

# THE PROPERTY FORECLOSURE PROCESS

## AS IT EFFECTS THE PURCHASE AGREEMENT, NEGOTIATION AND CLOSING!

*The inventory of homes that are actively for sale on the Multiple Listing Service (MLS) can be categorized in four different types. Understanding these type differences will be crucial in finding the best fit for your next home in the timeframe you desire. As your Realtor, I can identify the type of property for you.*

*The main advertised characteristics of homes in the foreclosure process are "Short Sale" and "Bank Owned" properties. The Banks are very motivated to sell their "Bank-Owned" homes and Seller's only have a possibility to sell their "Short Sale" homes. This means that even if a "Short Sale" offer is higher than the listed price, it usually is not enough to satisfy the outstanding mortgage(s), lien(s) and selling expenses of the property. Waiting for a response will result in the loss of valuable time in your home search.*

**The following statements are more detailed explanations and your Realtor will be able to research the specific circumstances of each Listing and provide details.**

1. **"Normal" Listings:** These homes that are listed by the home owner who is making all selling decisions. A full price offer will most likely satisfy the home owner's mortgage payoff and any other financial obligations needed to close the home sale.
  - a. A Seller's Property Disclosure and City Inspection (if needed) will always be available.
  - b. The Buyer's Purchase Agreement is generally negotiated and accepted with the Seller(s) in a day or two after the offer presentation.
  - c. Closing the transaction normally takes from 30 to 75 days.
2. **"Pre-Foreclosure" Listings (Short Sale or Bank Approval needed):** These homes can be identified in the MLS Listing as "Short Sale", "Subject to Bank Approval," or "Pre-Foreclosure." The property owners have been notified that they are delinquent on their mortgage and have been notified by their mortgage company that they are on "Notice of Foreclosure." The Listing for this type of property is generally attempting to attract an offer the Seller's agent can bring to the bank(s) and lien holders to negotiate, on the Seller's behalf, the sale of the home. These Listings are the most complicated as the Listing Price and Offer Price of the home may be much lower than the Lender(s) and lien holders will require or negotiate to payoff the indebtedness.
  - a. A Seller's Property Disclosure and City Inspection (if needed) will always be available.
  - b. A Buyer's Purchase Agreement usually takes days, weeks or even months to get a response from the Listing Realtor and the Mortgage Bank(s) and lien holders. The Purchase Agreement on these pre-foreclosure properties have a difficult time moving forward because the first mortgage and second mortgage that may have Mortgage Insurance. This means the a mortgage holder may just wait to take the home back after the redemption period and/or the mortgage lender will not accept anything less than the full payoff of the mortgage.
  - c. After an accepted Purchase Agreement by the Selling parties, the Closing generally can proceed in 30 to 75 days depending upon the clearing of the Title.
3. **"Sheriff's Sale" or "Foreclosure Auction" of the Property** (*This is a point in time and does not indicate a property type*): The auction takes place as advertised by the County per the "Notice of Sale." The timeframe from "Notice of Foreclosure" to the "Notice of Sale" is generally about four months. Anyone may bid at the sale, and the property is sold to the winning bidder. If the winner is not the lender, the winning bidder must be prepared to pay the full amount in cash or cashier's check and can not take possession of the property until the end of the redemption period. The sheriff may postpone the sale by publishing a notice in the newspaper where the original notice of sale was published. After the sale, the sheriff gives a "Certificate of Sale" to the

winning bidder. The "Certificate of Sale" effectively transfers ownership and possession rights to the winning bidder after the redemption period.

4. **"Post-Foreclosure" Listings (Redemption Period and Bank Approval needed):** Under Minnesota State Law, the owner of a foreclosed home is provided time to find other suitable living arrangements and may continue to occupy the home during the Redemption Period. These homes are also listed as "Short Sale," and/or "Subject to Bank Approval." The Sheriff's Sale or "Foreclosure Auction" has been completed.
  - a. During the Redemption Period the original owner has the right to buy back or sell the property and it is still considered a "short sale" because all original mortgage holder(s) and lien holder(s) have rights to the proceeds from the sale of the property. All the interested selling parties will generally insist on full payment as a starting point for negotiation of sale price. Some properties are "pre-negotiated" and have a designated "Selling Price."
  - b. The original owner is generally living in the property and has up to six months to vacate.
  - c. Seller's Property Disclosures and City Inspections (if needed) are generally not provided and Buyer(s) will be required to sign a purchase "AS-IS" and Release of Liability" documents for the property. In many cases this property is not a "fixer-upper" or needs repairs. However the risk to the Buyer is higher than a normal listed property.
  - d. The negotiation of a Buyer's Purchase Agreement with the Seller and all mortgage and lien holders can take a week, month or longer.
  - e. Closing the transaction may be an extended period with the Owner of Record needing to gain a "Clear Title" to the property.
5. **"Bank Owned" or "Corporate Owned" Listings:** Following the Redemption Period, the property is re-listed and defined as "Bank Owned" or "Corporate owned."
  - a. The occupants of the property have moved out and the property is vacant.
  - b. Usually the property is listed at a reduced and very reasonable List Price so the Owner of Record can sell the property in less than 45 days.
  - c. The Seller's Property Disclosure Statements and City Inspections (if needed) are generally not available and Buyers will need to sign a purchase "AS-IS" document for the property and liability releases. In many cases, this property is not a "fixer-upper" or needs repairs. However the risk to the Buyer is higher than a normal listed property.
  - d. The Bank-Owned Listings can create multiple offers where the owner is generally asking all offers to be the Buyer's best and final offer.
  - e. In most cases, the Purchase Agreement will be accepted and negotiated in about a week.
  - f. Closing the transaction may take days, weeks to months because the Owner of Record must gain a "Clear Title" before the property can be sold.

***If you have any questions about Foreclosed Homes or the activities surrounding the foreclosure process, please contact me.***

**CHUCK BRUSVEN, GRI**

Real Estate Agent and Mortgage Consultant

Direct: 763-559-2686

Web: [www.cbrusven.com](http://www.cbrusven.com)

Email: [cbrusven@msn.com](mailto:cbrusven@msn.com)