



## Buying REO is No Cakewalk

by Tara-Nichole Nelson

*Q: I'm in the middle of buying a house that is a bank-owned foreclosure. It seems like every step of this escrow has been problematic, and I'm wondering if this is a sign that I should not buy this house. For example, we were supposed to close escrow in 30 days, but it's been more than 45 days since the listing agent told us that our offer was being accepted, and I'm just now signing documents. Now they're saying the bank still could take weeks to sign their documents. Is this normal?*

A: All across America, Realtors are hearing a low, anguished drone – like a really loud, really bad case of tinnitus. That sound is the wailing and gnashing of teeth of untold numbers of innocent home buyers in escrow, those brave (but smart) souls who have gotten past their "buyer's block" and decided to take advantage of this buyer's market. What is causing all this toil and trouble? The dramas and traumas of doing a deal with the bank: buying REO properties (foreclosed homes now owned by the bank).

### Mindset Management

If you are buying anything but a luxury home, REO listings comprise a huge proportion of the homes available for sale in almost every geographical market. So are short sales, but many buyers and Realtors simply refuse to consider short-sale listings (whether this is right is an issue for another column) because they have a relatively low probability of closing, and the elements that increase the likelihood of closing are largely out of the hands of the buyer and buyer's agent.

REOs, on the other hand, are quite likely to close but may involve some drama in the deal, so your efforts and stress are much more likely to result in you actually getting a home. Plus, if you decided to avoid all short-sale listings and all bank-owned properties, in most areas you would have few or no homes left to choose from. **So, your best bet is to get some clear expectations about buying an REO listing from the bank to minimize or eliminate unpleasant surprises during your escrow period.**

If I had to give you a single, overarching tool to manage your expectations about buying an REO listing, I would simply say to expect the worst and be pleasantly surprised if the worst doesn't happen. **Expect everything to take longer than you think it will – each signature required from the bank has to go through a corporate hierarchy of reviews and approvals at the bank itself, and sometimes also at an asset management company and/or the bank's lawyer's office.**

Expect that the bank will not negotiate on price or repairs after your offer is accepted. Expect that the bank's escrow company or closing attorneys will be inefficient and make mistakes, requiring total and complete vigilance on the part of you and your representatives.

**Go in with these expectations. Then, if you end up doing a deal with the REO listing agents and asset managers who are at the top of their game and you have a silky smooth escrow, you're golden – if you don't, at least you're not caught off guard.** In my experience, it's a crapshoot – about 50 percent of the REO transactions I've been involved in have been drama-free (more so, even, than transactions with individual sellers), and the other 50 percent have been like pulling teeth from the seller's side to get milestones achieved and the transaction closed.

Expecting a tumultuous transaction not only prevents surprises, it serves at least two other purposes. First, it will stop you from obsessing over whether your transaction is "normal" and incessantly wondering why your transaction is so rocky, trying to detect some cosmic or karmic significance of the delays and irritations that can be par for the course in REO home-buying. Secondly, it will force you to focus on the vision you are trying to manifest – the vision of your life in the home after escrow closes.

My father-in-law used to say, "A fair exchange ain't a robbery, and an even swap ain't a swindle." **When you buy an REO, you might have to exchange a little more stress than normal for what can be a better deal than you'd have otherwise gotten. Keep your eye on the prize!**

## Need-to-Knows and Dos and Don'ts

Understand this – when you buy an REO, virtually every bank/seller will require you to sign a counteroffer or addendum form by which you will agree to do the transaction on their terms. These boilerplate, non-negotiable documents shift the power balance in favor of the bank on everything except price and concessions (such as closing cost credits, etc.). For example, REO sellers almost always impose a per diem late fee on a buyer who closes escrow late, but will almost never pay even fair compensation to a buyer whose escrow closes late due to the fault of the seller or the seller's representatives. Also, REO sellers will almost never do repairs and will rarely renegotiate price or credits after inspections – so it behooves REO buyers to ask for anything they might need upfront.

Also, REO seller banks almost always convert a contingency period contract (one that requires that the buyer sign a form when they have completed their due diligence and are ready to make the deal final) into an option period contract so that if the buyer fails to proactively object within a certain number of days the buyer's deposit money is automatically rendered nonrefundable. Additionally, most states waive many disclosure requirements for banks selling REOs, as the banks have no firsthand knowledge of the history of the property.

As such, smart REO buyers obtain exhaustive inspections and really pay attention to their inspectors' reports. With that said, even the normally simple task of obtaining inspections can be a source of drama with REOs. It's common for the utilities to be shut off, and getting them back on can take time and coordination with an overwhelmed listing agent.

Unfair to you, the buyer? Yes. Want to buy an REO property? Then suck it up and live with it, just long enough to get through your escrow. And keep in mind that most REO sellers are amenable to working with first-time home buyers' programs, down-payment assistance programs, providing closing cost credits, taking 100 percent financed offers, and otherwise helping home buyers in ways that individual sellers may not, so the pros of buying an REO can be plentiful.

Bottom line – there is bound to be some unpredictability when it comes to timelines on REO transactions. Some banks, asset managers and listing agents move super-quickly – others, not so much. Most of the time, the bank selects the escrow company or holder, which is a switch from the standard practices in many states. As such, your broker may have much less control over the logistics, timing and smooth execution of the transaction than normal.

For example, in a regular deal the buyer and seller often sign simultaneously. With REO deals, the seller usually won't sign documents until the buyer has signed, and usually needs five to 10 business days after the buyer signs to sign themselves. This is normal, but can cause problems with buyers who have given notice that they are moving out of their current residence and soon-to-expire interest-rate locks on their mortgages.

I am now telling my REO buyers upfront to hold off on giving notice until the last possible moment – even if it means you have a couple of weeks of overlap in your old and new living situations, and warning them that they may have to pay for a rate-lock extension or two.

When REO transactions drag on and on because of the bank's representatives, I've heard buyers ask, "But I thought the banks want to get rid of these properties? I'm trying to take it off their hands – why don't they want to make it happen faster?"

My reply? Yes, as an institution every bank "wants" to get REO properties off of their portfolio. That is, it is a formal goal of the institution to get them sold. However, any individual transaction relies not on the motivations of the corporate entity, but on the competence, urgency and day-to-day effectiveness of a bunch of individual humans who are not always hard-wired or being compensated in a way that aligns their motivations with the speedy completion of your particular escrow. Will it get done? Probably so. How fast? Depends on the individuals involved.

In the final analysis, if you make sure you're getting a good enough deal to be worth the possible extra stress, you can come out of an REO transaction like a mom coming out of labor – feeling the effects, but knowing it was well worth it!