

Some Closing Agents, Lenders and Legislators Blinked!

While we are engaged in trench warfare we sometimes forget the big picture. In this case, the big picture is that the lenders, REO Asset Managers and realtors have publically said that essentially investors are full of *\$%#*&@# and are their worst enemies.

OK, each to his own opinion, at least they aren't two-faced about it. But we investors have persisted in our battles to get deals and despite missing many; we do get deals and have made tons of money. These deals sometimes require all sorts of contract gyrations and legal maneuvers to make them legal and avoid malicious "guidelines" set by lenders, realtors and title companies. We are forced to jump through hoops because the lenders keep changing the rules and they have even intimidated the title companies so much so that even these former bastions of righteousness have succumbed to the heavy hand of the lenders.

The realtors have tried to kill off the "investor flu" and have attempted to keep us at bay by changing the rules on REO inspections to fewer and fewer days – many are requesting zero days inspection before signing the contract and upping the deposit even when the MLS® and the Asset Manager say one thing, but the agent wants 2 – 4 times as much! Oh yes, and the latest is we have to show proof-of-funds before putting in a contract. How hard do they think this is in these times of Photoshop®?

The irony is that we can see in the public record what these properties actually sold for and often it was below our offering price, yet still we hear "I am having 20 – 30 offers at full list price and higher" - always punctuated by "Give me your best and highest offer". In a recent example, I was doing a closing in our office by transferring a land trust to a cash end-buyer. The buyer already owns over two hundred properties and he was saying that he owns a property across the street from the one I was closing on with him.

He said he also purchased that property for \$20,000 but that it was a completely rehabbed 3/2 in mint shape. This price is at least ¼ of the real market value. The property we had sold him was a semi-junker. He said it was a "mercy purchase" to establish a relationship. The interesting part was he had originally offered the listing agent \$55,000 for his completely rehabbed property and he didn't get it. The listing agent told him the usual – "blah, blah – put in your highest bid", "If you offer this price you'll get it", which he did, and of course, he didn't get it.

The beauty of the story was that the "other" offers didn't go through because they were generated by the "boiler room" REO bidders and the agent came back to him a few months later. Long story short, he paid \$20,000 for the same property! To repeat, this is the one he was turned down on his offer of \$55,000! The question we are asked frequently is "why are a few buyers getting the same deals over and over when the

agent won't put my offer in because it is so low?" These buyers are cloaked in land trusts and non-confirmed rumors have it that they are the same groups that bought the realtors in the last REO deluge in the 1990's. Unsubstantiated rumors but often times bad pennies just keep coming back!

I keep getting the question from other investors "Are these Asset Managers and realtors stupid?" Actually I think that most are not, but many are driven by their egos and this is the first time in years when they have had real product to offer that is being fought over and they love it! After all, investors weren't really any different a few years ago when we could sell anything in 10 minutes at over full market value and get a zombie financed in thirty minutes. It's human nature that if you give most people a way to make easy money, they will take advantage of it. Had the lenders not made money so easy to get, home values wouldn't have soared and we would not have had the banking crisis.

So here we are trading stupid comments about the realtors, lenders, Asset Managers, and investors alike. Everyone has been scrambling to make a living and the survivors have stayed in the game. This is easy for the REO agents who don't have to get the listings from homeowners by promising what they can't necessarily deliver- selling the homeowner's property in a reasonable time at full market value. For the average realtor it has been death and destruction with the market declining and the foreclosures crushing sales prices. Even a sale these days only results in a minimal commission when the smoke clears.

If you haven't stopped reading this by now, here is the punch line – "The closing agents, FNMA, FHA have blinked". What does "blinked" mean – simply that there is a slowly developing trend for the parties in power – realtors, lenders, Loss Mitigation Departments and Asset Managers toward working with investors! I know it sounds crazy but the signs are slowly coming to the surface – like oil rising to the surface of a pond – oil being the bitter taste these individuals and entities have for investors.

First, it started with the investor guidelines for owning 10 investment properties reduced to five, but later returned to ten. Someone got the picture that investors are the only market for multi-family investment properties. Duh – what took so long?

Second, it was the seasoning period that was dictated at 90 days but reduced to zero in just a few months. Not to lose control, the lenders intervened and overrode the government's "higher" authority that issued the mandate for no seasoning – lenders still can't give up control despite losing everything. Maybe a government owned banking system would be better – are the CEO's of the banks listening?

Third, here is the latest and maybe the first sign that the third part of this trilogy of terror (lenders, realtors, closing agents) has come to their senses – Attorney's Title Fund Services, LLC changed its requirements for simultaneous closings – regarding

disclosure to the seller of what price (“profit”) the investor is selling the property for. All this time the lenders have been claiming they were prosecuting investors in California for not disclosing this information and that the Justice Department was hunting down fraudulent transfers. I can’t believe a lender would lie about something like that, oh well.

So now if you are doing short sales you no longer have to get “permission” for the profit you will be making on the deal from the seller – according to the people who are going to write the title policy, maybe. I say “maybe” because anything can change in a matter of minutes in the minds of authoritarians. I suspect this change by the title insurer happened because their business has steadily dropped and looks possibly ugly for the future.

Now even legislators in Florida are moving toward “temporarily” granting amnesty to bulk buyers of condos so they are not deemed developers under at 1970’s statute. If a person or entity owns seven or more units of 70 or more units in a complex, they are deemed to be a Developer. If there are less than 70 units in the complex, the qualifying number drops to five. When the legislators are talking about this legislation, they refer to the perspective buyers as “bulk buyers” and not investors – I wonder why?

Being a Developer means assuming the responsibility of all monetary and legal liabilities that the original developer of the complex had. This is why lenders have stopped foreclosing on many buildings where they financed many units. If passed, this will allow lenders to foreclose and sell the units in bulk to investors, strengthen the Homeowners Associations (“HOA’s”) and generally stabilize the condo market. As usual, it is proposed only for a two-year window and you will always have the HOA’s to deal with – always be careful in the condo market.

On the other hand, FNMA has just announced a new strategy for loans it guarantees. When FNMA is selling its REO’s it will not allow investors to bid on these properties for 15 days. The first 15 days individual buyers who want to live in the properties will be allowed to get “first crack” at them. This program is called the “First Initiative Program” and will focus on using local, state and national grant monies to allow for waived deposit requirements. Sounds a lot like buyers are once again getting into these properties with no money down – isn’t that what caused this problem originally?

FNMA tried another new tactic recently of allowing the homeowner in foreclosure to give FNMA a Deed in Lieu of Foreclosure in exchange for the “former” homeowner being allowed to stay in the property while paying rent for up to one year. Of the 90,000+ loans in default, only 2,000+/- accepted the offer. Now FNMA has the issue of tracking monthly rental payments and later fighting to evict the homeowners. Is this yet another classic blunder or just some short-sightedness?

All these gyrations by well-meaning but misinformed individuals to stop the housing crisis reminds me of one of those carnival games where the player had a wooden mallet and is smashing heads that keep popping up through holes. Every once-in-a-while the Player connects and a head is knocked back in the hole. Ultimately the Player quits and all the heads are ready for another round – with another Player. Can you guess who the popping heads are and who the Players are in this game called real estate investing?

Next year as mortgage resets start to take place again, hopefully everyone involved in the real estate market, including lenders, realtors, closing agents and legislators will begin to realize that investors are the backbone of the market and its future. I would like to believe that this would lead to acceptance of investors as human beings simply looking to make an honest living while they clean up after the Players who have almost destroyed the fabric of our society.

To your limitless success,

Dave Dinkel