

SALES CONSIDERED FOR VALUING PROPERTIES

2008 TAX YEAR

Florida law requires that the Property Appraiser assess all property at market value as of January 1st, of every year. To accomplish this task, sales from the prior years are used in valuing properties. For example, January 1, 2008 property assessments are based on sales activity from 2007. There are three ways to value properties:

1. Market (Also commonly known as Sales Comparison)
2. Cost
3. Income, if applicable

FORECLOSURES

Foreclosure sales and other sales that are not “arms length transactions” are not considered market value. Instead Florida law requires our office to use the reasonable market price of a sale of similar homes in your neighborhood (or a similar area) sold under normal financial conditions to determine the assessment- and that disqualifies the use of foreclosure – related sales, which include transfers to and from financial institutions. While a foreclosure – related sale cannot be considered a qualified sale; our office considers the influence that multiple foreclosure sales may have on the market values.

SHORT SALES

As for short sales, they now may reflect the market based upon an October 2008 advisory opinion from the Florida Department of Revenue (DOR). Generally 2008 short sales may be considered as qualified sales for 2009 assessment purposes. Attached is the DOR Memo.

NOTE: Because a short sale may not be reflective of market vales it is not recommended to use the short sale amount in the Tax Estimator.

MEMORANDUM:

TO: Property Appraisers
FROM: James McAdams, Director
Property Tax Oversight
SUBJECT: Qualification Process Regarding Short Sales
DATE: October 10, 2008

There are presently economic conditions that have increased the frequency of transactions associated with sales under duress. While a variety of circumstances exist, a large number share the common feature of the seller selling a property for a price that is less than the outstanding debt secured by the property. These transactions have come to be known as short sales. Short sales provide a way for homeowners to avoid the formal foreclosure process and still be able to pay off their loan by settling with lender.

In a short sale the seller may:

1. Negotiate with the lender to write off the difference in the balance owed on the mortgage and that collected at closing. This offers the lender the advantage of avoiding the additional expense of foreclosing on the property. These transactions involve a great deal of due diligence on the lender's part which may include multiple appraisals on the property; or
2. Bring the difference between the balance owed on the mortgage and those funds collected at the sale to complete the transaction.

Even though either situation likely involves duress and may lead to disqualification, merely identifying a transaction as a short sale is not evidence enough for qualification decisions. It is also imperative to note, while a short sale may involve a seller under duress, it also involves the approval of a lender that has the incentive to require a market price to limit their losses. This additional circumstance to a short sale makes it particularly important to evaluate the sale beyond one involving a more traditional distressed seller situation.

As always, you must properly qualify or disqualify all sales based on the merits of each and document the reason(s) in the manner prescribed by the Department, (Florida Statutes, Section 195.0995), further guidance can also be found in The Florida Real Property Appraisal Guidelines. In addition, technical Assistance Advisement No. 08B4-006, addresses short sales as they relate to the documentary stamp tax.

If you have any questions regarding the qualification process and short sales, please contact Sue Harlan or Joel Schubert at 850.488.3338 or send email inquiries to DORPTO@dor.state.fl.us