

Short Sales

Buyer's Frequently Asked Questions

What Is a "Short Sale"?

Answer: A real estate transaction between a Seller and Buyer where:

- 1) The net sales price is not enough to pay the Seller's Mortgage; and
- 2) The Seller cannot pay the balance owed & asks its Mortgage Lender to reduce the Mortgage so the Seller can sell its House.

Why Would the Seller's Bank Accept Less than What They Are Owed?

Answer: If the Sales Prices is reasonable, then it might be the best deal the Lender will get.

If the Seller's Lender does not accept the "Short Sale", then it might have to foreclose on the Property (which could take up to a year). The Bank would then have to carry the Property Taxes & Loan Interest, pay Foreclosure Fees and risk the possibility that the House could be in much worse physical condition. All of these factors would increase the possibility that the Bank would receive less money from a Foreclosure than a "Short Sale"

What Are the Buyer's Basic Steps?

Answer: Typically-

- 1) The Buyer negotiates a final bottom line price after performing an Inspection
- 2) A Real Estate Attorney experienced and familiar with "Short Sales" is retained
- 3) Contracts are signed
- 4) The Buyer starts its Mortgage Application & the Buyer's Attorney starts the Title Search
- 5) The Seller submits a full "Short Sale" package to its Lender
- 6) Seller's Bank does its own Appraisal
- 7) The Seller's Bank provides a "Short Sale" Approval and the parties close promptly.

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What Will the Seller's Bank be Looking For?

Answer: The Lender will typically approve the "Short Sale" if it believes:

- 1) The House is being sold for an acceptable amount
- 2) The Seller cannot afford to make up the difference and is suffering from a financial hardship.

How Long Can the Process Take?

Answer: It varies widely, but typically, the Seller's Bank's approval can take ~ 8-18 weeks from the time the Seller's Bank receives a full "Short Sale" package. It can be longer if there are additional circumstances such as other liens or mortgages on the Property. Once Lenders provide an approval, they typically want to close within a few weeks.

Can the Buyer Wait for the Seller's Bank's Approval Before Starting an Inspection and Paperwork?

Answer: Usually not.

Typically, the Seller's Lender will not become involved until the Buyer and Seller sign a final Contract. The Buyer will not be able to address inspection concerns after these Contracts are signed.

Further, a Title Search would need to be started immediately to see if there are any unanticipated liens (including judgments, back taxes, etc.) that might affect the viability of the "Short Sale" approval.

Also, the Buyer will need to be prepared to close on a last minute's notice. As a result, the Mortgage and Title Search will need to be in place. Therefore, it is important to retain the right Professionals (Lender, Attorney, etc.) who will act promptly and are very familiar with this type of transaction.

What Costs Will a Buyer Typically Incur if the "Short Sale" Is Not approved?

Answer: Usually costs associated with that particular transaction, such as: 1) Home Inspection; 2) Mortgage Appraisal; 3) Attorney Fee; and 4) Title Search. There are other costs typically associated with the Mortgage Application, but they can usually be applied to the next home purchased by the Buyer.

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Does the Seller Still Sign all of the Transaction Papers?

Answer: Yes.

The Seller will always be the Seller. Accordingly, they will need to sign the Contracts, Listing Agreement, etc. and maintain the Property.

Is This Very Different Than a Regular Transaction?

Answer: In many ways no.

Effectively, it is a regular deal except that there is the additional element of the Seller procuring "Short Sale" approval from its Bank.

What Should a Buyer Investigate at the Beginning?

Answer:

- 1) Are there any other judgments or liens against the Seller? If there are other judgments or liens, then these will have to be negotiated as well.

- 2) Does the Seller own other Real Estate or have sufficient funds to pay the balance owed to its Bank? If the Seller has other Real Estate, the Seller's Bank might want to move its lien to that Real Estate so the current House can be sold. If the Seller has sufficient funds to pay the balance owed to its Bank, the Bank probably won't approve the "Short Sale" and will expect the Seller to use those funds to pay the balance owed.

- 3) Are there any Building Department violations or missing approvals for improvements? If there are, these will need to be addressed.

What Type of Attorney Should be Retained?

Answer: A Real Estate Attorney fully familiar and experienced in "Short Sales".

There are many nuances to this type of transaction, and it is important that things be done correctly. Otherwise, the Seller's Bank might decline the transaction, or not pursue other solutions. There have been transactions that were terminated because the Attorney neglected to address certain issues or was unaware of other available options.

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