

We attempt to provide you with information in the changing real estate world. This includes court decisions, recent legislation and articles that we think may interest you.

Our firm has offices in:

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Partner's Corner: **TAX ADJUSTMENTS**

Real estate transaction which close after July first and before December thirty-first present interesting issues. The important thing to bear in mind is that tax bills due on August first and November first are merely estimates for the fiscal year which ends June 30. The actual bill for the fiscal year is presented with the tax bill which comes out in January of each year.

For purchases between July first and December thirty-first, the estimated tax bill is used to determine the allocation of taxes between the Buyer and Seller. What needs to be kept in mind, however, is that the tax bill which comes out in January may dictate a different allocation, normally in the Buyer's favor, if the taxes for the property rise, as have been the case in the last few years.

The following example may be helpful. Suppose a purchase closes on August 15th, and the estimated annual taxes are \$2,000.00, based on a \$500 estimated bill which was paid on August first. The Seller is responsible for roughly half the \$500, and the Buyer for the remaining half. If the final bill in January sets the fiscal 2005 taxes at \$3,000.00, the Seller owes the Buyer some money. (\$125). Most purchase and sale agreements provide for the Seller to pay this adjusted amount, but often Buyers forget to follow through.

The lesson should be clear. If you buy after July first but before December thirty-first, make a note to check with your closing attorney when you receive the January bill. At Topkins & Bevans, we send out reminders to our affected purchasing clients. It may be a relatively small amount of money, but the Buyer is clearly entitled to the final adjustment.

TOPKINS & BEVANS—Helping you watch the pennies turn into dollars.

Mortgage Information:

Agreement Near on National Lending Bill?

Reps. Bob Ney, R-Ohio, and Paul Kanjorski, D-Pa., appear to be very close to agreeing on a bipartisan bill that would establish a national lending standard designed to protect consumers from abusive practices. The bill would pre-empt a "mish-mash" of state and local predatory lending laws that interfere with the availability of mortgage credit, Rep. Kanjorski told a Consumer Federation of America conference in Washington. He also told the consumer advocates that the bill addresses problems associated with appraisal practices, foreclosures, loan flipping, and borrower/lender dispute resolution. "I think you are going to find an interesting mix between what Bob Ney has already put out and then our attempt on the Democratic side to moderate it to meet the needs of consumers in a better way," Rep. Kanjorski said. Observers say they expect a draft of the Ney-Kanjorski bill to be circulated before the end of the year, possibly sooner. It is understood that the authors want comments from industry and consumer groups before the bill is formally introduced early next year.

Applications Fall

The Market Composite Index, an overall measure of mortgage applications, rose from 673.3 to 696.2 on a seasonally adjusted basis during the week ended Dec. 3, according to the Mortgage Bankers Association's Weekly Mortgage Applications Survey.

On an unadjusted basis, applications rose 43.8% on the week and were up 15.4% from the level of a year earlier. The Purchase Index rose from 460.3 to 490.9 on a seasonally adjusted basis, while the Refinance Index declined from 1912.3 to 1890.6. Refinancings represented 45.6% of total applications, down from 46.4% the previous week, while adjustable-rate mortgages accounted for 34.5%, the MBA said. The average contract interest rate for 30-year fixed-rate mortgages fell from 5.78% to 5.68%, and points (including the origination fee) rose from 1.25 to 1.27 for loans with 80% loan-to-value ratios, the MBA reported.

MBA Mortgage Application Survey

(Seasonally Adjusted Index Levels)

	Wk Ended Dec. 3	Wk Ended Nov. 26
Market Composite	696.2	673.3
Purchase Index	490.9	460.3
Refinance Index	1890.6	1912.3
Conventional Index	1037.7	1002.0
Government Index	126.5	124.5

Source: Mortgage Bankers Association

Rates Fall

The average 30-year fixed mortgage rate fell to 5.71% for the week ending Dec. 10 from 5.81% the previous week, according to Freddie Mac's Primary Mortgage Market Survey. The average 15-year fixed mortgage rate fell from 5.23% to 5.14%, while the average rate for one-year Treasury-indexed ARMs declined from 4.19% to 4.15%. Fees and points averaged 0.6 of a point for 15-year fixed-rate mortgages and 0.7 of a point for ARMs and 30-year FRMs. "Responding to a weak labor market report that showed November job growth to be far less than had been anticipated, long-term yields -- and that includes mortgage rates -- reversed last week's hike and fell to the previous week's level," said Frank Nothaft, Freddie Mac's chief economist. "However, many other indicators remain strong, and this we think will lead the Federal Open Market Committee to raise short-term rates another quarter point to a target of 2 1/4%, putting upward pressure on frequently adjusting ARMs." A year ago, the average 30-year and 15-year fixed rates were 6.02% and 5.36%, respectively, and the average one-year ARM rate was 3.77%, Freddie Mac said.

Freddie Mac Primary Mortgage Market Survey

(Week Ending Dec. 10, 2004)

	Avg 30-Yr FRM	Avg 15-Yr FRM	Avg 1-Yr ARM Rate

U.S.	5.71	5.14	4.15
Northeast	5.71	5.13	4.04
Southeast	5.61	5.06	3.87
North Central	5.83	5.23	4.59
Southwest	5.68	5.15	4.15
West	5.69	5.12	4.11
Source: Freddie Mac			

Jackson: Push for Zero-Down to Continue

The Bush administration will continue to push for a federally insured zero-downpayment program to provide teachers, nurses, and police officers the opportunity to own their homes, according to Housing Secretary Alfonso Jackson. "I truly believe it is in our best interest to push" for zero-downpayment legislation, the Department of Housing and Urban Development secretary told a housing conference sponsored by the National Association of Home Builders and Freddie Mac. He acknowledged that there are concerns about high default rates that stalled zero-down legislation earlier this year. "If we can make this work, you will see very little defaults," the HUD secretary predicted. As a member of JPMorgan Chase's board of directors, the secretary said he learned that most upper-income people use second mortgages to cover the downpayment on their homes. "That's a zero downpayment," he said. Mr. Jackson stressed that most low- and middle- income persons will do whatever it takes to keep their homes. "I have an abiding faith that if we can provide the opportunities for people to own their homes, they will keep those homes," the secretary said.

Default Servicing News: Late-Pay, Foreclosure Rates Dip

Residential mortgage delinquency and foreclosure rates declined in the third quarter, according to the Mortgage Bankers Association's quarterly delinquency survey. The overall percentage of home loans that were 30 or more days past due declined to 4.41%, down from 4.43% in the second quarter. The third-quarter rate was down 24 basis points from the same period in 2003. While the rate of foreclosure starts remained unchanged from that of the second quarter, the inventory of home loans in the foreclosure process declined 2 bps to 1.14%, the lowest rate since the third quarter of 2000, according to the MBA. MBA chief economist Doug Duncan said the improvement in delinquencies and foreclosures was expected. "The continued modest declines in both delinquencies and foreclosures reflect the strong pace of economic growth and its steady, modest job creation," Mr. Duncan said. "These improvements override the effects of the increased subprime and ARM shares and the aging of the young mortgage portfolio."

Technology News:

Exec: Use Tech to Enhance Customer Experience

"Leverage technology to improve the customer experience, not just the back-office."

attendees in his keynote address at the Sixth Annual Mortgage EC Conference in Las Vegas. "We spend too much time managing the business that comes through the door and spend too little effort and money acquiring new clients and improving their experience," Mr. Newman said. Though ABN Amro and its Mortgage.com division have led the way in offering one-fee mortgages and monitoring the consumer experience, he said that message applies to his company as well.

Keynoter: Online Lenders Should Reach Out

Internet lenders need to adopt new consumer-friendly policies to capitalize on the new online borrower, a keynote speaker told the 6th Annual Mortgage EC Conference Dec. 7 in Las Vegas. Catherine Muriel, chief marketing officer at E-Loan, noted that the average person spends 12.5 hours a week on the Internet and that 80% of Internet users have been on the Net for over three years. In order to attract this consumer, Ms. Muriel argued that online lenders have to provide a more detailed pre-approval letter that actually means the consumer is pre-approved, communicate more often with the consumer, and provide each consumer with a personal loan adviser for the entire lifecycle of the loan. In addition, they should give the consumer real closing fees that don't change, and keep the scheduled closing date without any adjustments, she said. "The Internet has settled and is no longer a gamble," Ms. Muriel concluded. "It's a great time to be an online lender."

What's the Next Tech Wave?

Meanwhile, panelists at the Mortgage EC Conference in Las Vegas discussed what they see as the next wave of mortgage technology. A spokesman from Nexstar Financial Corp. said paperless loan folders, Web services, and rules-based processing are the new buzzwords in mortgage technology for 2005. A representative of Fannie Mae's electronic business division offered another perspective. "There's increased emphasis on the back end of the process, workflow, and the need to eliminate re-keying," said Andreas Suma, senior manager for technology sales and consulting in Fannie's eBusiness division. "Also, new engines based on individual lender rules that go across the enterprise are what lenders are looking for." Another panelist said 25% of lenders are in the market for a new loan origination system, a situation that was deemed likely to advance new technologies like service-oriented architecture, the Mortgage Industry Standards Maintenance Organization, and the realization of a complete electronic mortgage.

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