

Commentary

BANKER AND BUYER BEWARE

by Dave Jeffers

If a bank or other financial institution is in the unenviable position of getting land development properties back due to foreclosure, they should be careful how that property is packaged and marketed to potential buyers.

Should the bank hang a big “Buyer Beware” sign on each development? Or should the bank do a little due diligence and prepare a simplified disclosure report for potential buyers to protect their interests? Either method can be an acceptable procedure if the potential buyer is a sophisticated buyer, meaning, for instance that he understands the difference between a general plan designation and a zoning classification (which some don’t).

But if the bank chooses to disclose some facts about the project then the buyer may be more apt to purchase.

I had an appraiser call me a couple of weeks ago to inquire about a couple of projects that my firm had entitled for a former client, but these projects were now on the path back to the bank due to my client’s inability to make payments on the land.

The appraiser proceeded to ask all of the “normal” questions about land values that you would expect from a good appraiser. After answering his normal questions he asked me if there was anything else he should know about the two projects that would help him understand their value. That was his most important question! After bending his ear for another 45 minutes, I felt he was well fortified to inform his client, the bank, about some of the less obvious facts about the projects relating to their value:

- Yes, there was a water line in the existing adjacent streets surrounding the project but the pressure in those lines would not meet fire-flow requirements for residential homes and expensive booster pumps were required to provide adequate pressure.
- Yes, the project was approved with on-site septic tanks/leach fields for each lot but the Regional Water Quality Control Board no longer allowed leach fields in this particular area because the area ground water was already at a contamination point and the only way to mitigate was to construct a very expensive reverse osmosis package plant within the project boundaries.
- Yes, the Tentative Tract Map was approved for each project almost three years ago but the County approvals were about to expire unless someone submitted a \$330 application that would extend the approval for 12 more months. If not, the bank would not have 100 residential lots anymore and would literally have to start over at the submittal phase of an expensive entitlement process.

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- Not only had the Tentative Tract Maps been approved but engineering drawings (e.g. grading, street, storm drain, water plans, and record maps) had already been completed and our client was ready to pull a grading permit. The completed engineering drawings were valued at over \$650,000!

These are but a few of the many things that a buyer and a bank should know about so that a proper value can be obtained. In this particular case, the value of the projects was not only in the land, but also, in the completed improvement plans.

Written by Dave Jeffers of David Jeffers Consulting, Inc. in Lake Forest, CA. Mr. Jeffers has been designing projects and processing them through various jurisdictions in southern California for over 28 years. If there are any questions he or his staff might be able to assist with, he can be reached at (949) 586-5778.

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