



Attorney Meghan E. Smith

KAHAN, KERENSKY & CAPOSSELA, LLP.

The Reality of Flipping Houses

So, you want to be the next Fixer Upper©. In today's world, it seems as if there is a new show on HGTV or DIY every week about flipping houses. They make it look so easy and always seem to have a quick remedy when something goes wrong. But the truth is, it is not always as easy as they make it look on television. Buying a home that has been foreclosed or is in bad shape comes with risks. Oftentimes homes that are bank owned are sold "As-Is." This means that while you are free to do all the inspections you want, the bank will generally not make any repairs for you, and the property will be sold in its current condition. Here are some things you need to be aware of:

1. How are you going to pay for it?

If you do not have the cash to purchase and remodel the home, there are other options out there to consider. You can go through traditional financing with a lender and obtain a conventional loan. With this type of loan, you will likely need to put down at least 20 percent of the purchase price as a down payment. You will also not be able to finance the remodeling costs through the loan.

If you cannot qualify for traditional financing, you may consider a loan from what is known as a "hard money" lender. A hard money loan is a short term loan funded by a private investor. They generally have terms of 12 months, but the interest rates will be higher than the conventional loan. These loans may work for someone who can get the remodeling done quickly and turn around and list it for sale.

2. Prepare for the unknown.

You never know what is going to be behind the wall or under the flooring when you rip it out. You could find mold, asbestos, rotting sub floors, or even structural issues. Some of these issues can be costly to repair. You should always build in a contingency amount in your budget for these unknowns and may want to consider adding in 10% of the purchase price just in case.

3. Always do your due diligence before buying a foreclosure.

If you plan to buy at a foreclosure auction through the court, consult an attorney prior to doing so. If the home is owner occupied, the buyer is responsible for removing them from the home post-closing. This can become a headache and can be very costly. Under Connecticut law, the buyer is responsible for paying the marshal costs to remove them as well as the moving company costs to remove their items if they refuse to. If the home is tenant occupied, you are going to have to evict them, and this can be a lengthy process. Once you get to a court hearing, the judge has the authority to grant the tenants up to six months to remain in the property. An attorney can help you determine whether or not the property is occupied and advise you on the issues that may arise.

Another way to purchase a foreclosure is through an auction company. This is an online bidding process where you may not have an opportunity to inspect the home prior to making a bid. An attorney can help you determine what types of issues may arise when purchasing a home this way.

4. Inspections, Inspections, Inspections!

While a bank is unlikely to make any repairs to the home, it is still recommended that you move forward with inspections. It is important to know what you are getting into and while you won't be able to open any walls or look under the flooring, an inspection will at least uncover any major issues with the home. Given the recent crisis with crumbling foundations, you may want to think about hiring a home inspection company that has experience in this area and will know what to look for. It would be terrible to invest money to fix up a home, only to find out it has a crumbling foundation when you go to sell it.

5. Clean title and title insurance.

Another important part of buying a home rests in the status of the title to the property. You want to make sure the bank has properly done its job in the foreclosure by clearing the title. This means that there are no encumbrancers out there that could try to make a claim to the home or enforce a lien. The best way to determine this is to have your attorney order a title search. This search will show the history of the land records to the home and if there are any outstanding liens. Your attorney can also help you obtain title insurance at the closing. Title insurance is available for a lender and a home owner. If you are financing the purchase of the home, the lender will require you to obtain a lender's title insurance policy. This policy covers the lender up to the amount of the loan in the event that any problems arise after the closing. This will not protect you as the homeowner, so it is recommended that you purchase an owner's policy as well.

6. You have bought your home and now you are ready to begin construction.

HGTV makes home improvement look very easy. In reality, it is not unless you have experience. With that said, you can still flip a house! You just need to hire a contractor to do the work for you. When looking for a contractor, you want to make sure they are licensed, insured and can provide you with recommendations or reviews of their work completed. You should always have a written contract signed by both you and the contractor. It is important to know what everyone's expectations are with the work that is being done and the amount that is being paid. In the event something goes wrong and you do not have a written contract, the enforceability of your verbal contract or "handshake deal" will be limited.

Flipping a home can be a great experience if you understand the ins and outs of the process. If you have questions, please contact me to discuss.

Attorney Meghan E. Smith practices business law and commercial real estate in Kahan, Kerensky & Capossela's Vernon office. She has extensive experience handling commercial and residential real estate transactions, commercial and residential landlord tenant matters, business formation, and contract drafting, review, and negotiation. She also negotiates purchases and sales of business assets, membership interests and stocks, prepares buy-sell agreements for business owners, and assists clients in transitioning their businesses to the next generation. Meghan can be reached directly at 860-812-1735 or at msmith@kkc-law.com.