



The Mortgage Centre

We work for you, not the lenders.

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Buying Foreclosures

January, 2009

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There is a lot of talk amongst real estate "investors" and specialists saying that the key to buying real estate at low prices is to find foreclosures, pre-foreclosures, court ordered sales, and other distressed sales.

IS THIS A VIABLE METHOD OF INVESTING IN REAL ESTATE?

This is not an easy answer. The quick answer is NO. Otherwise, everyone would be doing it. The longer answer is "it depends who you know."

Let's address a few of the terms that are being tossed around, and see how they apply to the Canadian market.

FORECLOSURE

This is the process whereby a lender takes the property away from an owner if they miss too many payments. Usually, the process is about 6 months long starting with an "Order Nisi" into court and ending with an "Order Absolute" when the property is taken away from the borrower and given to the lender. Usually, it doesn't get this far, and an "Order for Sale" is given and the lender will usually sell the place (possibly by also taking possession and kicking the people out of the home).

PRE-FORECLOSURE

This is a very misleading term that a lot of experts are telling clients to search out. Clients are being told to see out pre-foreclosure by looking for signs of "distressed sales," or other terms that describe highly motivated buyers. Pre foreclosures are very, very hard to find without having an "in" in the industry. As a mortgage broker, often dealing with a lot of distressed sales, I cannot tell people about my clients in situations that they are being told to seek out. In other words, any broker telling you about specific foreclosures is often violating the confidentiality of their clients. There ARE cases, where the clients are OK with this (for example, when they want to sell desperately), but in most cases those people being foreclosed on don't want to sell. They want to keep their home just like anyone else.

So where do you find pre-foreclosures? There are often several lawyers in town that deal with foreclosures, and they MAY be willing to provide you with names and addresses of properties that are nearing foreclosure. Alternatively, a broker (me for example) who deals with a lot of hard financing and hard situations may have some clients that are seeking to get out of the property. With proper written permission, I, or other brokers like me who deal with a lot of difficult financing situations, can provide you with people who are highly motivated sellers. However, don't expect this information to be widely available for the public at large. You are going to have to work for it, and it won't be easy. If it was, EVERYONE WOULD BE DOING IT!

The last way to find pre-foreclosures is to look at what is being heard "in chambers" in the local provincial courts. For example, if you go down to the courts you can see what is being heard that day, and if you see "Royal Bank of Canada vs. John Michaels" (for example) you can be relatively sure it is because the bank is starting an action against Mr. Michaels, and it is usually due to a possible foreclosure beginning. This info is also available online on the provincial court websites (depending on what province you are in). However, it will NOT say "Foreclosure Hearings" conveniently labeled. It will take a bit of deduction and work to figure it out because you are trying to get very private info. Again, if it was easy, EVERYONE WOULD BE DOING IT!

COURT ORDERED SALE

Oftentimes, when there is a first and second mortgage holder, the clients may fall behind on payments to the first mortgage holder (often the larger of the two) and have problems making their payments. This will put the second mortgage holder at a disadvantage, because if the first mortgage holder gets an "Order Absolute" it will wipe out the second mortgage holder's claim. This usually takes at least 6 months, and is a huge song and a dance from a legal perspective, so it tends to result in interest piling up and further equity being eroded. Now, this is a simplification of the process, but if the second mortgage holder sees their equity being eroded with interest (or a falling market) they can apply to the court for Conduct of Sale granting them the rights to sell the property for a fair price to pay out the first mortgage, and themselves, and ensure they don't lose money on the deal. In order to be granted this, they usually have to demonstrate that their equity is in jeopardy by way of appraisals or other market valuation techniques accepted by the courts. In a falling market, with interest piling up, they will usually be granted an order for sale unless a massive amount of equity exists.

So, when reading and hearing about "Court Ordered Sales" you are hearing about highly motivated sellers. However, don't expect to waltz in and pay pennies on the dollar. The court still oversees the sale price, and makes sure that the price that is received is fair market value. For this reason, just the fact that something is a court ordered sale doesn't automatically make it a "deal." You still have to do your homework and find a motivated seller through the methods I list in the section above regarding pre-foreclosures.

SUMMARY

The process of seeking our foreclosure and "pre-foreclosures" is not a cut and dry issue whereby you can simply find someone willing to give you a "list." It takes effort, ingenuity, or industry contacts to track them down, and even then, they might not be a great deal. You still need to look at the direction of the market, the cost of the property, and whether or not it is highly marketable in order to discover how good the purchase really is.

Remember, if it was super easy, EVERYONE WOULD BE DOING IT!

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