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WHAT IS A PURCHASE MONEY MORTGAGE?

In a slow real estate market where property owners are eager but unable to sell their properties, a purchase money mortgage (PMM) may be an attractive option.

A PMM exists when the property owner/seller finances all or part of the purchase price of the property and the buyer, in turn, makes monthly mortgage payments to the seller. Essentially, the seller becomes the lender and the buyer becomes the borrower.

Both the seller and the buyer may find that entering into a PMM can be mutually beneficial. In addition to selling his/her property in a difficult real estate market, the seller will receive interest on the purchase price over the term of the PMM, provide a steady source of income to the seller during the term of the PMM and depending on the circumstances, potentially spread the capital gains tax liability over the term of the PMM. The buyer's closing costs may also be reduced significantly as the seller can waive private mortgage insurance requirements, points and other lender fees associated with traditional bank financing.

In a slow real estate market, real estate agents may be recruited by property owners and/or potential purchasers to assist in the sale or purchase of properties for which it may be difficult to obtain conventional bank financing. With knowledge about PMMs, real estate agents are in a position to suggest a PMM to the parties thereby avoiding the hurdles of conventional bank financing which results in the sale of the property and commission to the real estate agent.

Finding a competent attorney with experience in negotiating and preparing PMMs is crucial because there are many important terms which may be included in a PMM to protect the seller and/or the buyer. The attorney can also help the seller obtain a credit report on the potential buyer which will aid the seller in making an informed decision about whether or not to enter into a PMM with the potential buyer. After a PMM is executed, the seller's attorney will immediately file the mortgage with the county clerk's office to ensure the seller is the first lien holder in the event the buyer defaults and the seller must foreclose on the property.

Economists anticipate that the drop in home sales will continue well into 2008 due to the collapse of sub-prime mortgages, which forced higher credit costs and lending restrictions, as well as other factors. However, property owners can appeal to buyers by offering a PMM. The Law Offices of James G. Dibbini has the experience in negotiating and preparing PMMs to ensure that deals go through. For legal representation of your sellers or buyers or for more information regarding PMMs or other options available to buyers and sellers in a slow real estate market, please do not hesitate to contact our office.

Disclaimer: The information provided is not intended to be legal advice, but merely conveys general information related to legal issues commonly encountered.

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