

Buying a Short Sale or Bank Owned Property

- A Primer

This brochure will take on myths about short sales and lender-owned (OREO) properties, help you determine if one of these properties is right for you, and if so, help you achieve your goal.

Myths and Legends

One of the myths of the short sale or OREO situation is that the lender will give the property away at a bargain price. While it is true that lenders would prefer not to be in the property management business, that does not mean they are willing or able to give properties away at bargain prices. The original lender's sole role in most cases is to provide services to administer the mortgage on behalf of investors. This servicing continues in the short sale and OREO situation, and the servicer has an obligation to obtain the best possible price for the property. Servicers use appraisals, broker price opinions and mathematical models to determine whether the price offered is appropriate.

Another myth is that the servicer or the investor in a short sale situation makes all the decisions concerning the sale of the property. Until the servicer or investor has foreclosed, the servicer or investor has no authority to make deals concerning the property. The servicer or investor only decides whether to provide a release of mortgage, which is necessary for a clean title, in return for a short payoff.

A third myth is that a potential purchaser has a much better opportunity to obtain the property if the purchaser buys through the listing agent. This myth may have been true in grandma and grandpa's time. It is no longer the case when the lender is far removed from the location, there is an asset manager between the lender and the agent, and the agent has a legal duty to submit all offers as soon as practicable after receipt. All a prospective purchaser accomplishes is to deprive him or herself of the opinions and advice of an agent loyal to the purchaser since the listing agent must represent the seller of the property and is not permitted to advise the buyer.

Is a Short Sale or OREO property suitable for your needs?

Many prospective buyers jump feet first into a short sale or OREO without realizing the differences with other properties. While a short sale seller has the ability to negotiate price and terms, the contract will be submitted to the lender to determine whether the lender will provide a release of the mortgage in exchange for a short payoff. For a variety of reasons, this decision takes time-months in some cases. A prospective purchaser who wants to ensure that the closing will take place in August so the kids can be enrolled in the school system, or who needs to vacate an apartment by a certain date will not have any guarantee that those dates will be met. A purchaser who is unwilling or unable to wait is not a suitable candidate for a short sale.

A buyer who is ready to close is more attractive and will receive more attention from a lender than the buyer who proposes a

contract containing multiple contingencies for inspections, mortgage, sale of current property, tests and the like. A prospective purchaser who is willing to spend the money to have inspections and tests done before submitting their offer is going to be ahead of the game when it comes to grabbing the lender's attention. That is not to say that buyers who want all of these contingencies will never get the property, but it is to say that buyers who are willing to put as many of these contingencies to rest before submitting the offer have an advantage.

Similarly, not every buyer is suitable for an OREO property. Lenders will very seldom undertake any sort of repairs or replacements on a property. It is vital that the purchaser of an OREO property not only have it thoroughly inspected and tested, which obviously costs money, but also have a reserve in case something with the property goes wrong after the purchase.

The Buying Process is Different

There is nothing you, your agent, or your attorney can do to speed up the process of obtaining approval for a short payoff, other than making your contract as close to a cash, no contingencies transaction as possible. Obviously, if you have everything done including your financing and are ready to close, there is urgency to the lender's determination. Otherwise, there is no amount of cajoling, bribery, or good fellowship that is going to force a servicer or investor to make a decision for your particular transaction.

OREO properties are more straightforward. These are typically listed with an agent and are often found on multiple listing service systems. Many lenders have particular procedures that the listing agent must follow to submit offers. The offers are reviewed using many of the same processes that are used in a short sale situation. Contrary to popular mythology, investors and servicers are not ready to give away properties just to get rid of them. Servicers are obligated to obtain as close to fair market value as possible and investors obviously want as much as possible for the property. If you see an OREO property listed at what appears to be a bargain price, examine it closely, as there is a reason why it is at that price. Because OREO properties are popular with potential purchasers, you should also assume that yours will not be the only offer submitted on that property. Furthermore, keep in mind that the listing agent does not necessarily have any influence over the choice of offers the lender takes. Listing brokers are obligated by law to submit all offers to the Seller. Which offer the lender takes is not going to depend on the warm personal relationship of someone at the lender with the listing agent. So, take your best shot with your offer, and if it is not accepted by the lender, move on. Just as there are other fish in the sea, there are other properties available. Re-bait your hook and cast it into the waters because that will be far more productive than lamenting the one that got away.

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