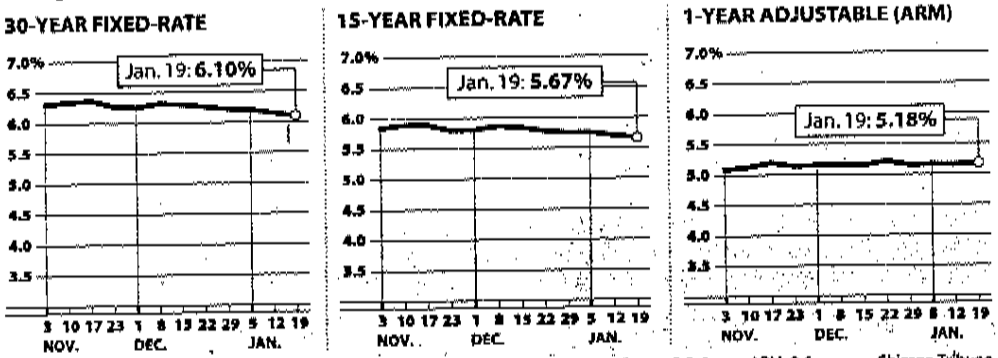
FINANCING

Weekly mortgage market survey

Average rates in U.S. for 125 lenders surveyed



Source: Freddie Mac Note: Rates include average points charged: 30-year, 0.5; 15-year, 0.5; 1-year ARM, 0.6 Chicago Tribune

Contingencies a sign of caution

By Marilyn Kennedy Melia
Special to the Tribune

Let the economists pour over the statistics. There may be a more telling sign of the tempo of the housing market: Whether buyers temper their offers with "contingencies."

In hot markets, buyers are eager to win homes and don't want to soften their offer with the contingency that they must first sell their own home. They may not even include a contingency that they must be approved for a mortgage. But when the market cools, buyers are more concerned with how they can finance a purchase.

"About 80 percent of the time, I'm seeing a mortgage contingency," Heidie Maslo, a Coldwell Banker real estate agent who works Lincoln Park , recently said. However, months earlier when buyers were furiously bidding for properties, Maslo estimates a mortgage contingency popped up in only about 10 percent of offers.

Similarly, Maslo said: "We are seeing more sales contingencies. I attribute that to the longer market times [length of time homes are on the market before being sold]. We are probably also seeing them because of seasonal factors."

Henry Shulruff, senior vice president of Attorneys' Title Guaranty Fund, in Chicago, and president of Capital Funding Corp., a Lombard mortgage banking firm, agrees that sales contingencies have been rare in the last several years. But his experience indicates buyers may be taking a more practical turn.

Mortgage approval and sales contingencies can be practical protection for buyers, except the lucky few who have cash on hand, says Palos Heights real estate attorney Naomi Schuster.

A contingency is a condition that has to be satisfied before there is an obligation to the purchasing party, Schuster said.

With a sales contingency, a buyer qualifies his obligation to purchase by making it contingent on the sale of his property by a certain date. If buyers are concerned that their home won't sell in time for the closing on their new home — allowing them to use the proceeds from their sale — they should include a sales contingency in their purchase contract.

When sellers accept an offer with a sales contingency, they typically continue to show their home to other buyers, says Shulruff. Under the terms of many contracts, if a better offer comes along, the seller can give the first buyer a specified time to lift the contingency or lose the home.

Without a sales contingency, though, a buyer may need to proceed with the purchase or stand to lose his earnest money, Schuster said.

Timing a home purchase is a delicate art, often compared to a neatly falling row of dominoes, with a buyer pulling out money from his former home and immediately using it to pay down the cost of the new home.

The domino effect can magnify the potential of a sales contingency to derail a purchase, Shulruff said. That's because a buyer can get an offer on his home, but that offer is also contingent upon a sale.

Shulruff and other experts say mortgage contingencies are more common — even in brisk markets — and have less potential to derail a transaction.

Because it's impractical for home shoppers to venture out without an idea of their price range, many buyers make a preliminary visit to a lender.

With a cursory review of a buyer's financial standing, a lender can provide an idea of how big a mortgage the buyer can afford.

But that isn't ironclad, so when a buyer places a contract on a home, it's usually contingent on the buyer receiving a loan at a specified amount and rate within a certain time frame, Shulruff said.

Tough most buyers don't encounter a hitch, there are some financial minefields that can derail the mortgage approval, like a buyer who loses his job before closing.

In an environment where interest rates rise quickly, a mortgage contingency can protect buyers who couldn't afford a purchase with a loan above a certain threshold, said Eric Mundsinger, a loan officer with American Security Mortgage in Bloomingdale.

Address questions to Financing, Chicago Tribune, Real Estate section, 435 N. Michigan Ave., 4th Floor, Chicago, IL 60611. You may also e-mail realestate@tribune.com.