

**Joanna Piette's**

## MORTGAGE LENDER'S NEWSLETTER



**Premier Mortgage  
Lending Group**  
"Your Local Choice"



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### SHOULD YOU LOCK-IN THE RATE?

When you make application for a mortgage loan, a lender can give you a choice: (1) take your chances that when you actually go to closing, the then-current mortgage interest rate will be equal to or less than the rate at the time you made the loan application, or (2) lock in the rate so that whether rates go up or down, you are guaranteed to get the rate you have locked in. The first choice is often referred to as a "floating rate"; the second is a "lock-in" rate. When mortgage interest rates are low, no consumer complains. However, just as soon as interest rates begin to creep up, we start getting concerned. Potential homeowners are then faced with the possibility that the interest rate they were hoping to get will no longer be available.

Most lenders will allow you to "lock in" a rate. This means that you have a binding commitment from your mortgage lender that for a fixed period of time (usually 30 or 60 days from the time of application) you are going to obtain the rate that was locked in by the lender. The Federal Reserve Board has prepared a very helpful publication entitled *A Consumer's Guide to Mortgage Lock-ins*. The Federal Reserve's definition of a mortgage lock-in is worth quoting:

A lock-in, also called a rate-lock or rate commitment, is a lender's promise to hold a certain interest rate and a certain number of points for you, usually for a specified period of time, while your loan application is processed . . . A lock-in that is given when you apply for a loan may be useful because it's likely to take your lender several weeks or longer to prepare, document, and evaluate your loan application. During that time, the cost of mortgages may change. But if your interest rate and

points are locked-in, you should be protected against increases while your application is processed . . . It is important to recognize that a lock-in is not the same as a loan commitment, although some loan commitments may contain a lock-in.

The Fed goes on to point out that there are many different kinds of lock-ins. Options include a locked-in interest rate and locked-in points, a locked-in interest rate with floating points, or a floating interest rate with floating points, where the lender gives the borrower the option to lock-in any time between the application and the actual settlement.

It is important that you get a written document spelling out the terms and conditions of your lock-in commitment. If the lender refuses to give you a written statement, you should consider looking for another lender. A verbal commitment will probably not stand up in Court, and in any event you really do not have the time — or the money — to file suit against the lender. You want to go to settlement and move into your new home. At the very least, if the lender refuses to confirm in writing the terms of your lock-in, send a letter to your lender, by certified mail,

Let us look at the basic elements of any contract. To have a valid, binding contractual obligation, three elements are required. First, there has to be an offer. Here the lender has offered a "locked-in rate" to the borrower. Second, there must be acceptance of that offer. Again, the borrower — by telling the lender (in writing) that he or she will accept the locked-in rate — has validly accepted the offer. The third vital element of a contract is consideration. Usually, consideration is in the form of money. The borrower

*(continued next page)*

On The Inside:

ODDS & Ends

**The Pipe Line (MLN), Size 8 1/2" X 14" (folded in half (off set) to 7 1/2" X 8 1/2")  
Four Pages, 70 Lb. Colored Bond Paper, Two Color Ink.**

## SHOULD YOU LOCK THE RATE?

(Continued from page 1)

has given the lender money for the appraisal, the credit report and often one or more of the points that will have to be paid at settlement.

Even if the borrower does not give money as consideration, the law books also define consideration as something of value other than dollars. In your case, if you refrain from looking for another lender and rely on the lender's representations, that also constitutes valid consideration so as to make a contract between the parties. It should be pointed out that the offer and the acceptance need not be in writing. While we need a written document for the sale of real estate, in this case we are not dealing with real estate — but rather the financing of that real estate — and oral representations are binding.

The problem, of course, is proving that the statements were made. Thus, if you reduce everything to a written document, your proof problem will be much easier.

There is a Maryland Court of Appeals case, which is helpful. That Court issued an opinion stating: The inducement of a guaranteed rate of interest . . . especially in a time of fluctuating interest rates, clearly is intended to entice the customer to deal with the offering lender, rather than with some other lender.

Although the customer does not covenant that he will refrain from simultaneously making application with other lenders, we think the practicalities of the home loan market, and particularly the expense of each application, have the effect of at least temporarily taking the customer out of the market. As a greater number of loan applications may be expected to result in a greater number of loans, and thus, a greater profit, business advantage to the bank is real, even though every application will not lead to a profit.

Since there is much uncertainty in the world today, we will probably begin to see more and more lock-in questions. Lenders can avoid this situation by disclosing to the borrower in writing the terms of the lock-in commitment, or alternatively that the rate will not lock in, but will float until settlement. Different lenders offer different lock-in terms. That of course is the lender's decision. As long as the borrower understands the terms and conditions under which the loan application is being processed, the lender can do no more. But if a lender arbitrarily and capriciously cancels a lock-in rate, that is, in the opinion of most, a breach of contract, to which the borrower has legal recourse.

Lenders and loan officers are honest, hard working people, as are most of us. They want your referral business and they know that it is in everyone's best interest to give their clients the best service with the highest degree of integrity.

# Attitudes on Success



## IMAGINATION

By Sue Podany

Imagine the energy you have when life is working. Imagine your life the way you want it to be. Your imagination has energy. Don't ignore it. It is such a powerful tool. We would never have telephones, light bulbs, cars, airplanes, computers etc., if someone did not have an imagination. The only difference between the people who created these things and you and I is that they paid attention to their imagination and they took action. I will bet there have been many times in your life when you sat back and looked at something and said, "Why didn't I think of that?" Use your imagination to turn dreams into reality.

If you can't imagine that your life will be better, it probably won't happen. If you can't imagine yourself with more energy... it probably won't happen. Imagination is wonderful. If you have lost your imagination, spend time around young children and you will find it again. They can take scraps of paper and make sailboats. They can take brochures of animals that come in the mail and play a game with it for hours. They can play hide and seek in the car. Children have amazing imaginations. ❖ ❖

*Sue Podany "The Energizer" is an international speaker and trainer, personal success coach, and author. She is the author and publisher of "Energy- 120 easy ways to Get it, Keep it, and Keep from Giving it Away." Her phone number is (949) 723-1460. [www.suepodany.com](http://www.suepodany.com).*

Every effort has been made to verify the accuracy of the information herein, but it is not guaranteed, and should not be relied on without specific advice from a professional.

# ODDS & Ends

## Is Your Home Environmentally Friendly?

Is your home free of environmental problems? There is a Web site that covers most of the basics, [www.hometest.com](http://www.hometest.com). The site has information on major problems, including radon, mold, lead and poor water quality.

The site explains when and how to check for hazards - radon, for example, is prevalent enough (one in 15 homes have elevated levels) to warrant an automatic check when buying or selling a home.

Lead may be an issue if a house was built before 1978, when lead paint was widely used. Mold is a problem in houses with chronically damp areas. The site also gives information on health risks for various environmental hazards, and user can also request kits that can be analyzed in a lab to determine if any are present.



# Q & A Ask The Underwriter

## TIMESHARES

**Q** *My wife and I recently went on a vacation package "deal" where we were approached with the possibility of buying a time share at the resort where we stayed. I was wondering, are timeshares considered a real estate investment?*

**A** The purchase of a deeded real estate time share is best seen as an alternative to future vacation costs.

A timeshare is rarely an investment and some "timeshare" interests are not even deeded real estate - they are instead, club memberships, vacation licenses and vacation leases lasting as long as 40 years.

Most timeshares are financed with personal loans and are not secured by real estate, thus the interest rate is not deductible. It is best to seek professional advice before the purchase of a timeshare.

## FOREIGNERS PURCHASING REAL ESTATE

**Q** *I recently married a woman from Brazil and we are now living in California. She has some money of her own and wants to invest in real estate. She is not a citizen. Can she buy?*

**A** Noncitizens who are financially qualified can generally obtain a mortgage on the same terms as US citizens if they have a Registration Receipt Card 1-151 (a green card) an alien registration card without a short term expiration date but with a copy of INS form 1-751, an unexpired foreign passport marked "processed for 1-551". See your lender for more information.

***Do not pray for tasks equal to your powers  
Pray for powers equal to your tasks***

--- Phillips Brooks

The answers provided here are based on Fannie Mae, Freddie Mac, VA and FHA underwriting guidelines. These national secondary market institutions provide the funding for the majority of the loans in the U.S., however, many lenders offer loans that are underwritten with more liberal guidelines set forth by private or corporate investors. Contact your lender about questions specific to your transaction.

On The Inside:  
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Loan Officer

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