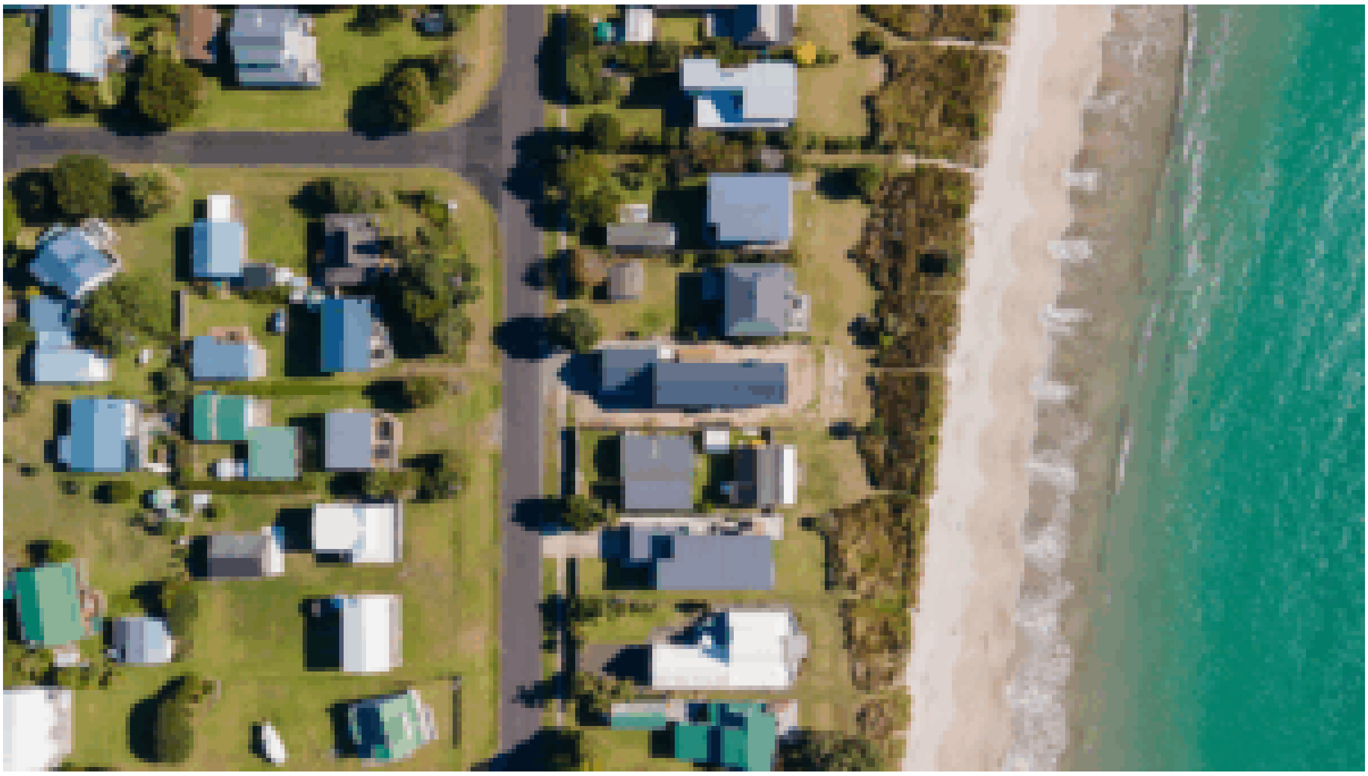

Buyer Beware – Purchasing a Mortgagee Sale

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The lower price comes as a result of the nature of the Agreement for Sale and Purchase which is substantially different from a non-mortgagee sale i.e. being sold by an individual. A mortgagee (Lender) sale agreement is usually weighted heavily in favour of the mortgagee, leaving the new buyer open to certain risks.

Mortgagee sales are usually sold on an “as is where is” basis because it is not the homeowner selling the house but the mortgagee. This often means none of the standard warranties provided by a Vendor are contained in the Agreement.

Standard warranties we would expect to see in an agreement include those relating to the condition or working order of the property and chattels (movable items like a dishwasher) and that such items are included in the sale. There has been many cases where disgruntled mortgagors damage the property or remove chattels such as light fittings in an act of defiance.

Additionally, the property is usually not offered with vacant possession meaning there can be no guarantee that the old owner or a tenant won't still be living in the property, or that their possessions may be left behind after settlement. The job of removing the previous owner or tenant or their possessions will consequently become the sole responsibility of the new owner which will likely result in additional costs.

The mortgagee is also under no obligation to provide certain information about the property such as any outstanding rates, building reports, consents or lack of. Furthermore, as the mortgagor is usually having their house sold against their will, viewings of the property will usually take place from the curb side and perspective buyers are unable to view the interior of the property.

A further consideration potential purchasers of a mortgagee sale need to be aware of is 'the danger period'. This is the period between when the Agreement becomes unconditional or is bought at auction, and when the property settles. During this time, the risk of damage to the property usually passes to the purchaser. Any damage to the property during this time is the sole responsibility of the purchaser and the mortgagor is not liable in any way. Therefore, a purchaser would need to make sure they have insurance from the date the Agreement becomes unconditional as opposed to settlement when the property officially changes hands.

There may also be practical issues involved with purchasing a house at a mortgagee sale. Often a bank will require a valuation or building report in order to obtain finance. However, if you are unable to access the property as a purchase, this obviously presents as a barrier to being able to purchase. Additionally, the mortgagor has the right to repay the mortgage at any time prior to the sale of the property on terms satisfactory to the mortgagee which means the property can be withdrawn at any time prior to settlement.

We recommend you do extensive due diligence on the property and engage a lawyer to aid with this process from the outset. Whilst a mortgagee sale may appear a bargain however, it usually does not come without a catch.

If you are thinking of purchasing a property at morgagee sale, then please get in touch with us on 07 578 2099.