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Short Sale v. Foreclosure

Is it better to negotiate with a short seller or look for a house that is already bank owned?

By JUNE FLETCHER

Q: I am thinking of relocating to Miami Beach, as I've read that there are deals there. Is it better to negotiate with a short seller or look for houses already owned by the bank? And if I go for the latter, how low should my offer be—and will the lender offer me financing?

A: There's no shortage of distressed properties in Miami Beach. RealQuest.com currently lists 442 homes there that are somewhere in the foreclosure process, and 58 that have gone back to the bank. And Fannie Mae just launched a test program that will preapprove short sales, making it easier for buyers like you. However, the program is not available in your area.

But bear in mind that in the case of both short sales and bank-owned homes you are negotiating with lenders rather than sellers. In a short sale, the seller might be desperate to accept any offer to avoid foreclosure, but that doesn't matter if the primary and junior lien holders don't agree to it. With bank-owned properties, you will be dealing with the "real-estate owned" or REO department of the lender who took ownership of the house at the auction. In both cases, you should be prepared to be patient, since lenders are overwhelmed with distress sales these days and may take weeks to respond to your offer. According to a survey of real-estate agents conducted in November by Campbell Communications the average wait time to get an answer from a lender on a short sale is 8.1 weeks, up from 4.5 weeks in a survey conducted earlier in 2008.

It's hard to know whether or not you'll get a better deal on a short sale or a bank-owned home because the situation varies with each property. Some short sales are priced higher because the seller has junior lien holders who won't sign off on the deal unless they're paid something. But some foreclosures are priced higher than corresponding short sales because the bank needs to recover costs for repairs, especially if an angry former owner decided to punch holes in the walls, steal the light fixtures and flush cement down the toilet.

Because the back stories of properties differ, you should begin your quest by finding a buyer broker that specializes in distressed properties (many won't

touch them, since deals typically take a long time to close, and commissions tend to be minimal). A good buyer broker will be able to provide a comparative market analysis that shows sales of similar homes, and may also be able to get a sense from other brokers of prices of pending sales. That's important to know because lenders are going to try to hold out for fair market value for the home, even in a declining market, and will insist on an appraisal to justify the sales price to their shareholders. The broker should also investigate how long the property has been on the market, what's owed on it and how many offers it has received.

While it isn't unusual to see both short sales and bank-owned properties listed at prices far below those offered by traditional sellers, don't expect them to sell for much more than 20% below asking price, says Fort Lauderdale, Fla., broker Scott Coloney, who has assembled a "foreclosure response team" of financial and legal partners to facilitate distress sales. In fact, properties in good condition and in desirable locations may even spark bidding wars. "So low-balling is a waste of time," he says.

Moreover, with your bid you'll have to show that you have the cash to buy the property, or a letter from a lender pre-approving you for a loan. That letter can be from the bank that owns the property—and you'll probably be taken more seriously as a bidder if it is—but don't expect the bank to offer you special low financing terms to close the deal.

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