

## Let the Home Auction Bidder Beware

By Margaret Price (The Christian Science Monitor)

New York - If you're hoping to grab a good house potentially at a great price, you might want to beat a path to your county's courthouse. In today's dour housing market, amid the vast number of properties in foreclosure, more people are converging on courthouses or other places where such properties are auctioned. And if they've got the sharp eye and tenacity of homeowner Nancy Levin, they might dig up a gem.

When Mrs. Levin's family needed to relocate within Michigan, she took on the task of researching properties for sale. Eventually, she found a lovely three-bedroom, 3,000-square-foot home adjacent to a golf course in tony Bloomfield Hills, Mich. But because the mortgages on the home were in default, Levin eventually had to buy the house at a foreclosure auction about 18 months ago.

The process was far from simple. Among the array of issues, Levin encountered frequent postponements of the auction date, requiring her to keep an eye on the ever-changing schedule of this sale. When the auction finally occurred, Levin was duly rewarded. As the only bidder on the house, she landed the property for its opening auction price, plus \$1. All in all, the sale price was about \$120,000 less than the home's appraised value, creating what Levin dubs "an amazing deal."

But to some observers, the Levins were exceptionally fortunate. Foreclosed homes sold at auctions, a tragedy for previous owners, present a golden opportunity to others. They are also potential mine fields for the unwary.

About 40 percent of properties with a mortgage in default end up at foreclosure auctions, experts say. And if bidders haven't done their research on a property, they could find themselves landing a house riddled with problems.

For one thing, foreclosed properties may have been neglected, and the public often will have had little or no chance to inspect a property closely before the auction. Moreover, the property could contain liens for such things as unpaid taxes and association fees, some of which the buyer may have to pay. Moreover, there could be a redemption period after the foreclosure sale to be aware of. In the many states where this period exists, borrowers can redeem their property, which was sold at the foreclosure auction, by paying the amount it sold for at the



auction, plus interest.

There are other financial pressures involved. Buyers need to bring cash or a cashier's check with them to a foreclosure auction. That's because winning bidders must make down payments immediately after the auction. In fact, some states require winning bidders to pay the full sales amount the same day as the auction.

And these days, the process increasingly involves a disconcerting twist: Many properties may be worth less than the value of their outstanding mortgage.

In recent years, many homeowners obtained adjustable rate mortgages at very favorable terms. But when their mortgage rates adjusted upward, they were hit with higher payments, sometimes beyond their ability to pay. As the housing market soured, some homeowners have been unable to sell their property before the bank foreclosed.

If such properties end up on the auction block, their opening bid could be close to, or even higher than, the assessed value of the home. At the same time, many bidders are professional investors who will pass on homes where they don't foresee a profit.

### **Options to buy don't end with foreclosure auction**

"Banks have a duty to bid as much as they are owed" on an outstanding mortgage, says Ryan Slack, chief executive of PropertyShark.com, an online real estate research company in New York City. "But investors don't want to buy a property unless it's [priced] at a discount," he adds.

Indeed, at a July 13 foreclosure auction at the Queens County, N.Y., Supreme Court building, only four of the 18 properties auctioned that day attracted any bids from the public. The rest, observers said, ended up in the hands of their mortgage lender.

But the ability to obtain troubled properties doesn't end there: Some time after the lender takes title to foreclosed properties, a new selling phase typically begins. That's when banks try to shed unwanted properties – typically by selling them through a real estate agent or by offering them at a second auction.



These post-foreclosure auctions are attractive to lenders, experts say, because they can unload their mounting stocks of properties on a specific date.

Thus, “you’re seeing [post-foreclosure auctions] of 20 to 30 properties at a time, held at conference centers or hotels,” says Rick Sharga, marketing vice president at RealtyTrac Inc., a real estate information company in Irvine, Calif. “In the past, [such lenders] didn’t have enough inventory” to hold such events.

For example, the Real Estate Disposition Corp. (REDC), a real estate auction company in Irvine, held three post-foreclosure auctions for almost 300 properties in May. These auctions, taking place in San Diego, Los Angeles, and Riverside, Calif., drew some 4,000 people, all told, reports Michael Schack, senior vice president at REDC.

To critics, such mega-auctions are bad news for buyers, who often end up paying market or above-market prices for properties. But to Mr. Schack, these events don’t necessarily spark excessive bidding wars.

As some close observers note, many attendees at both foreclosure and post-foreclosure auctions are onlookers with no plans to bid. And to Schack, those who do bid often have a strategy: “They set a top price in their mind before bidding. They don’t want to go overboard on that, because they are there to get a deal.”

Proponents of post-foreclosure auctions see them as safer venues for bidders than the foreclosure auctions that preceded them. That’s because you’re buying from a lender at a post-foreclosure auction. (At a foreclosure auction, you’re buying from the official who conducts the auction.)

Auctioneer Tommy Williams, chairman and cofounder of Williams & Williams, a real estate auction company in Tulsa, Okla., lists several other advantages: Buyers get a clean, unencumbered title; they are given the opportunity to inspect the property before the auction; and they partake in a bidding set by market forces and competition rather than one in which the value of the property is based upon the size of the outstanding mortgage.

### **Some investors still prefer to snag deals early**

For his part, though, professional investor Les Lazarus likes to land deals before they disappear. Thus, he prefers initial foreclosure auctions.

“It’s like first come, first served,” holds the investor from Franklin, Tenn. “First, there’s the foreclosure auction.” Then, once the bank takes possession of the property – if it isn’t sold to a member of the public at the foreclosure auction – the bank will likely try to sell it on their own or through a real estate agent.

Then, if the property is still not sold, they’ll take it to an auction. He says, “It’s awfully hard to see something squeeze through all those steps and still be a good deal.”

Nonetheless, observers agree on at least one key point: Participants, particularly at foreclosure auctions, need to do as much research as possible on properties before showing up to bid. And, before jumping into the fray, they need to have observed several prior sales to see how the process works.

“We seldom recommend that someone buy at their first foreclosure auction,” says Mr. Sharga. “Or, if they do, they should work with a real estate professional to minimize the risk.”

### **Before you bid, prepare**

Participating in foreclosure auctions can be risky. So if you’re thinking of buying a property at a foreclosure auction, attorney Scott Tross offers several tips to make the process safer and easier. Mr. Tross, a partner in the firm of Herrick, Feinstein LLP, wrote “New Jersey Foreclosure Law and Practice,” published in 2001 by New Jersey Law Journal Books.

### **Tross suggests:**

1. To find available properties, check the “legal” section of the classified ads in local newspapers.
2. Since you’re unlikely to be able to inspect a property before a foreclosure auction, drive by it and observe it from the street.
3. Before a property is scheduled for a foreclosure auction, do a title search on it, which will reveal any existing liens on the property. As a rule of thumb, the buyer will have to pay all senior liens (those placed on the property before the lien being foreclosed upon at the auction). Senior liens may include the first mortgage on the property as well as any unpaid real estate taxes.

Junior liens (those placed on the property after the lien being foreclosed upon) will usually be extinguished by the sale and won't need to be repaid.

4. If you plan to bid on a property, bring cash or, preferably, a cashier's check. The amount must be enough to cover the down payment on the property, unless your state requires that the full sale price be paid immediately. Down payments run about 10 to 20 percent of the sale price.

5. Go to the auction knowing how high you will bid. Don't exceed that amount.

6. In many states, after you pay the down payment, you'll have a period of time – perhaps 30 days – to pay the remainder. Once you've paid in full, you'll receive the deed from the official who conducted the auction, and you'll own the property. That's the time to buy title insurance, which ensures that you'll get a clean, unencumbered title. (Note: If you don't pay on time, the property will be reauctioned, and you may lose your down payment.)