

# TitleTalk

## NEWS YOU CAN USE

MSC Title

December 2014



**Dear Agents and valued customers,**

Some eager buyers and investors have been looking to foreclosure properties as an option due to the lack of home inventory in certain price points. While there is often far less competition for these properties, it can be a frustrating experience for a novice buyer. In this month's newsletter, we outline the risks associated with foreclosures and answer some of the most frequently asked questions regarding these properties.

Sincerely,  
Laura Bowers, Managing Director

A red sign with white text that reads "FORECLOSURE" mounted on a white post. In the background, a house is visible under a clear blue sky.

FORECLOSURE

A white sign with red text that reads "HOME FOR SALE" mounted on a white post. In the background, a house is visible under a clear blue sky.

HOME FOR SALE

## Buyer Beware

There are many inherent risks associated with purchasing a foreclosure. First off, it's often difficult to gain access to these properties. There can also be other liens the buyer is assuming that they may not be aware of including, but not limited to:

- Past due association dues
- Past due real estate taxes
- Outstanding mortgages and IRS tax liens

Additionally, buyers have no way to perform any inspections whatsoever, so this alone is a huge risk. If a buyer is lucky enough to win a bid at a Foreclosure Sale, all funds must be paid in cash within 24 hours. Remember the buyer is bidding against the

lender and other potential buyers and it can be an unnerving ordeal, not for the faint of heart! Many times the lender ends up winning the bid and they will even bid higher than the outstanding loan on the property because they know that property values have been increasing. We've seen a marked increase in lenders investing in improving a property to fetch a higher sales price. While you should discourage your novice buyer about purchasing a foreclosed property, we hope this information will help set the expectations and best practices should they decide to participate in a Foreclosure Auction.

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## General Information on Foreclosures

### How do I tell if a property is in foreclosure?

You will see a "Lis Pendens" filed in the Official Records under the owner's name where the property is located. You may also see a "Dismissal of Lis Pendens" which indicates they have dropped the Foreclosure. A Lis Pendens simply recorded does not indicate in any way it will ever get to an actual foreclosure sale. Many times sellers decide to short sale a property or in some cases, just deed the property back to the bank.



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## **How long does it take for the foreclosure process?**

Currently, it can take anywhere from 12 to 36 months depending on circumstances. In most cases, roughly 18 months from the filing of the Lis Pendens.

## **How do I find out the date of the foreclosure sale?**

You will look to the Final Judgment of Foreclosure. (This is the document you will see filed near the end of the foreclosure and just prior to sale.) If you do not see this document, the sale date has not yet been confirmed. If you do find the Final Judgment of Foreclosure has been recorded, you will want to confirm whether or not the sale has been cancelled or postponed. Call the county courthouse and ask for the “foreclosure unit” to confirm sale date. Foreclosure Calendars can be found on-line at all local county websites which should indicate any cancellations. Very often sales do get postponed.

- Sarasota County: <http://www.sarasotaclerk.com> 941.861.7400
- Manatee County: <http://www.clerkofcircuitcourt.com> 954.734.7401
- Charlotte County: <https://www.charlotte.realforeclose.com/index.cfm> 941.637.2199

## **Can I list a property even though it is in the middle of foreclosure?**

YES. We see this all the time on Short Sales. The seller is still the legal owner of the property until the foreclosure sale is completed and a certificate of title is issued (The Certificate of Title is the Deed in a foreclosure). You should check the **foreclosure docket** to see how close the foreclosure is to being scheduled for auction. It’s important to notify the foreclosure attorney that the seller is attempting to do a short sale so they can postpone further proceedings.

## **How do I view the foreclosure docket?**

At the clerk of court’s website. This will tell you a lot about where the case is at.

- Sarasota County: <http://www.sarasotaclerk.com>  
(select “On-Line Records” then “Official Records” then “Civil Cases”)
- Manatee County: <http://www.clerkofcircuitcourt.com> (select “Court Records”)
- Charlotte County: <http://www.co.charlotte.fl.us/Default.aspx> (select “Court Records”)

## **My buyer is insistent on buying a foreclosure property. How do I know what amount the lender is owed? And how would the buyer go about purchasing a foreclosure property?**

The “Final Judgment of Foreclosure” will indicate the date the foreclosure sale is scheduled and the amount outstanding owed to the bank. This will appear in the Official Records in the county where the property is located. The Final Judgment is typically filed within 12 to 36 months from the date of the Lis Pendens. Often, the sale is cancelled and rescheduled again at a later date which can be a frustrating process for a buyer who is solely focused on that one property. A purchaser of a foreclosure should perform their due diligence and have a formal Foreclosure Search performed to ensure they know what other outstanding debts or encumbrances may affect the property. The typical Foreclosure search costs \$250.00 and takes about 7 business days to complete. Purchasing foreclosures can be *very risky* for the average buyer without proper guidance and due diligence.

Contact Laura Bowers with any additional questions you may have at: [laurabowers@msctitle.com](mailto:laurabowers@msctitle.com)

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