

The 6 Steps To Buying a Foreclosure

Buying a foreclosure or other distress sale property can be a great way to build some immediate equity for yourself. If you buy right and have the elbow grease to fix it up (most foreclosures need some TLC), distress sales can be a great way to make some quick cash.

However, buying foreclosures in British Columbia is not for the faint of heart. They can be risky and uncertain. There are a number of things you must know about the foreclosure process before you embark on a mission to buy one.

Foreclosure proceedings begin when the borrower defaults on the mortgage payments. Any of the mortgage holders, if there is more than one mortgage on a particular property, can apply to sell the home through the courts. This process is called “conduct of sale”. This means the sale will be carried out under the supervision of the court and is referred to as a court ordered sale.

The lender will give a redemption period, usually six months, for the borrower to redeem the mortgage (i.e. pay up, including interest and legal fees, etc.). If the mortgage is not redeemed and the redemption period has passed, the lender can apply for conduct of sale. If the lender gets the approval of the court, the lender can sell the home and is entitled to recover the difference between the sale proceeds and the mortgage debt from the borrower.

Once the lender has been granted conduct of sale by the court, the lender can market and sell the home subject to approval of the court.

1. Write your offer. There will be a Schedule A attached which is an addendum written up by the lender’s lawyer. Read this closely.
 - Most Schedule A’s refer to the fact that the property you are purchasing is ‘as is, where is’, with no representations or warranties. Which means exactly as it says – what you see on completion date is what you get. Note that it may not necessarily be what you see today.
 - Schedule A’s usually state that if the borrower redeems the mortgage, the property will no longer be sold to a third party.
 - You cannot include any chattels – anything that is not permanently attached is not guaranteed to be there. If you try to include appliances in your offer, the lender will usually cross them out.
2. Make your Offer Subject to Court Approval. Note that even if the bank accepts your offer, the court has to approve it before you have a deal.
3. Court Date Set: A court date will not be set until all your subjects are removed (i.e. your subject to financing, etc.), and even then the court date is usually not

for 3+ weeks after your subject removal date.

4. Your Offer Price is Released to the Public: Once your subjects are removed and the court date is set, your offer price becomes public knowledge. The Realtor who is working on behalf of the bank may release this information.

5. Court Date Arrives: After all this time of waiting for your offer to go to court – on court date another offer (or more than one!) can be presented into the court.

- All offers presented into court must be subject only to court approval. In most cases, the judge will choose to look at all offers presented.
- Often if the offers are close in price, the judge will ask for a sealed bid within a certain period of time from all buyers. At this point you will have the opportunity to resubmit your confidential sealed offer at the same or different price/terms.
- With a sealed bid, the best offer in terms of price and terms will usually be accepted at this point.

6. Once the best offer is accepted, the court order is drafted. The successful buyer is then able to purchase the house and hopes that it is in the same condition on possession date as when they viewed it.

As you can see, buying a court ordered sale is risky and by no means certain until the court order is signed. It is important to have a seasoned professional guide you through the process. The Salt Fowler Team can help – we have dealt with many, many foreclosures over the years and can ensure you are protected.