

Impossible situations solved professionally

NAVIGATING THE MORTGAGE PROCESS *by Andy Piver, DE Capital Mortgage*

People ask me all the time if banks are still lending money. People ARE still getting approved for financing, right? Well yes they are... but I the rules have changed. If you're serious about pursuing financing, then the best thing to do is to be informed and be ready.

The main aspects for qualification are Debt to Income, Credit, Loan to Value, and Assets. In the past if you were strong in one of the three categories you would qualify. Now you really need to have a handle on all four aspects to qualify for financing. Having an idea where you stand on each point will give you the advantage when navigating the mortgage process.

Debt to Income is the single biggest hurdle for people to qualify in this market. Basically to calculate your debt to income, just divide your monthly expenses by your monthly gross income. The expenses the lender considers are your housing expenses, (Principal & Interest, Property Taxes and Homeowners Insurance), plus the other monthly liabilities that appear on your credit report. To calculate your qualifying income, for salaried employees you take your current base salary with a two year average of bonus. This is proved with pay-stubs and W2s. For self employed it is traditionally a two year average of your Federal Income Tax Returns. If you own greater than 25% of a business the lender may require business returns also.

For conforming financing (currently \$729,000 and under) the lender would ideally like to see that your debt to income ratio is under 45%. In some cases with compensating factors you can edge up to 50%. With Jumbo loan amounts the lender will tend to use the traditional underwriting ratio of 38%.

Analyzing your credit report is also very important to qualifying. The three credit bureau's (Trans Union, Experian and Equifax) score you on a number scale that goes from 350 to 850. For financing qualification, the lender takes the middle of the three scores. Each loan program has different requirements for minimum score and your score can change the pricing depending on the

product. My advice is if you think you may have issues with late payments or other derogatory items, the more time you have to address the issue the better. The bank will also now look at inquires and will ask for explanation for any inquires in the last 2 years.

Loan to value is also a big factor in determining what programs are available. LTV is also closely tied to pricing. In the current market, the new HVCC law has taken the choice of appraiser away from the loan officer. Also, the lender will interpret the appraisers work and may counter the value depending on the circumstances. It is now important to have the knowledge of what has sold in your neighborhood. Ask a Realtor you know to do a comp search of closed sales similar to your home in the last 6 months so you know if LTV will be an issue in your circumstance.

Assets are important because it tells the lender how many months of payments you have in the bank. Ideally for most programs you would like to see 3-6 months of payments in reserves. In some loan products, the bank may require up to 50% of the loan amount. Any additional reserves can be used as a compensating factor if there is a weakness in another category.

Most lenders will ask for two months most recent bank, brokerage, and retirement statements. It is very important these days to provide complete statements to the lender. It is also important (especially on purchases) that you can explain any large deposits that would be higher than your monthly income.

My best advice to someone seriously wanting to take advantage of financing in this market is to be prepared. People get very overwhelmed by collecting paperwork. I always suggest making a file and start gathering your docs. When you get a new pay-stub or bank statement, throw it in. If you are ready with your file you will not only have a smoother, less stressful process, you will be able to take advantage of being ready to bid on the house you love and be able to lock in on a great rate.-

WETLANDS AND ENVIRONMENTAL CONSIDERATIONS FOR HAMPTONS REALTORS

by Susanna Herrmann, Environmental Planner, En-Consultants, Inc.

Although we are seeing a dramatic upswing in projects in the past six months, the types of projects and the types of questions that we are hearing from those wishing to buy or sell properties are changing. The Hamptons home buyer in this post-recession era is asking a lot of questions; they want to know everything there is to know about a property and what can be done with it before going into contract.

You probably know that construction activities on waterfront properties require wetlands permits, but these issues may not be as simple as they appear. Due diligence necessitates a visit to the local building inspector, but that might not be enough in some cases. The local municipalities may not be aware of state and county regulations, or may not be willing to comment

on regulations that are not their own. This is where the environmental consultant comes in.

Questions such as: "Can I have a pool?", "Can we have a basement here", "If I tear down the house, how big can I build?", or "Can I cut down all the trees?" are common, and the answers may involve considering Town or Village zoning setbacks and local and state wetland setbacks as well as County Health Department and Federal Regulations. Anything within 300' of tidal wetlands or 200' of freshwater wetlands will probably need wetland permits, even if the wetlands are on an adjacent property, and possibly even if the property is bulk-headed. A consultation with an environmental consultant can help answer these questions and help prevent delays or disappointment later.

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HELOC Topic

by *The Law Office of Shane Henty Sutton, P.C.*

Over the past two years, we have seen an increase in foreclosure activity and short sales. In a pre-emptive attempt to avert foreclosure, and to freeze or limit credit extended to homeowners, banks have unilaterally frozen or cancelled lines of credit which were granted to those homeowners. The result of such action impedes a homeowner's ability to access credit and monies previously extended by the bank.

The reason given by the bank to justify its action is home values have decline. The equity is no longer there which would be unrecoverable should a bank foreclose.

While this tactic may seem justified, or even prudent, it can run afoul of specific federal guidelines which govern the recession of credit granted by a bank. Specific provisions in the C.F.R (Code of Federal Regulations), dictate that a bank may only freeze a line of credit after a significant decrease in the value of a home. A significant decrease has been interpreted by the courts to be a 50% drop in value.

Accordingly, and often times, banks will agree to unfreeze a HELOC when challenged as violating these guidelines. A homeowner seeking to sell a home frequently needs access to a HELOC in order to cover expenses and costs. When a homeowner cannot access a HELOC, foreclosure may be accelerated, leaving the value of the home significantly reduced. This may affect the homeowner's ability to sell their home.

The Law Office of Shane Henty Sutton, P.C. remains available to Prudential Douglas Elliman Brokers to assist them in their transactions, and negotiate with banks to unfreeze HELOC loans, providing you the time to sell the property and obtain your commission. Any of your contacts that have suffered this action by banks, can be assisted by our office in regards to reestablishing their credit lines.

techTips 

SHORT-CUT for SOUND PROFILE

On MOST BlackBerries, if you want to change your SOUND profile from Vibrate to Normal or vice versa, just hold down the "Q" key and it will change it for you!

by *Michael Constantine*
Director of Information Technologies

PDEtitle is your in-house Title Insurance Company working exclusively with PDE agents. Our goal is to ensure that your deals get to the closing table as smooth as possible because we really understand what's at stake and have your best interest in mind. Please contact us at with any inquiries or questions at: 631.425.1027 or www.pdetitle.com.

continued WETLANDS AND ENVIRONMENTAL CONSIDERATIONS FOR HAMPTONS REALTORS

You have a Certificate of Occupancy, and a willing buyer, but there may still be unexpected roadblocks standing between you and the closing. Things to look out for include:

1. Docks and shoreline structures: Most local municipalities do not require a Certificate of Occupancy for a dock, bulkhead or jetty and there are many such structures around the area that do not have valid permits (yes, you even need permits for those docks made out of the black plastic squares!). Depending on where the property is located and when the structure was constructed, it most likely needs to have a valid permit from the New York State Department of Environmental Conservation (DEC), the Town Trustees (either Southampton or East Hampton, often even if you are in an Incorporated Village), the US Army Corps of Engineers and the Village governing body.
2. Clearing: Is all of the clearing on the property legal? The amount of clearing allowed on a property varies by municipality, overlay district and even by subdivision. In Southampton Town, the aquifer protection overlay district has very restrictive and specific clearing restrictions that vary with the size of the lot. East Hampton Town also has strict clearing restrictions. North Haven Village has clearing restrictions in one subdivision that are different from the rest of the Village.
3. Flood Zone: FEMA changed the flood zones across the country in September of 2009, changing the development restrictions dramatically in some areas, especially oceanfront and bay properties. There are some areas that were dramatically affected that are not even waterfront. Be especially careful anywhere in the Mecox Bay or Sagaponack Pond areas. Any new construction or substantial additions or renovations will trigger the entire home be elevated 2' above the FEMA designation. Many properties that I have dealt with in the last year went from able to have a basement to no basement with first floor elevations significantly above grade. Ask the surveyor to show the flood zone on the map.
4. Covenanted Natural Buffers/Scenic Easements: Most properties that have received wetland permits in the last 15 years have a covenanted non-disturbance/non-fertilization buffer imposed upon them. The covenant, or scenic easement, is filed with the Suffolk County Clerk and becomes attached to the deed. Find out ahead of time if there are any covenants on the property.
5. Lot Coverage: The amount of allowable coverage varies depending on the municipality and the zoning district. The addition that the buyer is planning may not be feasible because the property has already exceeded the allowable lot coverage. Each Town and Village calculates coverage differently. Some do not include wetland or bluff areas in the lot total, which can dramatically reduce the allowable coverage. The DEC also has a lot coverage restriction, which includes all impervious surfaces and is calculated differently than in our local municipalities. The local building departments are unlikely to inform you of these DEC requirements.
6. The Undetected Wetland: An area does not need to be wet all of the time or even to contain surface water to be considered a wetland. The presence of certain wetland plants on the property or nearby can put you within wetlands jurisdiction. Also be aware that the wetland line may not be equal to the shoreline of a water body and can extend well beyond what the surveyors mark as the high water line or shoreline. Even if the property is bulk-headed, wetland vegetation may extend onto the property or around the corners of the bulkhead. Certain wetland grasses, especially *Spartina Patens*, when mowed look like a lawn to the untrained eye. The presence of Common Reed (a.k.a. Phragmites) may or may not be considered to indicate a wetland area, depending on the soils, topography and associated vegetation. Have the wetlands delineated by a qualified environmental professional.
7. Leaking Underground Storage Tanks: This is not a waterfront issue. If you are representing a buyer, ask if there are any underground storage tanks and if there are, have them tested!
8. Septic Systems: If a buyer is planning an addition or reconstruction on the property, then there is a good chance that the existing septic system will need to be upgraded, replaced or relocated. Many properties near wetlands have a very shallow depth to groundwater, which means that the existing septic system may not meet current Suffolk County Health Department Standards or may even be sitting in groundwater. The new septic system will need to be a minimum of 2'-3' above the elevation of groundwater, which in some cases requires that the septic system be constructed above grade, necessitating a retaining wall.

Our company provides a report, which we call an "On-Site Inspection and Evaluation" which addresses these types of issues. The report can be prepared for either the property owner about to market a property, or an interested buyer. Other consulting firms in the area also offer similar services. A relatively minor financial and time investment spent bringing these issues to light can help market the property to the right buyer, and prevent wasted time and energy in the future.-