

For the Savvy Real Estate Investor: Ignorance is Not Bliss

While the country is in the throes of what many are calling a real estate driven recession, lenders nationwide have unprecedented numbers of loans in default, many of which result in foreclosure sales of the underlying real estate collateral. The large majority of North Carolina foreclosures are exercised under the *power of sale* clause in loan documents, which, bottom line, means from the start of the foreclosure process a property can come up for auction in as little as 60 days after the foreclosure is commenced. In other words, North Carolina real estate is hitting the foreclosure auction block fast and there are savvy investors out there who have ready cash in hand to take advantage of the dip in real estate prices. However, as any savvy real estate investor will tell you, bargain basement prices do not necessarily mean a good deal, so it's important that a potential buyer (i) exercises thorough due diligence by hiring the appropriate professionals and (ii) understands the foreclosure process.

Every savvy real estate investor knows that when investing in foreclosures, a potential buyer must keep in mind the term *caveat emptor*, which means "let the buyer beware." Specifically, it is the responsibility of the purchaser to thoroughly investigate a potential property before committing to a transaction. So what does a savvy real estate investor worry about when buying property in foreclosure? Generally, the list is extensive and the issues vary depending on the type of property (residential vs. commercial vs. land, etc.). For

example, a buyer interested in vacant land needs to examine the land use and zoning requirements to confirm there are no restrictions or limitations that might make the property unusable. In order to ensure adequate due diligence and catch any potential underlying issues such as the aforementioned example, a savvy investor employs the appropriate professionals to investigate the property to help evaluate whether or not the property would make a sound investment. Some of these professionals include, but are not limited to: a surveyor, an environmental inspector, a building inspector and an attorney.

A savvy real estate investor also takes the time to understand how the foreclosure process works. In North Carolina, there are several opportunities before, during and after a foreclosure sale for a buyer to make an offer to purchase property. For a potential buyer, knowing which stage of the foreclosure proceedings to make an offer can be the key to a successful (and profitable) real estate foreclosure purchase (a real estate attorney will be glad to discuss further the pros and cons of making an offer at different stages of the foreclosure process).

For example, a bidder at the foreclosure sale generally does not have the right to inspect or even step foot on the property before entering a bid to buy the property. This means that a foreclosure sale bidder is often offering to buy property *sight unseen*, which can be risky if the bidder is not intimately familiar with the property. To many savvy investors, it is critical that inspectors and

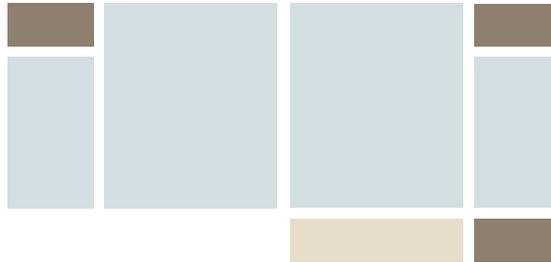
other professionals inspect the property before purchasing it. In instances like this, a savvy investor avoids bidding at the foreclosure sale and, instead, either (i) approaches the owner ahead of the foreclosure sale with an offer to purchase the property directly from the owner, often in a short sale (a short sale is where the purchase price of the property is less than the loan amount, but keep in mind the lender must consent to the sale) or (ii) hopes that the lender buys the property at the foreclosure sale, which is often (but not always!) the case, and then offers to purchase the property from the lender (in which event the savvy investor is sure to negotiate the right to send out professionals to inspect the property).

Investing in foreclosure properties can be risky, but by following the lead of a savvy real estate investor and hiring experts to perform thorough due diligence and making a commitment to understanding the foreclosure process, a buyer can be assured that he or she is making an informed decision.

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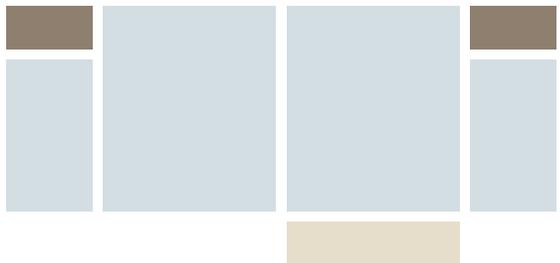
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commercial real estate development & finance + construction + title claims + environmental



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