

DANGER AT MORTGAGEE AUCTIONS

- Allistar Walker

The huge increase in mortgagee sales has coincided with an increase in insurance claims arising from property damage following the auction and preceding settlement of the purchase contract.

Not so long ago it was possible for a purchaser to obtain their own additional insurance cover note from the Auction date. This type of cover wasn't available from every insurance company but could be sourced via a broker. Unfortunately this situation no longer applies. The huge increased risk from vendor or tenant damage as a result of forced sales has proved an unacceptable gamble for Insurers, who now decline to underwrite the greater risk involved.

A warning to purchasers at Mortgagee Auction

There are more fish hooks for the unwary that purchase at a mortgagee auction as compared to a non stress auction.

- **As vindictive damage** in these situations has increased it is a warning to purchasers to be careful about the price they pay. If they pay too much, the 'bargain' may not be a bargain once repairs are paid for. Purchasers can try to obtain insurance, to cover the period from auction to purchase, through an insurer they already have a relationship with. Be warned that insurer may not play ball and certainly no other insurer will.

This can leave a purchaser at a mortgagee sale in an unprotected position. Legally ownership of a property does not transfer until all conditions of sale have been met, including payment of the full amount of the purchase price; so at worst a purchaser could lose their deposit.

However, it is incumbent on the vendor to maintain a general cover on the property. This may of course not include wilful damage by the occupiers prior to settlement which could be pointed out in the Auction document. The purchaser's solicitor can obtain a current insurance certificate over the property and have your interest as Purchaser noted. It is then on the Insurer to notify any interested parties should the cover be let lapse or cancelled.

Unfortunately there is still likely to be an exposure to wilful damage where a purchaser's only resort may be through the courts, dependent on the circumstances.

- **Get legal advice.** Ask your solicitor to check through the Auction agreement and Title first. Look for clauses that may impede you. You have no right to object to any defects in Title and you will wish to ensure that any caveats will be discharged on sale or before. Otherwise they will be your responsibility.
- **Will you be able to get the occupier out?** If the property was a rent-to-buy you could find the 'tenants' thought they had rights to buy the property and be unwilling to leave. This will be your legal problem to remedy.
- **Can you inspect property prior to auction?** Removal of items, if not property damage, is not uncommon in mortgagee situations.
- Is the property sold 'as is, where is' or with vacant possession?
- **Get a Mortgage Pre-approval.** Work closely with a broker or advisor on this to ensure your pre-approval covers your situation. A broker or advisor like us will also make sure you are aware of likely pitfalls and help you manage a potential situation before it develops.

Buying a property at auction can be an awesome experience. It is not something to go into with your eyes closed but you could just steal yourself a bargain if you understand the playing field. If you are considering such a move or just want to get into property investment, please contact us to get all the help you could wish for.

Allistar Walker is a Senior Fellow of Financial Services Institute of Australasia and an accredited mortgage/insurance advisor. His full disclosure is available at www.mortgagehelp.co.nz or he can be contacted at 410 6023 and enquiry@mortgagehelp.co.nz.