

Hints & Tips

Foreclosure / Short Sale Seller

A foreclosure or short sale property can be a good way to invest in real estate, but it carries certain guidelines and restrictions.

Remember, when it comes to foreclosure properties, time is of the essence; foreclosure properties are normally priced appropriately for a fairly quick sale. With foreclosures, it's first-come, first-served; the first person to get a reasonable offer to the bank is likely to get the property.

When it comes to short-sales, the operative word is patience. A short sale is a sale of real estate in which the proceeds from the sale fall short of the balance owed on a loan secured by the property sold. In a short sale, the bank or mortgage lender agrees to discount a loan balance due to an economic or financial hardship on the part of the mortgagor. This negotiation is all done through communication between the listing agent and a bank's Loss Mitigation Department. The home owner/debtor sells the mortgaged property for less than the outstanding balance of the loan, and turns over the net proceeds of the sale to the lender, sometimes (but not always) in full satisfaction of the debt. *In such instances, the lender would have the right to approve or disapprove of a proposed sale.*

1. FINANCING

- a. Start early – get pre-approved, not just “pre-qualified”
- b. **Be sure you know what your payment and cash requirements will be.**
REMEMBER: Your Loan Officer MUST give you a Good Faith Estimate of your closing costs.
- c. Be sure you know how your chosen loan program works.
- d. Be prepared to pay for your property appraisal once your offer is accepted. The cost of an appraisal will range from \$350 to \$450 for a single unit home. Two, three and four unit homes and investment property purchases will cost more.
- e. *A pre-approval from your lender must accompany your offer. In addition to the pre-approval from your lender, the seller (bank) will almost always require you to obtain a pre-approval/review by their chosen lender. This is a second opinion of your qualification; you are not required to use their lender. Your lender and Realtor will coordinate with the seller's chosen lender to obtain this “second opinion.”*

2. EARNEST MONEY DEPOSIT

- a. *You must be prepared to make an initial “good faith” deposit when you make your offer.*



- b. Your check will initially be made payable to “Escrow;” however your Realtor may give you other instructions.
- c. Once you have an accepted offer, you may be required to re-write that check to a specific escrow company or you may be required to obtain a cashier’s check.



3. **TITLE AND ESCROW**

- a. The title insurance company is responsible for insuring that there are no undisclosed liens on the property.
- b. The escrow company is responsible for holding documents and monies until all parties are satisfied that the terms of the purchase have been met. The escrow company will then record the necessary documents and disburse all monies as instructed by the buyer and seller.
- c. *Although California law states that the choice of title insurance company and the escrow company are negotiable between the buyer and seller, in practice, these are the seller’s choice and the seller typically will not negotiate this.*

4. **CONTINGENT OFFERS**

- a. *The seller of a foreclosed property or a short-sale property WILL NOT accept an offer contingent on the sale of your current residence.*
- b. *You must sell your property first, or, at a minimum have the property sold and in a bona fide escrow to close before or concurrent with the closing of your current residence*



5. **VERBAL COMMUNICATIONS**

- a. Although we all want to believe that we can trust someone, real estate contracts should always be in writing. This includes any Amendments or changes such as closing or contingency dates.
- b. *Verbal communications and agreements are unenforceable, do not rely on them.*



6. **INSPECTIONS**

- a. Most foreclosure and short-sale properties are sold “as is.” *It is your responsibility to perform your due diligence by hiring a home inspector.* The majority of sellers will require that an inspection be completed within 5-10 days of acceptance of your offer.
- b. The inspection results are for your information only.
- c. *Sellers in most cases will not perform any repairs other than repairs required by the appraiser.*

7. **WRITING YOUR OFFER**

a. Foreclosure Properties

Keep in mind that foreclosure properties have already been discounted to obtain a quick and fair sale. *When it comes to foreclosure properties, you should submit your highest and best offer from the beginning.*

b. Short-Sale Properties

Short-sales are normally priced lower than market value in order to obtain multiple offers. *You must keep in mind that when it comes to short-sales, the seller will not be determining the ultimate sales price; the seller’s mortgage company will be approving the ultimate sales price.* The price should be reasonable, and you should remember that even an offer that meets the seller’s



asking price may not be enough for the seller's mortgage company to accept.

c. Conditions To Submit Your Offer

- i. Pre-approval letter from your preferred lender
- ii. Copy of any automated approval from your lender
- iii. Copy of the first page of your credit report demonstrating your credit scores
- iv. Bank statement(s) or other method of proving you have the necessary funds to close the transaction
- v. Earnest money deposit (check)

8. MULTIPLE OFFERS

Your Realtor will attempt to make you aware if there are multiple offers on a property; however, many offers are received all day long. In the morning there may be one offer and by days-end there may be five offers. ***Most sellers, when they receive multiple offers will ask for you to submit your "highest and best" offer.*** Although this may take longer, it is a necessary and fair way to handle the situation.

9. RESPONSE TIMES

a. Foreclosure Properties

Offers on foreclosure properties first go to the Realtor who has listed the property for the bank. That agent then forwards the offers on the property to the Asset Manager at the bank. ***Asset Managers can be handling hundreds of properties at any time, and the response to your offer may take several days to receive.***



b. Short-Sale Properties

Short-sale offers first go to the seller (owner) of the property. The seller must approve the offer, but that approval is subject to the seller's lender's approval(s). The offer is then forwarded, along with documentation regarding the seller's hardship situation, to the lender's Loss Mitigation Department. The Loss Mitigation Department must then determine the actual current value of the property and evaluate the offer in light of the current value. ***The lender in a short-sale can take from one to four months to complete the process and notify you if they will accept your offer.***

10. AFTER ACCEPTANCE OF YOUR OFFER

- a. Your Realtor will alert you when your offer is accepted.
- b. In the case of a foreclosure property, most banks (sellers) will respond with new or revised Addendums to the contract with their acceptance terms. Typically this acceptance does not have the seller's signature. It is imperative that you sign the Addendums immediately upon receipt and return them as soon as possible. ***PLEASE NOTE: Until the seller signs the contract THERE IS NO CONTRACT. The seller has the right to entertain and accept other offers in the interim.***
- c. After written acceptance is received you will be notified by your Realtor and provided a copy of the completed package with the seller's signatures. It may take weeks to find out which escrow and title companies will be used for your



transaction. *This delay in finding out who the escrow and title companies are can cause a delay for you, your lender and your loan lock.*

IMPORTANT MESSAGE REGARDING CLOSING DATES AND LOAN LOCKS
PLEASE PAY ATTENTION!!

*****Please make sure that you do not make moving arrangements pre-maturely. Foreclosure and short-sale escrows are notorious for NOT closing on time. It is best that your moving is scheduled after the loan documents are signed and the seller/bank has approved the final HUD-1 (Closing Statement).***

*****Talk to your lender about locking the loan for a period that is longer than the anticipated escrow closing date.***

11. **DISCLOSURES**

a. Foreclosure Properties

The bank (seller) is exempt from many of the normal disclosures that you would receive when purchasing real estate in California.

b. Short-Sale Properties

In a short-sale, the seller must still provide to you all of the normal disclosures required by law in the State of California.



12. **UPON CLOSING**

The listing agent will request the removal of any signs and lockboxes; *please do not remove these.* Please note that many agents, inspectors, and others had access to your new home – **IT IS HIGHLY RECOMMENDED THAT YOU CHANGE THE LOCKS AND/OR RE-KEY THE LOCKS FOR YOUR SECURITY.**



You must transfer the utilities to your name immediately upon closing into your name.

Provided To You By:



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