

## Foreclosures: Savvy Investment or Unexpected Aggravation?

It's hard to go a day without reading or hearing a news story covering the troubled economy and real estate market. A by-product of the troubles facing the Real Estate Market is an increase in the number of foreclosures. While this increase in foreclosure activity is being experienced across the nation to varying degrees, Western Pennsylvania has been fortunate enough to feel lessened effects than many parts of the Country. Nevertheless, there are still many properties brought to Sheriff's Sale each month for unpaid mortgages and delinquent real estate taxes and municipal liens.

Along with the increase in foreclosures has come an increase in the general public's interest in how Sheriff's Sales work and if they can really buy properties for pennies on the dollar through a foreclosure. While there may be an occasional bargain, keep in mind that there are many experienced buyers at Sheriff's Sales who understand the process and the risks associated with purchasing a property at Sheriff's Sale. Inexperienced bidders should also consider these risks before investing. Below are just some of the risks a purchaser should take into account when considering bidding on a property at Sheriff Sale:

### Removing the Prior Occupant

Purchasing a property at Sheriff's Sale may be the first step in what could become a lengthy and costly process to obtain possession of the property. The buyer of a property at Sheriff's Sale is not assured immediate

possession of the property. If the occupant does not vacate the property, legal action may be necessary for the buyer to gain possession of the property. There is also risk that the occupant may cause damage to the property or file bankruptcy to further delay buyer's possession. All costs, attorney fees and expenses incurred by the buyer to gain possession are typically unrecoverable from the occupant. While the buyer may have a legal remedy against the occupant for possession, the potential delay and cost of gaining possession should be considered prior to purchasing the property.

### Condition of the Property-Buyer Beware!

Sheriff's Sale properties are purchased "as is". Prior to a Sheriff's Sale, the occupant enjoys total use and control of the property. Even the foreclosing entity typically has not inspected the interior of the property prior to a Sheriff Sale. Unlike the typical purchase, there are no open houses or an opportunity for the buyer to complete a property inspection before bidding. As a result, the buyer may purchase a property with structural problems, broken or missing pipes, or with many other unexpected problems that may significantly increase renovation costs. Any problems with the condition of the property that exist at the time of the Sheriff's Sale become the problems of the buyer. Diligent research and investigation into the condition of the property may help to alleviate some of the risk, but much of this information may not be easily attainable.

### Payment of the Purchase Price

The purchaser of a property at Sheriff's Sale is generally required to pay at least 10% of the bid amount at the time of the sale and the remaining balance due within days of the Sheriff's Sale. You should consult the local Sheriff's rules, typically published in the newspaper with

the Sale list, to determine when the purchase price is due and what form of payment is acceptable. You may lose the opportunity to purchase a property if you do not comply with the Sheriff's rules of sale. Additionally, the buyer should be aware that there are circumstances, such as a legal challenge to the sale, which can result in the buyer's money being tied up in the Sheriff's Office until all disputes are resolved. This can take months and in some instances, years.

### Other Liens and Title Issues

One of the largest risks looming at a Sheriff's Sale is the existence of liens and other title issues that survive the Sheriff's Sale. The purchaser at a Sheriff's Sale takes the property subject to any liens and title issues that survive the sale. Examples include real estate taxes, some mortgages, federal tax liens, interests of owners or lien holders not served in the foreclosure proceeding, or even other estates or conditions affecting the bidder's future use of the property. Depending on the type of sale, the state of the title to the property and the presale notices provided to parties with an interest in the property, some liens and encumbrances which the bidder has no desire to accept or ability to pay may survive the sale. For these reasons, it is highly recommended that a bidder obtain a title search. An inexperienced bidder should

consult an attorney prior to bidding, at least until he or she learns more about the process. Failure to do so can have potential disastrous financial consequences.

### Property Description

In addition to providing information about the liens against a property, a title search can be used to verify the legal description of the property that is being sold. Mistakes happen. A review of a title search can verify that the property that you think you are buying is actually the property that is up for sale, and furthermore, that the foreclosing entity has a right to foreclose against that property. The title search will also assist in verifying the chain of title and allowing you to insure that any party with an interest in the property had notice of the sale.

If you have the time, effort, and money to invest in buying a property at Sheriff's Sale, you may have some success in finding a hidden gem that results in an excellent investment. To avoid any potential landmines in that purchase, however, it would be wise to obtain a title search and legal advice prior to proceeding. GRB Attorneys represent mortgage holders and municipalities in bringing Sheriff's Sale, as well as individuals pursuing the purchase of properties at Sheriff's Sale.

### *About the Author:*

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Joe practices within the Municipal Law and Municipal Tax and Creditors' Rights Groups. In his representation of Schools and Municipalities, he works extensively on behalf of municipal clients and in conjunction with a local tax servicer to pursue the collection of delinquent municipal liens, claims and taxes. In addition to providing input into the selection of cases to pursue for Sheriff's Sale, his work involves providing oversight and direction to paralegals in the preparation and monitoring of lawsuits filed to collect delinquent taxes and municipal claims pursuant to the MCTLL and the negotiation and maintenance of payment arrangements with delinquent taxpayers.

Joe works with multiple paralegals at the firm to provide notice to the delinquent taxpayers and prepare and review filings related to Sheriff's Sale filed on behalf of the firm's clients. He manages all of the firm's Sheriff's Sales and pursues each case to maximize the delinquent taxes collected for the firm's clients.



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