



REAL NEWS ...

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It's Property Tax Time Again; Watch out for Fulton County Re-Bills

As you are probably already aware, it's that time of year again. Property taxes are due if you live in the metro area. Fulton, Dekalb, Cobb, Gwinnett, Cherokee, and Forsyth counties have issued tax bills for 2008. Below are some reminders about how to handle property taxes when the closing occurred before the tax bill was issued. *The biggest property tax news this year is that Fulton County has re-billed thousands of properties that were improperly assessed and billed for prior years. See Question #5 below for more information.*

1. Who is responsible for paying the 2008 tax bill? If the closing occurred before the tax bill was issued, the buyer is usually responsible for remitting payment to the county, unless otherwise agreed between the parties. In most cases, the buyer received a line item credit at closing from the seller to cover the time the seller owned the property for the year. The line item credit the buyer received is usually based on the previous year's tax bill, is pro-rated based on the number of days the seller owned the property and is usually subject to re-proration between the parties.
2. Why does the seller receive the tax bill for 2008 if the buyer is supposed to send in the payment? The Tax Commissioner's office bills the property according to the owner of record of the property as of January 1st of the billing year. It is not a mistake for the seller to receive the tax bill. The seller should forward the bill to the buyer.
3. How can the buyer get a copy of the tax bill? In a perfect world, the seller would forward the tax bill to the buyer along with a check for any additional amount owed by the seller as a result of any increase in the bill over the previous year or estimated bill. In reality, the buyer can go to the Tax Commissioner's website for the county where the property is located and search for the tax bill by property address. As you know, not receiving a bill does not relieve the taxpayer of the obligation to pay the taxes, so it is the responsibility of the taxpayer to pursue the bill in order to avoid additional interest and penalties. Below are the websites for the tax commissioner's offices for the counties located in the Atlanta metro area.

Fulton County:

http://www.fultoncountytaxes.org/fultoniwr/11_depts_property_taxes.asp

Dekalb County:

<https://dklbweb.dekalbga.org/taxcommissioner/index.asp>

Cobb County:

<http://www.cobbtax.org/Main/Home.aspx>

Gwinnett County:

<https://ssl.gwinnetttaxcommissioner.com/Property/Property.aspx>

Cherokee County:

<http://www.cherokeega.com/ccweb/departments/tax/>

Forsyth County:

<http://www.forsythco.com/department.asp?DeptID=26>



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4. What happens if the tax bill is higher than what was estimated at closing? If the tax bill is higher, then each party is obligated to pay their pro-rata share of the difference, unless the parties have otherwise agreed not to re-prorate the taxes.
5. What do you do if the bill includes amount for prior year taxes? If the bill is issued by any county other than Fulton County, you should contact the closing attorney for more information as prior year taxes are usually addressed at closing.

If the bill is issued by Fulton County, it is likely the result of an error that occurred in property tax assessments for 2005, 2006, and 2007 causing the issuance of corrected bills for those years. Thousands of properties in Fulton County have been re-billed for prior year taxes – even when property owners paid prior year bills in full. A bill passed by the General Assembly in 2004 changed the way homestead exemptions were calculated. However, the Board of Assessors did not change the way they calculated the exemptions for 2005, 2006, or 2007 – until now. The Board of Assessors has recently corrected the errors, and many properties have been re-billed as a result.

One of the errors causing the re-bills involves the calculation of the homestead exemption for properties with more than one structure. The homestead exemption should apply only to the principal dwelling. In prior years, the assessor's office applied the homestead exemption to all structures on a parcel including secondary structures that are not part of the principal dwelling (i.e. carriage houses, pool houses, etc.). Please note that, according to Arthur Ferdinand, Fulton County Tax Commissioner, a detached garage should be considered part of the principal dwelling and should not be considered a secondary structure. Check with the assessor's office at (404) 612-6440 if you think your garage has been incorrectly re-assessed.

Despite the errors, property owners are still responsible for the amounts due for prior years. According to Dr. Ferdinand, if a property was sold between 2005-2007 and happens to be one of the properties being re-billed for those years, the new buyer should receive a bill only for the years he/she has owned the property. For example, if the buyer purchased the property in 2007, the re-bill should not include any amounts due for 2005 or 2006. To determine which years are being re-billed, go to:

http://www.fultoncountytaxes.org/fultoniwr/11_depts_property_taxes.asp.

Click on "search for a tax bill" to look up your property by address or parcel number. You will then be able to view your tax bill for the current year and prior years.

For more information on the Fulton County re-bills, see Morse Diggs' report on Fox 5 News:

Property Owners Asked to Pay Up for Fulton Co. Tax Error
<http://www.myfoxatlanta.com/myfox/pages/ContentDetail?contentId=7150703>

- Kellie G. Strange, Partner



Mandatory Compliance for all DeKalb County Residences – Effective June 1, 2008

Effective June 1, 2008, DeKalb County passed an ordinance requiring all residential buildings located in unincorporated DeKalb County and constructed before January 1, 1993 to be retrofitted with water-conserving plumbing fixtures (sometimes called “low flow” plumbing fixtures) at the time they are sold. What will this mean for your buyers and sellers?

FOR BUYERS, before water connection can occur with DeKalb County, the buyer must fill out an application and attach a certificate of compliance that all plumbing fixtures are water-conserving fixtures. The certificate must be signed by a home inspector, a licensed plumber or an inspector with DeKalb County’s Department of Watershed Management. This means that a typical buyer will either need to request that the seller retrofit the property or will need to arrange for the retrofitting to be done immediately upon the closing of the purchase. If done after closing, the seller should allow a specified time within which the buyer must perform the retrofit to obtain the certificate and ultimately water service in the buyer’s name.

FOR SELLERS, disclosure regarding the mandatory retrofitting must be made to the Buyer before they sign a Purchase and Sale Agreement. GAR’s F59, DeKalb County Plumbing Disclosure, has offered its disclosure form to attach to the contracts involving properties subject to the ordinance.

EXEMPTIONS to the ordinance apply to properties (i) advertised for foreclosure; (ii) the Buyer is demolishing after purchase; (iii) transferred to a spouse, child or parent of the

Seller; or, (iv) when the cost to install the water-conserving plumbing fixtures exceeds one thousand (\$1,000) dollars per toilet in a single family residential building.

Currently, DeKalb County, is offering a rebate program for replacement of up to three toilets per home. The rebate is \$50.00 for 1.6 gallons per flush toilets and \$100.00 for 1.28 gallons per flush toilets. Certain specified toilets must be used to qualify for the rebate and an application for the rebate must be made. Go to the DeKalb County Department of Watershed management website for more details and the application form.

For questions and further clarification, please contact the DeKalb County Department of Watershed Management.

www.dekalbwatershed.com



- Camille W. Brannon, Managing Partner



What is a Short Sale anyway?

Due to the shift in the market and current economic woes, many homeowners are facing foreclosure or having to bring funds to the closing table to sell their properties. A Short Sale might be a viable option for sellers who find themselves upside down. A Short Sale occurs when a Seller has little or no equity in the property, and the Seller's lender agrees to accept less than the full payoff amount due for the mortgage. A Short Sale has several benefits for the Seller and the Seller's lender: (1) Foreclosure is expensive and time consuming; (2) the Property becomes a liability for the lender, which must continue maintenance of the property, pay taxes and insurance, etc.; (3) a Seller's credit is less negatively affected by a Short Sale than a foreclosure; and, (4) a known loss is better than an unknown loss for the lender when determining their inventory values.

Below is an abbreviated list of the first steps to take when handling a Short Sale:

- ✓ Order Payoff(s)
- ✓ Contact the Seller's lender for a list of requirements
- ✓ Seller must complete and submit all lender required documents typically referred to as a Financial Disclosure/Hardship Package
- ✓ Realtor is typically requested to provide an estimated net sheet to the Lender by doing a preliminary HUD
- ✓ Use the GAR Special Stipulation regarding Short Sales

Although a Short Sale has obvious benefits, there are several pitfalls to keep in mind when listing a property for a Short Sale and preparing your Purchase and Sale Agreement. Keep in mind, it may take the Seller's lender as many as 60 days or more to approve a Short Sale. Also, **protect your commissions** by marking the appropriate sections of the Contract with the appropriate language. Be mindful of properties where foreclosure proceedings have already been initiated as the Seller's lender may foreclose, take possession of the property and make arrangement for listing with its REO realtor without paying your commission. A lender's Short Sale must be in writing to be enforceable. If there is a Short Sale Agreement, have the closing attorney review it.

Although a Short Sale negotiation can be time consuming and appear difficult, it is not likely that Short Sales will be fading from real estate transactions in the near future. Finally, knowing the process and the pitfalls may help to list and sell one more property in your portfolio.

- Steven S. Golden, Partner



The residential real estate practice of Campbell & Brannon, LLC represents clients in many areas and types of real estate transactions, including Purchases and Sales, Refinances, Construction Loan Closings, Acquisition and Development, Foreclosures, Contract Review, and formation of Real Property LLCs. Our practice has represented buyers, sellers, lenders and developers in the Metro-Atlanta area since 1998. Our qualified attorneys have over 200 years of combined experience.

If you would like additional information on the topics discussed in this edition or have questions regarding other matters, please contact one of our Atlanta locations or one of our attorneys:

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