

Purchasing a Bank Owned Property- What to Expect in Negotiations!

Dealing with bureaucracy - Response to your offer

You may find that it takes the lender a long time to respond to your offer. One of the reasons is because of the bureaucratic nature of these institutions. Many times, the employee at the bank who lists the property with the REALTOR® doesn't have the ultimate authority to accept, counter or reject an offer to purchase. You may not always receive a response to your offer. Some lenders will not respond to offers they have not selected to work with and that they will only contact the agent submitting the prevailing contract. If a lender does provide a response, it may be just an e mail stating that the offer was rejected. The listing agent should forward any response received to your agent. Again, in some cases it may take time to receive a counter offer or rejection of the said offer. It is not the seller's or listing agent's duty to discuss why the offer was rejected. Keep in mind that all sellers behave differently as to how they will respond.

Will I be notified in the case of multiple offers?

That is totally up to the seller. Some lenders have a policy of immediately stopping negotiations with the current buyer and disclosing multiple offers in writing or verbally and asking for best and final within 24 hours. Some handle that situation on a case by case basis and might accept any offer at any time regardless of the order it was received. It is common for these types of properties to enter into multiple offers at some point.

Get addenda up front.

Another roadblock is caused by the fact that almost all lenders insist on certain addenda to the purchase contract. Because this is so common, ask your REALTOR® to contact the listing agent and ask for these up front. This may eliminate the need for you to counteroffer and result in quicker contract negotiations.

Dealing with time limit issues

Lenders are notorious for ignoring the time limits in offers to purchase, it could be days or weeks before you get a response to your offer. This information is especially important if you are relocating and need to find housing quickly.

You should also be aware that it is highly likely that even if the lender finds your offer to be acceptable, the lender will insist that you agree to additional terms that will be included in an addendum. Further, in most instances these terms are non-negotiable. If the lender/seller responds to an offer to purchase by submitting addenda that are to be part of the contract, know that this is considered a counteroffer. This does not mean that your offer was accepted.

Statute of fraud problems

Another potential complication in the negotiation process is the lender's failure to sign the offer or counteroffer. For example, the lender often responds to an offer by submitting their addenda to you, but won't sign the offer and addenda until after you have signed them.

So you are not caught off guard, under Ohio's Statute of Frauds, the lender, like any other seller, is not bound by the purchase agreement until they have signed it. The lender could still renege on their verbal deal after weeks of negotiations because they received a higher offer from another buyer.

Depositing earnest money

Most purchase agreements provide that the earnest money will be deposited upon acceptance of the offer. This begs the question, should the earnest money be deposited when you accept the lender's addenda (i.e. the lender's counter offer) or when the lender subsequently signs their addendum/counteroffer? The Ohio Division of Real Estate had recently taken the position that the earnest money should be deposited upon receipt of all signatures to the contract, not upon mere verbal acceptance.