

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:

OFFERS TO PURCHASE

The Offer to Purchase is not very well understood. Most people see it as a way to arrive at a price for real estate. There are offers, and counteroffers, and finally acceptance. Inspection follows the Offer to Purchase and then there is a Purchase and Sale Agreement. Many real estate professionals encourage the parties to sign the Offer to Purchase without consulting their attorneys. This generally works well for the Buyer, not as well for the Seller.

The reason for this difference in result stems from a case from the Massachusetts Supreme Judicial Court a few years back. In that case, the Court held, among other things, that an Offer to Purchase is a contract, enforceable in accordance with its terms. While a Purchase and Sale Agreement may have more specific terms in it, the parties are bound by the Offer to Purchase.

For Buyers, this means their \$500 or \$1,000 binder is at risk if they default. For Sellers, however, it means much more. It means that the Seller is committed to act in good faith to sell the real estate to the Buyer at the agreed upon price. It means that the Seller needs to be timely in submitting a proposed Purchase and Sale Agreement and negotiating in good faith even if a better offer is waiting.

Bottom line-----Sellers are well advised to at least run their Offer to Purchase by their attorneys before signing it. The liability is out there for careless behavior here. A knowledgeable real estate lawyer can look over your Offer to Purchase quickly and get you on the right track.

TOPKINS & BEVANS—Let our experience help you get to the right spot.

MORTGAGE NEWS:

Applications Fall

The Market Composite Index, an overall measure of mortgage applications, fell from 772.2 to 721.2 on a seasonally adjusted basis during the week ended Sept. 23, according to the Mortgage Bankers Association's Weekly Mortgage Applications Survey.

On an unadjusted basis, applications decreased 7.1% on the week and were down 0.5% from the level recorded a year earlier. The Purchase Index fell from 500.3 to 483.1 on a seasonally adjusted basis, while the Refinance Index declined from 2353.7 to 2106.6. The four-week moving average for the Purchase Index rose 0.6%, from 495.9 to 499.0, and the comparable average for the Refinance Index fell 0.9%, from 2274.3 to 2254.0. Refinancings represented 43.9% of total applications, down from 45.6% the previous week, while adjustable-rate mortgages accounted for 28.8%, the MBA said. The average contract interest rate for 30-year fixed-rate mortgages increased from 5.81% to 5.85%, and points (including the origination fee) decreased from 1.21 to 1.19 for loans with 80% loan-to-value ratios, the MBA reported.

MBA Mortgage Application Survey

(Seasonally Adjusted Index Levels)

	Wk Ended Sept. 23	Wk Ended Sept. 16
Market Composite	721.2	772.2
Purchase Index	483.1	500.3
Refinance Index	2106.6	2353.7
Conventional Index	1088.8	1160.5
Government Index	108.0	124.1
Source: Mortgage Bankers Association		

Wholesale Lending Outpaces Retail 3-1 Online

The volume of online wholesale mortgage lending exceeded that of online retail lending by nearly three to one in 2004, according to TowerGroup, a financial services research and consulting firm based in Needham, Mass. Online wholesale lending grew from 15.0% of total mortgage origination in 2001 to 20.5% last year, while retail online lending rose from 3.5% to 7.3% during the same period, TowerGroup said. The systems that support online wholesale lending -- such as website hosting, loan product and price management, and third-party settlement services -- "have become mission-critical for virtually all wholesale lenders, regardless of size," the company said. A new report by TowerGroup, "Wholesale Mortgage Lending: Online Lending Adoption, Lender Segments and Technology," looks at the growth of online lending and analyzes wholesale lending segments by lender size and product type.

ECONOMIC NEWS:

Fed: 95% of Homeowners Not Highly Leveraged

Despite the increased use of piggyback mortgages, Federal Reserve Board researchers have found that 95% of homeowners are not highly leveraged. "The results show that as of mid-2005, less than 5% of borrowers have loan-to-value ratios exceeding 90%," Fed Chairman Alan Greenspan told the American Bankers Association annual convention. He called it an "encouraging finding" that only the most recent home purchasers have high LTVs. "In addition, the LTVs for recent homebuyers appear to be lower in those states that have experienced the most explosive run-up in house prices and that, conceivably, could be at risk for the largest price reversal," he said. Nevertheless, the Fed chairman called for "ongoing scrutiny" because of the "apparent froth" in the housing markets and the increased use of interest-only and payment-option mortgages. "In the event of widespread cooling in house prices, these borrowers, and the institutions that service them, could be exposed to significant losses," Mr. Greenspan said.

New-Home Sales Down Almost 10%

New home sales declined 9.9% in August (from July's total) to a seasonally adjusted annual rate of 1.237 million units, a sign that the red-hot housing market may finally be slowing. However, compared with sales in the same month last year, new-home sales rose 6.8%. The sales figures, courtesy of the Census Bureau and the Department of Housing and Urban Development, also show that the monthly supply of new homes stood at 4.7% in August, the highest reading all year. On Monday the National Association of Realtors reported that existing-home sales increased 2% in August from July's level to 7.29 million units annualized, the second-best reading ever by the industry.



rbevans@topbev.com

www.topkinsandbevans.com

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