

BoeKnows Real Estate

Your Questions from Real Estate Buyers, Sellers, & Agents

By Patti Boe

Back to Basics:

Seller Financing is looking good.

Having trouble selling your home or income property? Try the velvet solution of "seller carry back". There are lots of reasons that this works in today's crazy mortgage market. For some buyers, mortgage qualifications present a challenge with the new "high bar". Until the conforming loan limit is raised, California-priced real estate is tough to finance. Welcome back Seller Financing. This will help move the ball forward and get your property sold. For Sellers, there are pros and cons. Advantages are obvious: Your home or income property gets sold. This works great as long as there is lots of equity, and the Buyer puts at least 20% down. Also, if retirement is approaching (or is here), where else can you get 6-7% interest on your money? Normally you have huge income tax gains, but this would be considered an installment sale. You would pay income tax as you receive the cash payment from the buyer-borrower.

The disadvantages for Sellers can be minimized or avoided by strategic planning. Be sure to get a minimum 20-30% down payment depending on the location and condition of the property. Have the Buyer's credit and financials checked by a professional (you could pay your mortgage broker or CPA a fee). Have a reputable title-escrow company draw up the First Note and Deed of Trust on the property and RECORD IT! I am amazed to see how many people hold notes and deeds of trust and forget to record them against the property (this is the only way to recover in case of non-payment). Always use an experienced real estate agent to write the contract, handle all the disclosures, and maintain that all important arms-length-transaction aspect.

Insist on periodic (annual) inspections of the property and also include a basic maintenance clause in the sales and financing contracts. Be sure to include an acceleration clause in the note and deed of trust (Due-on-Sale Clause). This last clause could include the possibility of extension of the note after a future sale so long as the new buyer-borrower meets all the same requirements.

The usual hazards for the Seller such as non-payment, destruction of the property, illegal activity on the premises, and undisclosed future debt can be avoided as long as the above recommendations are followed. The Department of Real Estate has a form that is great to use. It never hurts to pay your attorney to review all final contracts and loan docs prior to close.

A major advantage for the Seller is that there is no need for a 1031 Exchange. Sometimes the light at the end of the tunnel is the train. 1031 means that capital gains are deferred but not eliminated. Consult your CPA or tax attorney if you are mixing a 1031 Exchange with a Seller Carry Back or if there were previous exchanges into this property.

For the Buyer, the advantages of Seller financing are clear. There are no points or fees! The debt does not show up on your credit report nor affect your credit rating. Most importantly, the purchase does not affect your future real estate "buying power" after the close of this sale. Also, on a personal level people are much easier to deal with than large institutions or huge mortgage corporations and banks.

Always confer with professionals when deciding on the sale of one of your most valuable assets. This is definitely the climate for creativity in the real estate market. I welcome questions, comments, and your experience regarding Seller financing that we can share.

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