

NATIONAL POST

Saturday, May 29, 2010

The caveat conundrum

The old saw 'Never go in without a conditional offer' may no longer hold

Helen Morris, National Post



When putting in an offer to buy a home, you can attach any number of conditions. In many cities it is standard to offer to buy a home subject to a satisfactory home inspection, or to make the offer conditional upon mortgage approval.

However, in a hot market such as that found in Toronto, the option to tack on a raft of conditions may not be a wise move if you really, really want that house.

"If you're looking for that perfect home that's done up [the way you want], you are going to have to pay for it -- and you can't go in with conditions," says Teresa Lorusso, sales representative, Freeman Real Estate. "I had an offer from a client for a property in the Annex; we went with two conditions: on home inspection and on financing. Our price wasn't high enough but it was [having the conditions] that killed us."

Too many buyers chasing too few homes makes it a challenging environment for purchasers.

"When you have a hot market as you do in Toronto, you are recommended by the agent to have no conditions in the offer," says Ray Leclair, real estate lawyer and vice-president, TitlePLUS at LawPRO. "If there are going to be multiple offers on the property at the same time, vendors will look at your offer in a better light if it has no conditions."

Mr. Leclair says buyers should consult their real estate lawyer so they are fully aware of the risks associated with making an offer with no conditions attached.

"Buyer beware is the rule," says Mr. Leclair, but there are ways to minimize risks.

"When you go to see the house, you could bring your home inspector with you to do an inspection. Of course you're going to be paying a home inspector to see a house you are not sure you are going to buy, so how many houses are you going to see? How many inspectors are you going to pay?"

"For financing ... they could get pre-qualified for themselves or they can maybe even prequalify [a condo] building," says Mr. Leclair.

Yes, you can prequalify a building. According to Rob Regan-Pollock, senior consultant at Invis mortgage brokerage,

"Some lenders do pre-screen real estate security and set aside a rate on a particular unit, subject to the borrower meeting qualification criteria. As such, it's a rate reservation on approved property rather than a pre-approval based on the merits of the borrower."

The building pre-screening is typically based on location, age, condition and the like.

As there is a great deal of variation in the Toronto market, you can use the law of supply and demand to your benefit, if, for example, you're looking at buying a condo. This is when it may be possible to add conditions to an offer -- as there are a good number of units on the market.

"If you're getting into a larger building where there's more inventory for sale or if you're buying through a builder, I think you have a lot of clout," says Ms. Lorusso.

The housing market is expected to cool later this year and into next year.

"Looking at the condo market particularly, the number of completions that are set to come on to the market this year and next ... should mean that sellers have to give way in terms of flexibility, in terms of conditions," says TD Economics economist Pascal Gauthier.

But Mr. Gauthier cautions that the market shift in Toronto may not be dramatic.

"We forecast that the market will transition from very tight conditions -- in other words an environment that was very favourable to sellers -- to one that is a little bit more balanced," says Mr. Gauthier. "As we head into the later part of this year, heading into next year, given the current momentum we have in listings and construction I would think that by 2011 it will be slightly favourable to buyers... [but] not dramatically so."

Mr. Leclair says local knowledge is crucial and your real estate agent will be able to advise whether an offer with conditions is likely to be accepted in your area.

Even as the market cools, Ms. Lorusso is not sure that the market will really slow enough to allow buyers to demand a raft of conditions.

"I think Toronto is a hot city," says Ms. Lorusso. "The homes that are done up, it's a battle to find them. People will pay for them [without conditions]; I don't see that changing."

© 2010 The National Post Company. All rights reserved. Unauthorized distribution, transmission or republication strictly prohibited.