

Ten Questions Buyers Might Ask before Buying Bank-Owned Property

Introduction

There may be incredible bargains on properties that have been foreclosed and are now owned by lenders. There may also be pitfalls. This brochure may help you avoid the potential problems and make your purchase go well. Here are ten questions to get you off to the right start:

1. What is REO and what's the advantage to buying it?

Once a property has been foreclosed and has been taken back by the lender, the property is commonly called an "REO" or "real estate owned" by the foreclosing lender. In most cases, although not all, the REO is now owned by a bank, finance investment group, or other financial institution. The lender may not wish to continue owning the property, as it may be costly and may tie up the lender's assets. REO lenders may be strongly motivated to sell, and may offer bargain prices well below those of comparable properties.

2. Where can I find out about these properties?

REO property may be marketed through real estate agents, through traditional multiple listing services, or through real estate auctions, to name a few sources.

3. Is the paperwork when making an offer on REO different from other purchases?

Except for purchasing at a real estate auction, a standard-form purchase agreement may be the same as if you were purchasing property that is not REO. Auctions may use special contracts, and due to the complexities of buying at REO auctions, these types of sales are not covered in this brochure.

Once your offer is submitted to an REO lender, you may receive an addendum to sign as part of the contract. This REO addendum may specify additional terms and conditions between buyer and seller. These may include an "as is" and "where is" clause. The addendum may also state that there are no written, oral, or implied warranties. If, however, an REO lender knows of something that is wrong with the property, or is in possession of any inspection reports, they may be required to disclose this. The REO lender's addendum may also contain a provision that if the buyer does not complete the sale by the agreed date, a "per diem" may be charged to the buyer. The REO lender may also spell out what closing costs they will pay, and which ones the buyer will be expected to cover.

Aside from the REO addendum, the REO paperwork may differ from a traditional sale in that REO lenders are exempt from certain disclosure requirements, such as a Transfer Disclosure Statement (TDS). This disclosure indicates what a seller knows about the property's condition. The concept of the TDS is simple: an owner may have a "history" with the property and may be aware of problems or "red flags" concerning the property. In a typical REO transaction, however, the former owner has lost the property through foreclosure and is now out of the picture.

Buyers are cautioned that the REO lender may have little or no knowledge of the physical condition of the property. The lender also may not know of external or economic issues which may impact the property's value or desirability. The REO lender may have owned the property for a very brief time since completing the foreclosure process.

4. How can I discover any potential problems with REO property I want to buy?

A buyer is encouraged to thoroughly check all aspects of a property, and to hire third party inspection services to inspect the property and provide a written report. These inspections may include a Standard Structural Pest Control Report (commonly referred to as a termite report), a Home Inspection or Contractor's Report, and other inspections such as roof, septic, pool, or well, to name a few. Review these reports carefully. If further inspections are recommended, consider the value of having additional inspections and estimates so you may learn as much as possible about the property and other issues concerning the property.

5. I've heard that REO properties may be in bad condition. Why is that?

The former occupant of the property, particularly if that occupant lost ownership or was evicted in the foreclosure, may have skipped routine maintenance items, ignored needed repairs, stripped appliances or fixtures, or deliberately damaged the property. Although the REO lender may subsequently have done repairs to make the property marketable, it is possible that unknown or hidden problems may surface later. It's recommended that you have all the utilities turned on during your inspections, because this may give you and your inspectors the opportunity to spot leaks, electrical malfunctions, and the like. REO lenders may not offer home warranties or guarantee the condition of the property, so know what you are buying.

6. How much of a bargain can I get if I buy an REO property?

The answer to your question depends on many factors. You may ask your REALTOR® for information about other comparable properties that are currently available for sale and those that have recently been sold. Compare what you want to buy with those

other properties that are comparable in size, area, and style. You may find that you can purchase an REO for substantially less than other properties if you are willing to complete the transaction according to the timeline and specifics that the REO lender desires.

7. Will the REO lender make a new loan to me?

Some REO lenders are anxious to be rid of a property, and may offer financing if the buyer has, among other things, a satisfactory down payment and credit score. Some REO lenders may want to offer new financing as part of their business plan. Of course, there are some REO lenders that may not want to repeat the foreclosure drill, so you may make a better bargain if you can offer all cash to them. Your real estate agent may be able to help determine what an REO lender may prefer.

8. Is it true that some REO sellers don't always reply promptly when I've made an offer?

That depends on which lender owns the REO. The REO lender may have a department set up to respond to offers, may have outsourced this task to an asset manager who is not a part of the lender's firm, or may have some other arrangement. If there are multiple offers on a property this may also cause delays. The listing agent marketing the property may work with your real estate agent to communicate the need to reply promptly, although it may ultimately be the REO seller's decision.

If you are aware that a property has been recently foreclosed, the REO lender may take a few weeks to put the property on the market. This may be due to the time needed to acquire an appraisal, get opinions of value from local real estate agents, vacate the occupants, and do the necessary repairs to ready the property for sale. The REO lender may not respond to any offers until this process is complete, even if a real estate agent has already been designated to handle the listing.

Some buyers may continue shopping for another property while they wait to hear whether or not their offer is accepted by an REO lender. In certain circumstances, buyers may specify that until their offer is accepted, they have the right to make other offers and "take a walk" if they find something else.

9. Can the former owner come back and make a claim against my REO purchase?

The lender who initially forecloses and takes back the property may have this risk. This foreclosing lender may wait a period of time before offering the property for sale as REO to enable subsequent buyers to obtain title insurance. Once this REO lender re-sells the property, a "bona fide purchaser for value and without notice" may be protected against a former owner's potential claim, and may also be able to obtain title insurance to cover against such risks.

10. If there are tenants in the property I buy, can I evict them?

Although an REO property may be vacant when sold, some REO properties are not. Use care when buying an occupied property, as there may be tenant rights and landlord obligations as determined by California state law and local ordinances. You may be required to comply with these laws, which are often complex. Your real estate agent may not handle eviction matters, so you should seek advice from an attorney or other appropriate professional when purchasing property that's occupied.

Conclusion

You may find you have a need for pricing data, inspection guidance, and negotiating assistance in order to make a wise purchase of foreclosed property. You may find your greatest ally in buying REO is your local REALTOR®.