not suffer from sales remorse or unpleasant surprises after his purchase.



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