

Ten Things to Consider Before Purchasing Real Property at an Arizona Trustee's Foreclosure Sale

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If you are considering purchasing a home or investment property that is being foreclosed on in Arizona, you will need to attend the Trustee's sale. While many bidders have attended hundreds of foreclosure or trustee's sales, this may be your first! There are several important aspects of purchasing a property at a trustee's sale.

Make sure the sale is proceeding at the scheduled date and time

Trustee's sales are frequently postponed for a variety of reasons, such as the borrower filing bankruptcy, a pending short sale or pending reinstatement by the borrower. A postponement can occur at the last minute, so be sure to call the office of the trustee conducting the sale the morning of the sale to make sure the sale is proceeding. Many trustees also post information about the sales on their websites including cancellations, postponed dates and opening bids. The opening bid amounts must be made available to bidders at least 24 hours prior to the sale.

Have \$10,000.00 in hand

All bidders must have \$10,000.00 in either certified funds or in cash in order to appear and bid at the sale. Checks are typically payable to the trustee conducting the sale or to the foreclosing beneficiary. Contact the trustee's office ahead of time to find out payment instructions.

Property is sold as-is, without prior inspection

Understand that you are buying property without having the opportunity to see the inside of the property, or to inspect the property, prior to the sale. Properties are sold at trustee's sales as-is, and without any warranties as to the property's condition or title. If the property is a residence, you will not be able to inspect the home prior to bidding on or purchasing the property. As many homes in Arizona are abandoned prior to foreclosure, the property you are bidding on could be in a very poor condition. Buyer beware!

Obtain and review the Trustee's Sale Guaranty Report

It is critical that you obtain and carefully review a Trustee's Sale Guaranty ("TSG") prior to bidding on the property. Liens are foreclosed in a downward progression, so if a first position lien is being foreclosed, it will extinguish all junior liens and encumbrances on the property, with the exception of real property taxes. If there are unpaid property taxes at the time of the trustee's sale, the successful buyer will have to pay all outstanding taxes on the property to avoid a tax lien foreclosure and possible loss of the property. If a second position lien, such as a second mortgage or equity line of credit is being foreclosed (which occurs more often than people think) you will purchase the property subject to the first position lien, as well as and any unpaid homeowners' association

liens. You risk losing the property if those items are not paid. You can normally purchase a copy of the TSG from the trustee for \$25.00 to \$30.00 prior to the sale.

Know your bottom line purchase price

Prior to the sale, it is a good idea to have a set purchase price in mind that you will not exceed. A trustee's sale is a competitive bidding process at a live auction, and it is easier than you think to get caught up in the excitement, particularly if there are multiple people bidding on the same property. The last thing you want to do is pay more for a property than you thought it was worth because you got caught up in the moment or wanted to beat-out another bidder.

Bid increments can be pre-set by the Trustee

Don't be surprised if the trustee sets the bid increments prior to or during the sale. If there are multiple bidders at a sale, it is not unusual for a trustee to require bids to be in specific increments, such as \$500.00 or even \$1,000.00, to speed up the process. This can be done at the trustee's discretion.

Have your title vesting information ready

If you are the successful bidder at the sale, you will be asked for vesting information for the deed to transfer title. Be prepared to tell the trustee how you want title to be held, such as in a company or a trust's name. Once the trustee's deed is prepared, most trustee's will not issue a new deed in a different name. It will also be your responsibility to have the trustee's deed recorded with the county recorder's office in the county in which the property is located. The cost to record a document less than 4 pages long is normally around \$10.00.

You have to pay in full the next business day

Be prepared to deliver certified funds for the balance of the purchase price (less your \$10,000.00 bidder's check) by 5:00 p.m. on the next business day following the sale. If the full purchase price is not timely paid to the trustee, you will lose the property and will forfeit your \$10,000.00 bid. If the full purchase price is not timely paid, the trustee has the option to either re-call the sale, or to offer the property to the next highest bidder at the last bid amount made. The purchase price cannot be financed and paid over time, so be sure to have all funding arrangements – and full payment in hand - in place prior to the sale.

Think about title insurance

It is a good idea to purchase title insurance on property you buy at a trustee's sale. Many title companies will give you a discount if you give them the TSG you purchased from the trustee. Having title insurance will protect you from an undisclosed lien or encumbrance, such as an easement, which the trustee's TSG may have missed.

Vacant or occupied?

When you purchase a property at a trustee's sale, you do get legal title to and possession of the property. However, don't expect the trustee to hand you any keys to the front door. Most lenders have not secured physical possession of the property prior to the sale. You will first need to determine if the property is vacant or occupied. If the property is vacant, you may need to hire a locksmith to enter and secure the property. If the property is occupied, you will not be able to enter or secure the property, including changing the locks. Rather, you will need to initiate legal evictions proceedings to evict occupants from the property, which could take at least 20 days, and likely longer if you need to have the Sheriff remove people from the property. If there are tenants in the property you will need to determine if they are covered by the Protecting Tenants of Foreclosure act. If tenants are protected by this Act, they are entitled to receive 90 days notice prior to having to move out, and they may be entitled to remain in the property for the remainder of their lease term, provided they pay you the required rent. You should consult with an attorney prior to taking any action to enter or inspect an occupied property, and prior to removing any person or personal property from the property.

Are you ready to bid?

Purchasing a home or investment property at a trustee's sale may be a great money saving tool for you. However, do your homework, be prepared to pay the full purchase price the next business day, know what you are buying and purchase title insurance.

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