

IAAO SALES VERIFICATION & FORECLOSURE OUTLINE

1. Introduction

The purpose of this paper is to provide a draft foreclosure outline for IAAO. This outline is being driven by the recent large increase in foreclosures. The National Association of Counties (NACo) recently surveyed large urban jurisdictions with populations over 500,000 parcels (Foreclosure Survey Report June 2008) regarding the economic impact of the recent increase in the number of foreclosures. Twenty-Five jurisdictions responded. Some of their findings provide important insight into why IAAO and its membership see this as such a critical issue:

- 96% of responding counties saw an increase in foreclosures during the last year;
- 64% report increases of up to 50% over last year;
- 36% report increases of from 50% up to 100% over last year;
- 56% anticipate that foreclosures will continue to increase;
- 56% report that foreclosures have created a decline in housing values;
- 44% say that foreclosures were not the reason for the decline in housing values;
- 52% report that they are experiencing revenue shortfalls because of either foreclosures or declining housing values;
- 52% will not be able to offset revenue shortfalls with other county revenues.

In the past foreclosure related sales often were excluded from market modeling, comparable sales analysis and sales ratio studies because they are typically made under duress and the volume was insignificant. However conditions in the current market are such that it is important to take a closer look.

This outline will be used as a guide for IAAO to develop a Standard on Sales Verification. Along with previous and current research it will potentially be used to update the 2003 Standard on Automated Valuation Models (AVMs), expand the current IAAO Standard on Ratio Analysis (2008), and serve as a guide for future texts on appraisal and assessment administration. It will also be used by IAAO staff to respond to member and public requests for a description of IAAO's position on foreclosures and foreclosure related sales issues. The paper will provide:

- A description of foreclosure related sales and processes
- A description of the various types of foreclosure related sales
- A description of the sales verification process

1.1 Foreclosure and Foreclosure Related Sales

A foreclosure is a process and not a sale. Black's Law Dictionary 1999 defines foreclosure as:

A legal proceeding to terminate a mortgagor's interest in property, instituted by the lender (the mortgagee) either to gain title or to force a sale in order to satisfy the unpaid debt secured by the property.

A number of different types of sales may occur during the foreclosure process. These are foreclosure related sales and are the focus of this paper. Foreclosure related sales may occur throughout the foreclosure process (see the section titled: 4. Sales Verification during the Foreclosure Process).

Foreclosure related sales must be carefully examined and evaluated to determine if they need to be removed from potential use as comparable sales that may be used for valuation or the pool of sales for computer assisted mass appraisal (CAMA) or automated valuation model (AVM) modeling and sales ratio studies. Foreclosures are complex legal processes requiring that property transfers associated with them be carefully evaluated to determine if and how the sale price might be used.

1.2 Historical Foreclosure Related Sales Processing

Foreclosure related sales are typically discarded during the sales verification/validation process, especially when there are a small number of them in a jurisdiction. It may be possible for a foreclosure related sale to be adjusted to reflect a more typical (conventional) fair market transaction. Forgery, Rutherford, and VanBuskirk (1994); published a method to adjust residential property foreclosure related sales which was subsequently revised to adjust for location and other items by Carroll, Clauretje, and Neill (1997); and Hardin III and Wolverton (1999) published a method for adjusting apartment investment properties using income data. More current research is currently in progress which may further support adjusting foreclosure related sales for valuation and ratio studies.

1.3 Foreclosure Related Sales Issues

In a highly depressed market where there are far fewer traditional market-driven arms-length sales and a significant number of foreclosure related sales, foreclosure related sales may need to be evaluated and wherever possible adjusted and used in the valuation modeling and sales ratio analysis processes. When foreclosure related sales are numerous, their impact should be evaluated to determine:

- If their affect on the local area is such that they pull down the values of other sales and values in the area, or
- If they are the only properties selling in that area.

Under these conditions foreclosure related sales may be so numerous that traditional market-driven arms-length sellers in an area are forced to lower their prices in order to sell their property. The appraiser or assessor must determine whether foreclosure related sales can be used for valuation modeling or sales ratio analysis especially when they drive the market. The valuation process must also be subject to appraisal and assessment guidelines established by the Uniform Standards of Professional Appraisal Practice (USPAP) and state or provincial legislation and regulations.

Foreclosure related sale verification needs to determine how the mortgagor returns the property to the mortgagee, the condition in which the property was returned, and exactly where in the foreclosure process they sold. A foreclosure related sale needs to be analyzed for unusual circumstances.

A voluntary transfer of the property back to the lender is likely to take less time which would reduce holding costs. A voluntary transfer is also less likely to be stripped or vandalized.

Foreclosed properties may be stripped and/or otherwise vandalized before it is returned to the mortgagee. Therefore it is important to verify the condition at the time of sale.

Finally, it is important to evaluate where in the foreclosure process the sale occurred to determine if and how that sale might be used.

2. Overview of the Real Estate Foreclosure Process

Foreclosure is a legal process that allows the lender to force the sale of a property, generally through a public auction, due to non-payment of a loan that is secured by that property. In some cases the lender retakes ownership of the property and is then allowed to sell the property in order to recover the outstanding amount and related costs.

2.1 Foreclosure Practices Vary Widely by Law and Custom

The foreclosure process is governed by the laws of each government (see Appendix A, U.S. and Canada Foreclosure Practice Summary). The legal requirements tend to vary widely including:

- Whether foreclosure is a judicial process, a non-judicial process, or either (it is usually judicial in the U.S. and usually non-judicial in Canada);

- Where either option is available, custom often dictates the process;
- Whether a public notice is required (a public notice is required in the U.S., while it is not required in Canada);
- The period of the notice;
- The time until the property is either transferred to the lender or auctioned;
- Whether and how the property can be redeemed;
- Whether and how there can be a recapture of any deficiency; and
- Whether and how the sale price in excess of the loan, if any, is distributed.

Most states and provinces permit both judicial and non-judicial processes. By custom most foreclosures in the United States use a judicial process while most use a non-judicial process in Canada.

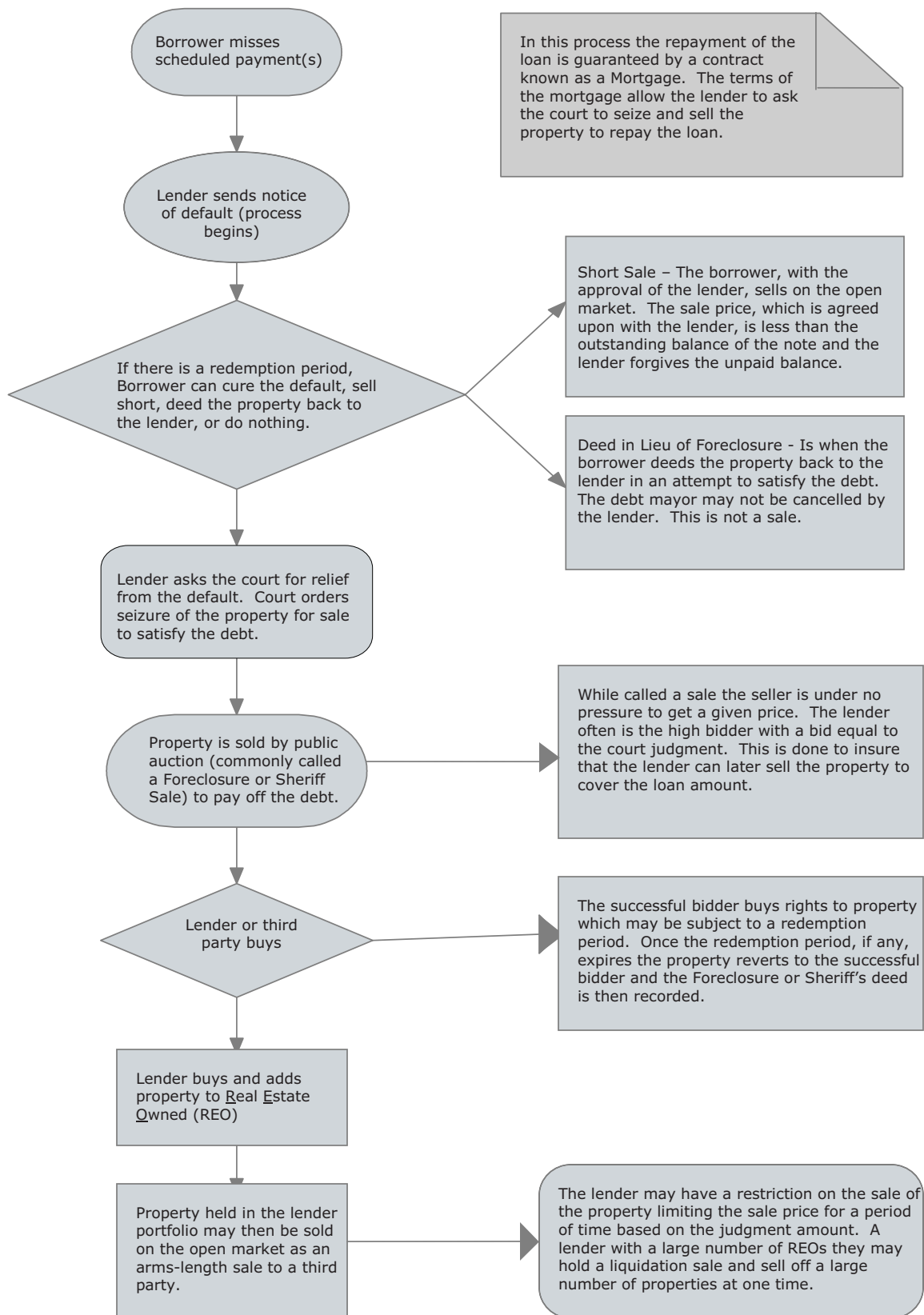
2.2 Judicial and Non-judicial Foreclosure Processes

A foreclosure can be either judicial (see figure 1, Judicial Foreclosure Process Overview) or non-judicial (see figure 2, Non-judicial Foreclosure Process Overview). The real estate foreclosure process begins when a borrower/mortgagor defaults on loan payments, in this case, mortgage payments. The first step is for the lender to issue a notice of default. This may range from a simple notification to the owner of pending foreclosure actions to a publicly recorded and posted notice of the pending legal action against the property owner. A notice alerts the owner, mortgagor, potential buyers, lenders, and other interested parties of the pending legal action.

In a judicial process a public notice is usually required. In a non-judicial process the notice may only be sent to parties related to the transaction.

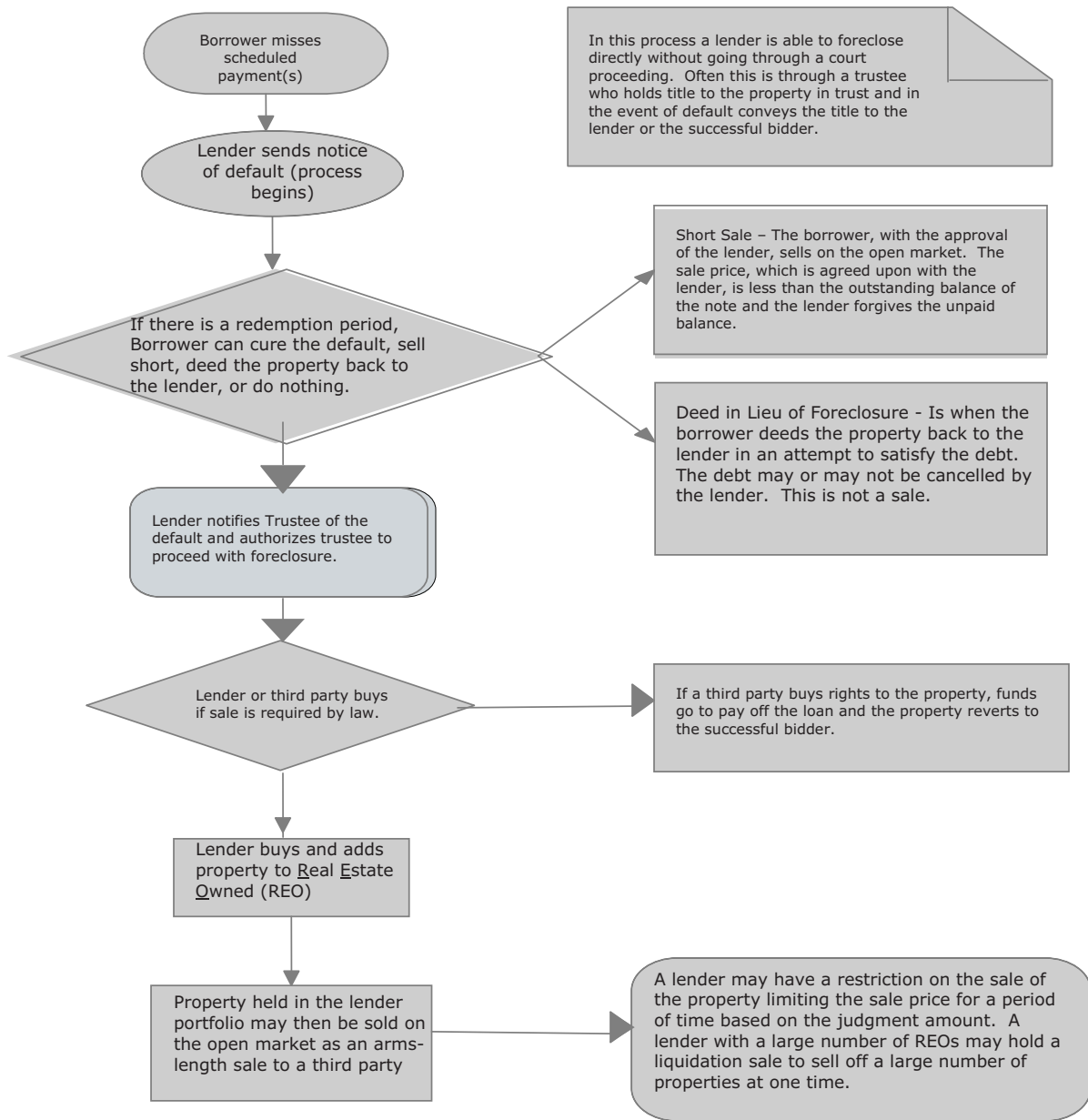
In a judicial process the auction date may be set at a formal hearing after the borrower is found to be in default. In most cases the court issues a judgment which is the sum of the unpaid loan, interest, and court costs and the lender will bid this amount to establish its claim in the future. In a non-judicial process the auction date may be set by the mortgagee based on the mortgage contract. The notice usually includes the foreclosure and auction dates (usually the same) and the time and term of the auction. The property owner is also notified prior to the foreclosure and auction.

The foreclosure auction or sale is the event when the property is sold to the highest bidder. The notice of the pending foreclosure auction or sale is published for a period as required by law prior to the sale. Upon completion of the redemption period, if any, the successful bidder (frequently the lender) will either receive a deed or payment of the amount of the successful final bid, plus interest and applicable fees. The assessor is not typically notified of this transaction until a new deed or sale instrument is filed.



Judicial Foreclosure Process Overview

Figure 1



Non-judicial Foreclosure Process Overview

Figure 2

After the completion of the foreclosure process the lender/ mortgagee either has title to the property or the funds from its sale. If the lending institution is the successful bidder, the property becomes a lender asset called a REO after which it may be marketed through conventional sales processes.

Foreclosure related sales processing is described more comprehensively in the section titled: 4. Sales Verification during the Foreclosure Process. Sales verification including screening and validation are described in the following section.

3. Overview of the Sales Verification Process

The purpose of sales verification is to determine whether or not a sale meets the definition of an arm's-length transaction.

An arm's-length transaction is one in which both the buyer and the seller are acting prudently, and the sale price is not affected by undue stimulus. Neither the buyer nor the seller must be under great pressure to complete a transaction in a short time. The sale is between two or more parties, all of whom are knowledgeable about the real estate market, the present and potential uses of the property, and are acting in their own best interests. The property is exposed to the open market for a time that is typical of the turnover time for that market and property type. Payment for the property is in cash or typical of normal financing and payment arrangements prevalent in the market for the type of property involved. Additionally, the price paid represents a normal consideration for the property sold unaffected by special financing amounts and/or terms, services, fees, costs, or credits incurred in the transaction.

Arm's-length sales should be included in market modeling, comparable sales analysis and sales ratio studies. Non-arm's-length sales should be excluded. The exception being if the sale price can be properly adjusted based on the terms or conditions of the sale.

The IAAO Standard on Ratio Studies (2007) Appendix A.4, Screening Sales states that an objective of sales screening is "to ensure that sales are excluded from the ratio study only with good cause (e.g., when they compromise the validity of the study)". This helps to insure that the sales used accurately represent the relevant market characteristics and economic conditions.

3.1 Foreclosure-related sales Verification Practice Overview

Many states and provinces require real estate agents or parties to the transaction to file a sales verification form with the recordation, registration, or assessment office. This practice should be encouraged as it provides a powerful tool for

sales validation. These forms should be evaluated in order to determine if a sale may be used for modeling, valuation or sales ratio analysis.

Sales of commercial, industrial, apartment, and agricultural properties are verified through an individual process that includes contacting the parties involved in the transaction, typically the buyer, and asking a series of questions to determine if the sale meets the definition of an arm's-length transaction.

Residential, condominium, and small multi-family sales can be verified this way as well. However, they can also be screened on a mass basis by computer or by clerical staff because of limited resources. Mass basis screening involves reviewing the transfer instruments and eliminating any obvious non-arm's-length sales, such as sheriff deeds or grantors and grantees that are related parties.

3.2 Foreclosure-related sales as "Arms-Length" Transactions

Properties that transfer during the foreclosure process usually do not meet the definition of an arm's-length transaction. The IAAO Standard on Ratio Studies (2007), A.4.1 Sales Generally Invalid for Ratio Studies identifies the eight (8) types of sales generally invalid for Ratio Studies. Two of the types of transactions identified are typically related to foreclosures:

- #3 - Sales involving financial institutions. A sale in which the lien holder is the buyer can be in lieu of a foreclosure or a judgment and the sale price can equal the loan balance only.
- #6 - Forced Sales. Such sales include those resulting from a judicial order. The seller in such cases is usually a sheriff, receiver, or other court officer.

Those transfers during the foreclosure process that do not meet the definition of arm's-length transactions need to be omitted from the market modeling, comparable sales analysis and sales ratio studies. This includes:

- Sales to avoid foreclosure
- Sales involving legal actions such as court-ordered foreclosures and bankruptcies.
- Financial institution sales not exposed to the market. (Note: If the lending institution is only trying to recover their investment in the property, the sale should be rejected. Re-sales of repossessed property may be considered for use in the study if the sale meets the arm's-length test after proper analysis.)
- Sales of doubtful title or other non-arm's-length transactions that are atypical transactions.
- HUD and VA transfers or HUD and VA re-sales.

3.3 Other Verification Issues

Foreclosure-related sales verification requires special attention to detail.

3.3.1 Physical Condition

The physical condition of the property at the time of sale compared to the condition on the assessment date must be established. The IAAO Standard on Ratio Studies (2007) states “physical characteristics of the property on the date of assessment must be the same as those on the date of sale. Properties with significant differences in these factors should be excluded from the ratio study.” This factor in sale verification is critical in foreclosure-related transactions because of the varying physical conditions of the structures at the time of sale.

Damaged improvements may require that consideration be given to the property’s rapid change in condition before it is revalued. Many jurisdictions also have zoning or land use policies that require non-conforming structures be made to conform if the dollar amount of the damage exceeds a certain amount or percentage of total value. For example, some jurisdictions may require extensive repair before it can be occupied or may not even allow the improvements to be repaired.

3.3.2 Time on the Market

It is important to consider the amount of time that the property is exposed to the open market. A sale is more likely to be arm’s-length if the time on the market is long enough to truly be exposed to that market. Extra vigilance is necessary in this analysis. Time on the market can be manipulated by closing and re-listing a property. Also one must recognize that other factors, such as a reasonable asking price and the desirability of the property may influence how long a property is on the market.

3.3.3 Number and Percent Foreclosed Sales in the Market Area

In addition, the market area should be analyzed to determine if there are a substantial percentage of foreclosure-related sales. Foreclosure-related transactions can become so prevalent in some neighborhoods that they strongly influence the market. The principle of substitution, says that, “an informed buyer will not pay more for a property, than a comparable substitute.” Market asking prices and sale prices are set with this principle in mind. Thus assessment values will exceed asking prices if all foreclosure-related sales are just ignored.

3.3.4 The Difficulty of Verifying Many Sales with Limited Resources

The only way to be certain whether or not to include these transactions is to conduct detailed sales verifications.

It takes time and resources to verify sales. Interviewing the parties related to the sale is not always possible. It may be difficult or impossible to get the parties of each sale to share information. It is also difficult to gain access for interior inspections. Often the exterior appears in average condition.

Foreclosure-related sales should not be used if they cannot be adequately verified as valid arm's-length transactions.

3.4 Non-Traditional Sources of Foreclosure Sale information

Early discovery of potential foreclosures may make it easier for jurisdictions to be more proactive in responding to a significant increase in foreclosure-related sales. Early discovery may better prepare assessors to proactively incorporate foreclosure-related sales in their market analysis and appraisal activities. Earlier foreclosure knowledge may also make it possible for the assessor to report increased activity to other government agencies so that they can effectively prepare for the effects of a down-market instead of having to react to it after the fact.

3.4.1 Lenders

Some of the information helpful in evaluating the potential use of foreclosure sales is best obtained from lenders. An on-going relationship with local lenders will not only provide valuable information on foreclosure-related sales, but may also provide more timely information than gained from published sources.

Lenders are in the best position to know many important facts concerning foreclosure-related transactions, including:

- If it was voluntary or involuntary;
- What caused the situation;
- What is the loan balance;
- If an appraisal was prepared;
- If there was a short sale;
- What the condition of the property was at the time of the sale;
- Whether there was any indication of flipping;
- How long the property was exposed to the open market;
- Whether they believed it was a fair market sale price and why;
- Whether they recovered all of their equity and costs.

3.4.2 Utility Companies or Government Utilities

Utility companies and government utilities are aware of properties which have turned off their utilities. In addition, meter readers may be a good source of condition information or at least that the property should be visited.

3.4.3 Code Enforcement Agencies

Code enforcement agencies receive complaints about many problem properties that are not being maintained. Their field staff may also be a good source of condition information or at least that the property should be visited.

3.4.4 Non-traditional Volunteer Sources

There are other non-traditional volunteer sources that may be able to provide information that may help assessors and government agencies to get information about foreclosure-related sales. These include Neighborhood Watch Groups, delivery services such as meals-on-wheels, police reports of vandalism, and religious organizations. This list is only meant to stimulate your thinking. There may be additional sources that will work in various jurisdictions.

4. Sales Verification during the Foreclosure Process

Foreclosure related sales should be verified for signs of duress to determine if they are an “arm’s-length transaction” and can be used for modeling, valuation, or ratio analysis. Properties that sell/transfer during the foreclosure process fall into one of three categories based on the time period when they sold. The categories are Pre-Foreclosure, Foreclosure or Sheriff’s Sale, and Post-Foreclosure.

4.1 Pre-Foreclosure Sales

Pre-Foreclosure Sales typically, but not always, occur prior to the Foreclosure or Sheriff’s Sale. Pre-Foreclosure Sales include:

4.1.1 Normal Third-Party Sales

These are very common sales where the loans against the property are in some stage of default and the amount owed is less than the value of the property. These sales typically, but not necessarily, occur before the Foreclosure or Sheriff’s Sale. The parties are selling to avoid a formal foreclosure process and losing equity and credit standing. These types of sales happen often and typically have been listed for sale and meet the definition of open market and arm’s-length transactions. Verification via clerical screening of these sales would not indicate anything out of the norm and the sale would go through the process unnoticed. Therefore, these sales should be included in the sales ratio analysis provided that no conditions of undue duress are evident. They also can be used as part of future valuation cycles in the calibration of models and sale proxies in comparable sales analysis.

The following items may indicate the presence of duress:

- Indication that there was not a third party marketing agent (Sold by Owner).
- Time on market compared to similar property in the same market area is very short.
- “AS IS” sales or sales with a listing clause concerning buyer’s inspection and repairs.
- Listings that do not allow any contingencies or require quick closing date.

Even if there is no apparent duress, the sale verifier should compare the sales price to other open market arm's-length transactions to see if the sales price falls in the appropriate value range.

4.1.2 Short Sales

A short sale, sometimes referred to as a discounted payoff, is the sale of real estate where the total purchase price is less than the total amount owed against the real estate. The lender/bank is thus accepting less than the total amount owed by the borrower.

The property is at some stage of the default process, possibly, but not necessarily, before the Foreclosure or Sheriff's Sale. The total purchase price is less than the mortgage amount, but not necessarily less than the value that would likely be obtained in an open market, arm's-length transaction. In a pre-foreclosure scenario, the parties are selling to avoid a formal foreclosure process. In the case of a post-foreclosure short sale the seller is selling to reduce the potential deficiency which occurs when the lender sells the property.

The clerical screening of this type of sale probably would not result in anything out of the ordinary, as the seller named is the seller and the buyer named is the buyer and there is no indication of bank/lending institution involvement. Further individual verification using Multiple Listing Service (MLS) data or interviewing the selling agent could identify a Short Sale as the listing usually includes a comment, such as, sale needs third party approval, or upon approval from lender, indicating that a bank/lending institution is also involved.

Even with this knowledge, the sale verifier should do a sales comparison market grid to compare the sales price to other open market arm's-length transactions to see if the sales price falls in the value range.

If these sales are found to be arm's-length transactions, they should be included in the sales ratio analysis provided that no conditions of undue duress are evident. They also can be used as part of future valuation cycles in the calibration of models and sale proxies in comparable sales analysis.

4.1.3 Deed in Lieu of Foreclosure

Sometimes referred to as a "soft sale," this transaction occurs when the mortgagee and the mortgagor have agreed that "in lieu" of being foreclosed upon; the seller gives the deed to the lender. The property is typically transferred via warranty deed and the total purchase price is the amount of the loan in default, plus associated fees. The property then becomes the lender's property, without the lender having to incur the costs and time associated with going through the foreclosure process. Because the sale is not exposed to open market it should not be used for sales ratio, calibration or sale proxies in comparable sales analysis. It will show up during the clerical screening as a transfer to a lender or loan service company.

4.1.4 Pre-Foreclosure with Stabilization

With rental property the lender may request the management of the property be changed to increase occupancy and enhance the marketability of the property and will delay the foreclosure process if the owner honors the request. Once the cash flow is stabilized the property is then sold or the note recast. This avoids formal foreclosure and reduces the deficit exposure. The sale can be used as part of future valuation cycles in the calibration of models and sale proxies in comparable sales analysis if the sale price and income and expenses fall into the expected range for the property type.

4.1.5 Pre-Foreclosure with Deficit Cure

If the mortgage covers multiple parcels or a parcel which can be legally divided the lender may approve a sale of part of the encumbered assets with the proceeds used to cure the deficit on the balance of the loan. This is hard to detect because unless you know about the mortgage it appears as a straight transfer or parcel split. These types of Pre-Foreclosure Sales can be caught during screening by checking to see if the parcel has a mortgage release and if it is releasing only part of the mortgage. These sales can be used as part of future valuation cycles in the calibration of models and sale proxies in comparable sales analysis if the sale price is in expected range for the property type.

4.2 Foreclosure Sale or Sheriff's Sale

This is an auction, where the property is sold to the highest bidder. In most cases the highest bidder is the bank/lender and the bid amount is the sum of the defaulted loan, plus interest and associated fees. In some jurisdictions even though there is a disclosure requirement, no sales instrument may be recorded.

Because the bank will bid up to the amount of the note plus fees and interest the sale price might be more than current market value. The sale may be considered valid if the sale is well attended and the purchase is made by a party other than

the lender. Therefore the sale can be used as part of future valuation cycles in the calibration of models and sale proxies in comparable sales analysis if the sale price is in expected range for the property type.

4.3 Post-Foreclosure

Post-Foreclosure sales can occur in jurisdictions where there is a redemption period. It is very rare for a property which is post-foreclosure to sell and close before the end of the redemption period. An exception would be a lender (successful bidder)-approved short sale.

4.3.1 Bank Sales

In bank sales, a bank or other financial institution is listed as the seller. In these cases, the bank acquired the property through foreclosure and the property is considered to be Real Estate Owned (REO) by a bank. The bank may sell these properties on an individual basis or as part of a group at auction (see below). Clerical screening would indicate that the seller is a bank or financial institution. In many states the amount that the lender can sell the property for is limited by the fact that the lender cannot put themselves in a better position than they would have been if the loan had been paid off. This can lead to an asking price below the market.

4.3.2 Auction Sales (Not to be confused with the Foreclosure or Sheriff's Sale)

This section specifically refers to those auctions where a bank or lending institution is selling off multiple properties. These are a subset of the bank sales above. These auctions may have from one to dozens of properties available. The terms could be an absolute auction or a reserved bid.

Typically, these sales are not considered to be an accurate reflection of market value. However, it is possible that when many properties in a sub-market or neighborhood are auctioned that auction sales then become the market.

The IAAO Standard on Ratio Studies (2007) A.4.2.5 Sales with Special Conditions states that: "Auctions. In general, auction sales of real estate tend to be at the lower end of the price spectrum. Auction sales that have been well-advertised and well-attended may be valid for consideration in ratio studies. The seller also must have the option to set a minimum bid on the property or the right of refusal on all bids (with reserve) in order for the sale to be considered valid."

A distinction also needs to be made between typical farm or estate auction sales and bank auction sales. Farm and estate auction sales tend to be advertised and knowledgeable buyers and sellers and possibly a real estate broker/agent is involved in the transaction. Quite often, farm auction sales will be considered arms-length transactions for modeling, valuation and ratio studies while estate

auction sales are less likely to qualify.

Bank auction sales tend to be similar to any other bank sale where the bank wants to "get the property off its books" and will consider all offers whether they reflect market value or not. Any auction sales that may be considered valid for the current sales MUST be verified by the appraiser to determine if the sale meets the criteria of an arm's-length transaction. In many instances, auction sales will not meet the arm's-length criteria since the seller may be forced to sell the property to close an estate, or in the case of bank property, close out the loan transaction. In many instances, the exposure time is very limited and the sale price does not reflect typical market value.

As a general rule, all auction sales should be verified to determine whether the sale is an "arm's-length transaction" and that the sale price is typical for that area. For all auction sales, a verification form should be attached to explain how and why the determination was made that the auction sale was considered by the jurisdiction as a good sale or why the sale should be rejected from the study.

5. Conclusions

The recent large increase in foreclosures has resulted in renewed interest in evaluating foreclosure related sales for modeling, valuation, and sales ratio analysis. In many cases there are sufficient foreclosure related sales such that it may be possible to determine the resulting discount between arms-length and foreclosure related sales so they can be used. In other cases the number of foreclosure related sales may force all sellers in a market area to discount their property in order to compete. We have referenced several papers that describe how foreclosure related sales might be adjusted. In addition, the Research Committee is working on a case study (as are others) to determine how foreclosure related sales might be used.

As with any other sale, it is critical that foreclosure related sales be properly verified to determine which, if any, can be used in modeling, valuation, or ratio studies. The special conditions of a foreclosure related sale require that additional information be collected and reviewed in the verification process before they can be used.

Since public notification of the foreclosure process usually begins with an auction notice, it is difficult for assessors to be very proactive. Initially distressed sales that occur during the foreclosure process but prior to the auction are difficult to detect and may just be low value outliers that get discarded in the modeling or ratio study process. In cases of fraud, assessors may get some indication if there is flipping but again this is pretty much after the fact.

Verifying property condition at the time of sale is not as critical in typical sales. However, stripping and vandalism are far more prevalent among foreclosure related sales. Assessors may need additional resources to verify condition at the time of sale for foreclosure related sales unless they are in a position to use non-traditional methods of discovery and data collection.

The private nature of the early stages of the current foreclosure process makes it difficult for the assessor to get in front of a downward trending market. In order to get information earlier, there would need to be legislation requiring lenders to disclose at least how many (and perhaps which) properties are in the process of being foreclosed along with the information required for sales verification. Assessors need to develop non-traditional relationships with other agencies such as utilities and code compliance agencies to get information earlier on foreclosures and property condition. Otherwise, public officials must depend on developing informal relationships with key lenders in their own area and get anecdotal information until public notices are posted.

Earlier studies cited in this outline provide a pretty good indication that foreclosure related sales may be used for modeling valuation and ratio studies. IAAO and others are doing additional case studies which should support this conclusion and provide additional input on how it is best accomplished.

Sales verification is required for any use of sales for modeling, valuation, or ratio studies. However, if foreclosure related sales are to be used, it is critical that additional information be collected to determine if the sale can possibly be adjusted and used. Therefore, we would strongly recommend that IAAO update the current Ratio Standard to include the use of Foreclosure Related Sales and either update the Ratio Standard for Sales Verification or develop a separate Standard on Sales Verification. The revisions or standard needs to be developed quickly so that foreclosure related sales used in the current studies are properly verified such that the results can be relied upon.

Once the standard has been revised or a new standard created, IAAO texts, courses, and other materials will need to be updated to reflect the new standards.

6. References and Standards

IAAO Standard on Ratio Analysis (2007)

IAAO Standard on Automated Valuation Models (AVMs) (2003)

Minnesota Association of Assessing Officers and Minnesota Department of Revenue *Joint Advisory: The current residential real estate foreclosure situation and how it relates to sales verification, sales ratio studies, and the assessment process* (2008)

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7. Acknowledgements

Minnesota Association of Assessing Officers and Minnesota Department of Revenue *Joint Advisory: The current residential real estate foreclosure situation and how it relates to sales verification, sales ratio studies, and the assessment process* (2008)

Research Committee:

Bill Wadsworth, Chair

August Dettbarn

Scott Winter

Gary McCabe

Colin Fraser

Hal Holmquist

Mary Odom, IAAO Liaison and Librarian

Pete Davis

Rollie Ehm

Ron Gibbs

Rich Almy

Ken Eckstein

Bob Gloudemans

Michael Lomax

Carl Stevens

Nancy Tomberlin

U.S. and Canada Foreclosure Practice Summary

State	Security Instrument	Done through Court System	Non-Judicial	Public Notice	Time Frame	Redemption Period	Deficiency Recapture
	The type of document (either a Mortgage or a Trust Deed) used to secure the debt on a real property	A foreclosure process where the lender must file a lawsuit against the borrower to obtain a court order to foreclose on a Mortgage or Deed of Trust	A foreclosure process where a third party has the power of sale to foreclose on a Trust Deed document, through public notices.	The first type of document that must be made public by the foreclosing lender to start the foreclosure process.	The amount of time it takes from the first public foreclosure notice until the property goes to sale at public auction.	Where available, the amount of time the owner has to redeem (purchase) their property back after it was sold at public auction.	When available, the lender (or borrower) may have the right to file a lawsuit and receive a judgment if there was a loss of money from the public auction sale.
Alabama	Mortgage / Trust Deed	Yes (Rare)	Yes	Publication	30-60 days	Yes - 12 Months	Allowed
Alaska	Trust Deed / Mortgage	Yes	Yes	Notice of Default	90 days	Non-Judicial Foreclosure Only	Judicial foreclosure only
Arizona	Trust Deed / Mortgage	Sometimes	Yes	Notice of Sale	90 days	No	Varies
Arkansas	Mortgage / Trust Deed	Yes	Yes	Complaint	120 days	Judicial foreclosure only (Ends at Sale)	Non-judicial foreclosure only
California	Trust Deed	Sometimes	Yes	Notice of Default	111 days or more	Yes, judicial foreclosure only	Yes, judicial foreclosure only
Colorado	Trust Deed / Mortgage	Yes	Yes	Notice of Default	110-125 days	None	Yes
Connecticut	Mortgage	Yes	No	Complaint	60-150 days	Court's discretion	Yes
Delaware	Mortgage	Yes	No	Complaint	90 days	No	No
Dist of Columbia	Trust Deed	No	Yes	Notice of Default	60 days	No	Yes
Florida	Mortgage	Yes	No	Complaint	180 days	Yes-brief and subject to court procedure	Yes
Georgia	Security Deed / Mortgage	Yes	Yes	Publication	90 days	Yes	Yes
Hawaii	Mortgage / Trust Deed	Yes	Yes	Publication	160-195 days	No	Yes
Idaho	Trust Deed	No	Yes	Notice of Default	150 days	Yes	Yes
Illinois	Mortgage	Yes	No	Complaint	210 days	Yes, limited	Varies
Indiana	Mortgage	Yes	No	Complaint	150 days	Yes - 3 Months	Yes
Iowa	Mortgage	Yes	No, but deed in lieu permitted	Petition	160 days	No	No
Kansas	Mortgage	Yes	No	Complaint	120 days	Yes - 6-12 Months	Yes
Kentucky	Mortgage	Yes	No	Complaint	147 days	Yes	Yes, with restrictions
Louisiana	Mortgage	Yes	No	Petition	60 days	No	Yes
Maine	Mortgage	Yes	No	Complaint	90-365 days (depends on mortgage date)	Yes	Yes
Maryland	Trust Deed / Mortgage	Yes	Yes	Notice	90 days	No	Yes
Massachusetts	Mortgage / Trust Deed	Yes	Yes	Complaint	90 days	Yes, in foreclosure by possession	No
Michigan	Mortgage / Trust Deed	Yes	Yes	Publication	60 days	Yes - 6 Months (30 days if abandoned)	Varies, case by case
Minnesota	Mortgage / Trust Deed	Yes	Yes	Publication	60 days	Yes - 6-12 Months (35 days if abandoned/vacant)	Yes
Mississippi	Trust Deed / Mortgage	Yes	Yes	Publication	60 days	No	No
Missouri	Trust Deed / Mortgage	Yes	Yes	Publication	60 days	Yes	No
Montana	Trust Deed / Mortgage	Yes	Yes	Notice	150 days	No	Judicial foreclosure only
Nebraska	Mortgage	Yes	Yes	Petition	180 days	None, after confirmation of sale	No
Nevada	Trust Deed / Mortgage	Sometimes	Yes	Notice of Default	60-120 days	Judicial foreclosure only	Yes
New Hampshire	Mortgage / Trust Deed	Yes	Yes	Notice of Sale	60 days	No	Yes
New Jersey	Mortgage	Yes	No	Complaint	90-120 days Unless Contested	Yes, limited - 10 Days	Yes, restricted
New Mexico	Mortgage	Yes	No, except commercial properties	Complaint	120 days	Yes	Yes
New York	Mortgage / Trust Deed	Yes	Yes, but not common	Complaint	12-19 months	No	Yes
North Carolina	Trust Deed / Mortgage	Yes	Yes	Notice Hearing	60 days	Yes	Varies case by case
North Dakota	Mortgage	Yes	No	Complaint	90 days	Yes - 60 Days -12 months	Yes
Ohio	Mortgage	Yes	No	Complaint	150 days	Yes	Yes
Oklahoma	Mortgage / Trust Deed	Yes	Yes	Complaint	90 days	None, upon confirmation of sale	Yes, with filing time limitation
Oregon	Trust Deed / Mortgage	Yes	Yes	Notice of Default	120-180 days	Yes, but only with judicial foreclosure	Yes, but only with judicial foreclosure
Pennsylvania	Mortgage	Yes	No	Complaint	90 days	No	Yes
Rhode Island	Mortgage / Trust Deed	Yes	Yes	Publication	60 days	Varies by process	Yes
South Carolina	Mortgage	Yes	No	Complaint	Varies	No	Yes
South Dakota	Mortgage / Trust Deed	Yes	Yes	Complaint	90 days	Yes, but various time periods	Varies on case by case basis
Tennessee	Trust Deed / Mortgage	Yes	Yes	Publication	60 days	Yes-non-judicial foreclosure	Yes
Texas	Trust Deed / Mortgage	Yes	Yes	Publication	60 days	No	Yes
Utah	Trust Deed / Mortgage	Yes	Yes	Notice of Default	Varies	Yes	Yes
Vermont	Mortgage / Trust Deed	Yes, in strict foreclosure	Yes	Complaint	210 days	Yes	Yes
Virginia	Trust Deed / Mortgage	Yes	Yes	Publication	60 days	Varies	Yes
Washington	Trust Deed / Mortgage	Yes, but not common	Yes	Notice of Default	Varies (190 days)	Available only in judicial foreclosure, and very rare	Yes, but only in judicial foreclosure
West Virginia	Trust Deed / Mortgage	Yes	Yes	Publication	60 days	No	No
Wisconsin	Mortgage / Trust Deed	Yes	Yes	Complaint	Varies (90 days -12 months)	Yes, if no court confirmation of sale	Yes, unless waived
Wyoming	Mortgage / Trust Deed	Yes	Yes	Publication	90 days	Yes - 3 Months	Yes

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U.S. and Canada Foreclosure Practice Summary - Continued

Province	Security Instrument or Governing Law	Judicial Sale	Non-Judicial	First Action	Time Frame	Redemption Period	Deficiency Judgment
	The type of document (either a Mortgage or a Trust Deed) used to secure the debt on a real property	A foreclosure process where the lender must apply to the court for permission and where the sale is court supervised and under court authority	A Power of Sale allows the to sell without court involvement from the mortgage document and/or provincial legislation	The way in which the process is started.	The amount of time it takes from the first public foreclosure notice until the property goes to sale at public auction.	Where available, the amount of time the owner has to redeem (purchase) their property back after it was sold at public auction.	When available, the lender (or borrower) may have the right to file a lawsuit and receive a judgment if there was a loss of money from the public auction sale.
Alberta	Land Titles Act Mortgage or Equitable Mortgage	Primary		Lawsuit filed against owner			Starts as part of the main action
British Columbia		Primary		Demand Letter to borrower		Traditionally 6 months	Starts as part of the main action
Manitoba		Primary		Registration of a Notice of Exercising Power of Sale		One month after delivery of the Notice of Exercising Power of Sale to all affected or persons registered on the title	Starts as part of the main action
New Brunswick	Property Act	Rarely used as not included in 1982 Rules of Civil Procedure	Primary	Typically by optional Demand Notice to the borrower followed by required Notice of Sale		After borrower is 3 months in arrears they no longer have the right to "reinstate"	Cannot start until after the property has been sold
Newfoundland	Conveyancing Act	Rarely used	Primary	Notice to the borrower and current owner		No right to "reinstate"	Cannot start until after the property has been sold
Nova Scotia		Mortgage Foreclosure		Lawsuit filed against owner		At the time that the lender applies for an Order of Foreclosures, Sale and Possession	Starts as part of the main action
Ontario	Ontario Mortgages Act	Rarely used	Primary	Notice of Sale under Mortgage sent to the borrower and current owner		35 days after Notice of Sale Under Mortgage if contractual 45 days after Notice of Sale Under Mortgage if statutory	Cannot start until after the property has been sold
Prince Edward Is.	Real Property Act		Primary	Notice to the borrower and current owner		Prior to the date specified in the initial notice to the buyer customarily after 3 months in default	Cannot start until after the property has been sold
Quebec	Details not available	Primary		Details not available	Details not available	Details not available	Starts as part of the main action
Saskatchewan		Primary		Lawsuit filed against owner			Starts as part of the main action

Internet source Foreclosures.ca and its accuracy and completeness cannot be guaranteed