

# How to Navigate the Short Sale Process



# Thank-You for the Opportunity to Sell Your Home..



At the end of this brief presentation 1 of 3 things will happen:

- 1.You will list the home with me.
- 2.You won't list the home with me.
- 3.I will decide not to list you home.

Any of these decisions is fine.

What matters now is that you take action to avoid foreclosure.

# Why List Your Home With Me?



- I am a Harris Real Estate University, Lender Preferred ASD. (Accredited Short Sale Designation) agent.
- I have received comprehensive training on the short sale process.
- I specialize in helping homeowners in your situation.
- I have a highly trained team of professionals that work with me. (Short Sale negotiators, Accountants, Attorneys, title and escrow agents)
- As an ASD I have access to the decision makers at the mortgage companies.
- You will never be in the dark and always know what is going on.
- When you list your home with me...we become a team.
- When you list your home with me as a short sale, the lender pays for my services, not you!

# Agenda



- The Facts
- Advantage of The Short Sale
- How We Can Help You
- Why Do Lenders Accept Short Sales?
- Who Approves the Short Sale?
- What's The Process?
- What Will I Need From You?
- My Responsibilities On Your Behalf
- Authorization Letter
- Negotiating The Best Results
- Help Me Negotiate For You
- Taking Care of Documents
- Advantages of a Short Sale For YOU
- Avoid Foreclosure!
- Can I Buy A Home Again
- Cash For Keys –Deed in Lieu
- Home Affordable Foreclosure Alternatives Program (HAFA)
- Short Sale Glossary
- Glossary and Process
- Loss Mitigation Process Terms and Flow
- What's The Alternative?
- Understanding the Successful Short Sale Transaction

# The Facts...



Goal: To prevent the mortgage crisis deepening, it is vital that all lenders do everything in their power to help people avoid losing their homes, treating borrowers in arrears fairly and sympathetically, being willing to negotiate with borrowers in trouble and only using court action as a last resort.

# Advantage of the Short Sale



**A lenders first goal is to determine if a homeownership retention solution is available. The foreclosure process is expensive to the lender and they will choose the short sale as an alternative in many cases.**

- A short sale, over the long run, is less damaging to credit.
- YOU PAY NO COMMISSIONS on a Short Sale Transaction.
- Many homeowners are able to purchase their next home after 24 months of good credit, post-short sale. Fannie Mae offers a new home loan to buyers who qualify after a short sale, as long as they have no 60 day late payments.
- The short sale is a more graceful exit from the situation than a foreclosure. This reduces emotional and mental stress.
- In most cases there are no tax consequences to owner occupants due to the Mortgage Tax Relief Act of 2007.
- Removal of a negative equity situation. Though you may lose some money in the short sale, you will get rid of negative equity.

# How I Can Help You



- **I can help by:** Keeping you informed of changes
  - Short sale lender protocol changes on a weekly basis
  - Let me help keep you updated and stay current on the process
- **I can help you:** Avoid a potential foreclosure
  - I understand the process and will do everything possible to help you avoid an uncomfortable situation
- **I can help you:** By communicating directly with your lender(s)
  - With your authorization, I will assist you in all required paperwork, obtaining the negotiating offers with buyers, and being your liaison to the bank. You won't have to ever talk with your lender again!

# Why Do Lenders Accept Short Sales?



## Benefit to Lender

- Removes loan from potential "non-performing" status (affects reserve requirements)
- Eliminates need and costs incurred to foreclose a property
- Loss can be immediately identified for current year
- Allows funds to be recovered and reinvested
- Lenders are not in the business of owning real estate

**"Remember, a lender would rather collect the full amount that's due. But if they can calculate a cost benefit from a Short Sale instead of foreclosure, they will take the highest net benefit scenario"**



# Who Approves The Short Sale?



## Who Holds the Loan?

- Portfolio Servicer/Lender Servicer
- 3rd Party Servicer-Servicer who has a contract to service a loan for an investor/lender and owes a duty to the investor/lender
- Investor- FreddieMac, FannieMae, Pooling Servicing agreement (PSA), Mortgage Insurance
- Servicer may approve but the investor is the final approver for the short sale.

# What's The Process?



- **For most Short Sales to succeed, you need to hire an agent with:**
  - Patience
  - Persistence
  - Knowledge
  - Experience
  - Creativity
- **A well put together short sale package has a better chance of approval . I have special training and expertise in this area.**
- **The Short Sale Negotiation is with both the 1st and the 2nd mortgage lender:**
  - This negotiation is the responsibility of your Short Sale Specialist
  - You won't have to figure out the process; that's my job
  - I work with Title and Escrow companies who are familiar with the process.



# What Will I Need From You?



## Required Paperwork

• **To determine if you will qualify for the Short Sale, your lender will require some documentation:**

1. Authorization from you for me to speak with your lender(s)
2. Explanation of hardship in your own words
3. Two months income verification
4. Two months bank statements
5. Most recent year's income tax return all pages with signatures
6. Any additional documents your specific lender requires

# My Responsibilities on Your Behalf



## Your Lender(s) require specific information from me:

### •To approve the real estate transaction, your lender requires me to:

- Provide the Purchase agreement Estimated net sheet (HUD 1 form)
- Provide Listing agreement documents
- Provide a Comparative Market Analysis so your lender can understand the pricing of your home; market trends; Listing history, why the property did not sell in the past, comments from showings, reason market has declined need for Short Sale, any photos that show condition issues, busy roads, etc.
- Your lender will ask me for a market report which includes the number of active listings which your home competes with, number of pending sales, number of sold homes, etc.

# Authorization Letter



- **I must submit to your lender a Letter of Authorization**
  - Lenders typically do not want to disclose any of your personal information without written authorization to do so
  - You will receive better cooperation if you write a letter to the lender giving the lender permission to talk with those specific interested parties about your loan
  - I provide the Standard Authorization Letter, which includes:
    - Property Address
    - Loan Reference Number
    - Your Name
    - The Date
    - My name and Contact Information so your lender speaks with me directly instead of constantly calling and mailing to you.

# Negotiating The Best Results



- **Preliminary HUD 1**

- This is an estimated closing statement which shows the sales price you expect to receive and all the costs of sale, unpaid loan balances, outstanding payments due and late fees, including real estate commissions (why the lender pays).
- I work with my Title and Escrow companies, who are experts at preparing Short Sale HUD-1 statements.

- **Hardship Letter**

- The sadder, the better. This statement of facts describes how you got into this financial bind and makes a plea to the lender to accept less than full payment. Be specific and include dates like termination dates, or copies of medical bills if applicable.
- Lenders are not inhumane and can understand if you lost your job, were hospitalized or have had a family crisis. Include as much detail as you can. I will supply you with some examples and a standard Hardship Letter form.

# Help Me Negotiate For You



- **Copies of Bank Statements**

- If your bank statements reflect unaccountable deposits, large cash withdrawals or an unusual number of checks, it's probably a good idea to explain each of those line items to the lender.
- In addition, the lender might want you to account for each and every deposit so they can determine whether deposits will continue .
- You are asking your lender to forgive some of what you owe; they want to know how it is that you can no longer handle the payment you committed to.
- Lenders will not approve a short sale without bank statements. It's important you get this information to me as soon as possible to avoid delays. Your information will be kept confidential. Only you, me and your lender will see your information.

# Taking Care of Documents



- **Comparative Market Analysis**

- Sometimes markets decline and property values fall. If this is part of the reason that you cannot sell your home for enough to payoff the lender, I will substantiate this fact for the lender through a Comparative Market Analysis (CMA)
- I will prepare a CMA for your lender, which will show prices of similar homes:
  - Active on the market
  - Pending sales
  - Sold homes from the past six months

- **Purchase Agreement & Listing Agreement**

- When you reach an agreement to sell with a prospective purchaser, the lender will want a copy of the offer, along with a copy of your listing agreement . I'll handle this for you.
- Remember, the lender covers my commission.



# Advantages of a Short Sale For YOU



- **Short Sale Advantages:**

- Credit report shows “Settled” which is favorable vs Foreclosure
- Any tax implications to the seller/home owner should be reviewed by your independent real estate attorney or accountant as a 1099 may be issued. The Mortgage Debt Forgiveness Act may apply to you and allow you to NOT be taxed on the debt that is forgiven.
- Promissory Note for payment of the negotiated loss can occur over a period of time. Some lenders will require a portion re-paid.

# Avoid Foreclosure!



- **In the case of a foreclosure, the homeowner:**
  - Is ineligible for a Fannie Mae backed mortgage for a period of up to 5 years. (for an investor, this period is 7 years).
  - In any future loan application, the borrower has to disclose if they had a foreclosure in the last 7 years.
  - Foreclosure affects a homeowners credit score significantly. It can lower the score anywhere from 250 to 300 points and this can last for over 3 years.
  - Foreclosure remains as a matter of public record on a person's credit history for 10 or more years.
  - Foreclosure can cause a person's security clearance to be taken away and potentially their employment terminated.
  - Employers have the right to check an employee's credit history. A foreclosure can be grounds for immediate reassignment or termination.
  - In more foreclosures, the bank has the right to pursue a deficiency judgement or collection of the difference between what the homeowner owes and what the bank gets as a result of the sale.

# Can I Buy A Home Again?



- **How will this effect my credit?**
- **What can I do to re-establish my credit?**
- **How long until I can buy a home again?**
  - The presence of a bankruptcy, foreclosure, short sale or conveyance of a deed-in-lieu in a borrower's credit history represents a significant risk that lenders look at it in underwriting.
  - Even though the borrower may have an acceptable credit score, the underwriter must fully evaluate current circumstances and conclude that the borrower has re-established an acceptable credit record.
  - The requirements for re-establishing an acceptable credit reputation are dependent upon your personal circumstances.
  - For future loan applications, make sure you have KEPT ALL documentation regarding the hardship situation that caused your short sale.

# Cash For Keys – Deed in Lieu



- Fannie Mae didn't make a big splashy announcement in May of 2010. The agency loosened its requirements so troubled borrowers willing to let go of their home now can buy again in as little as two years.
- Fannie said that consumers who voluntarily give up homeownership via a short sale or a deed-in-lieu could apply for a Fannie-backed mortgage loan in two years if they have a 20 percent down payment. That may be a stretch for many, but the previous policy called for a waiting period of four years for deeds-in-lieu and two years for short sales.

# Home Affordable Foreclosure Alternatives Program (HAFA)



- Home Affordable Foreclosure Alternatives Program (HAFA) began. HAFA is part of the Home Affordable Modification Program (HAMP). HAFA provides incentives in connection with a short sale or a deed-in-lieu of foreclosure (OIL) used to avoid foreclosure on a loan eligible for modification under the HAMP program. Servicers participating in HAMP are also required to comply with HAFA. A list of servicers participating in HAMP is available at [MakingHomeAffordable.gov](http://MakingHomeAffordable.gov).
- HAFA as of August 1, 2010 applies to loans owned or guaranteed by Fannie Mae and/or Freddie Mac, this can be completed for Bank of America via the Equator system.
- HAFA is a complex program, with 43 pages of guidelines and forms, designed to simplify and streamline use of short sales and deeds-in-lieu of foreclosure. HAFA
- Complements HAMP by providing a viable alternative for borrowers (the current homeowners) who are HAMP eligible but nevertheless unable to keep their home.
- Uses borrower financial and hardship information already collected in connection with consideration of a loan modification.
- Allows borrowers to receive pre-approved short sales terms before listing the property (including the minimum acceptable net proceeds).

# Home Affordable Foreclosure Alternatives Program (HAFA)



- Prohibits the servicers from requiring a reduction in the real estate commission agreed upon in the listing agreement (up to 6 percent).
- Requires borrowers to be fully released from future liability for the first mortgage debt (no cash contribution, promissory note, or deficiency judgment is allowed).
- Uses standard processes, documents, and timeframes/deadlines.
- Provides financial incentives: \$3,000 for borrower relocation assistance; \$1,000 for servicers to cover administrative and processing costs; and up to \$1,000 for investors for allowing a total of up to \$3,000 - \$6,000 in short sale proceeds to be distributed to subordinate lien holders (on a one-for-three matching basis).
- Requires all servicers participating in HAMP to implement HAFA in accordance with their own written policy, consistent with investor guidelines. The policy may include factors such as the severity of the potential loss, local markets, timing of pending foreclosure actions, and borrower motivation and cooperation.
- The program took effect April 5, 2010. Most servicers have implemented this program.

# Short Sale Glossary



- Loss Mitigation is the term lenders and servicers use to describe the process they use in resolving loans in default. The Loss Mitigation Department is where workouts are done.

## Loss Mitigation Terms

- **Reinstatement:** Reinstatement occurs when the homeowner brings a delinquent mortgage current or "cures the default" by paying the total delinquent amount.
- **Forbearance:** An agreement that allows the homeowner to pay less than the full amount of the mortgage payment or pay nothing for a given period.
- **Note:** A forbearance period is usually followed by and requires either a repayment plan or a loan modification that adds the amount in arrears to the principal amount either by increasing the monthly payment or extending the loan.
- **Repayment Plan:** An agreement that gives the homeowner a fixed amount of time to bring delinquent mortgage payments current by paying the normal monthly payment PLUS an additional amount.

# Glossary and Process



- **Loan Modification:** A written agreement between the lender and the homeowner that permanently changes one or more of the original terms of the note such as:
  - Changing the mortgage product type-e.g. making an adjustable rate mortgage (ARM) a fixed-rate loan
  - Reducing the interest rate
  - Reducing the principal amount owed
  - Reducing the monthly payment
  - Extending the maturity date of the note
  - Increasing the unpaid principal balance (UPB) by capitalizing the delinquent amount
- **Short Sale:** An agreement to sell the property prior to foreclosure for less than the total amount owed on the mortgage and the lender servicer forgives any shortage.
- **Deed in lieu of foreclosure:** The homeowner deeds the property to the lender/servicer to avoid foreclosure generally in exchange for the complete cancellation of the mortgage debt.
- **Loan Assumption:** Even if your mortgage isn't assumable, your lender may allow someone else to take over the payments and bring the loan current. This may allow you to sell your home.



# Loss Mitigation Process Terms and Flow



## Two Questions for Homeowners

**1. Does the homeowner want to save the home?**

**2. Does the homeowner have the ability to save the home?**

- Determine what the homeowner can afford by looking at
- Debt to income ratio (DTI) and
- Residual income (income left over after all monthly obligations are met)

## Brief Road Map for a Loan in Default-Dealing with the Loan Servicer

**1. Collection Department:** Goal is to get money from the homeowner and resolve the default quickly.

- Reinstatement
- Relief Option: Forbearance/Repayment (Payment Plus)

**2. Loss Mitigation Department:** Goal is to determine whether there is a viable workout for a homeowner in default in order to make a nonperforming loan performing.

# What's The Alternative?



## Workout Options

- 1. Saving the Home:** Loan Modification that will make the loan affordable and sustainable for the homeowner:
  - Capitalize arrearage-extend term or increase payments -Fix introductory interest rate
  - Lower interest rate -Reduce the principal amount owed
- 2. Letting the Home Go:** Negotiating a soft landing to reduce the homeowner's liability and allow a fresh start:
  - Short Sale
  - Deed in Lieu of Foreclosure
  - Mortgage Assumption - Cash for Keys available?
  - Foreclosure... your least favorable option

# Understanding the Successful Short Sale Transaction



A real estate short sale may require the seller/borrower of the property (You) to contribute financially to your lender or lenders on the property to achieve a successful short sale transaction.

There are multiple remedies that may be required of you to achieve a successful short sale transaction.

## **1.Promissory Note:**

a)This is typically an unsecured note or agreement between your lender and yourself to pay a portion of the loan amount so the lender may release their interest in the property.

b)What can I expect of a promissory note?

i.Amount of promissory note:

1.A Typical note can be as little as 5% or as high as 50% of the original amount owed to the lender.

# Understanding the Successful Short Sale Transaction



- ii. Length of time to repay:
  - 1. 5 years to 25 years
- iii. Interest rate on a typical promissory note:
  - 1. 0% to 2%
- 2. Cash to Close:**
  - a) Much like the Promissory Note, your lender may require you to contribute some monies to release their lien on the property
  - b) What amounts may I expect to pay to successfully close a transaction?
    - i. This amount is determined by the original amount you owe towards the current loan, however, experience has shown amount as little as \$500 or as high as 10% of the original loan amount.
    - ii. The amount agreed to by your lender to release their interest in the property will have to be paid no later than the day the short sale transaction is to close.

# Understanding the Successful Short Sale Transaction



## 3. Promissory Note & Cash to Close:

- a) In some circumstances, a lender may require the borrower/seller to sign both a Promissory Note and Cash to close.
- b) What is an example of a scenario that may require this type of solution?
  - i. The loan has been “charged off” by your lender.
  - ii. You or 1 of the borrowers has assets, money or real property other than the property in question.

# Put me to work for you now!



All we need to do now is a bit of paperwork. My job is to navigate through the process of the short sale, keep you informed every step of the way and alleviate stress for you and your family.

Allowing me to facilitate the short sale of your home allows you to get on with your life, eliminate the debt and stress of a mortgage you no longer want, and avoid a foreclosure.

Put me to work for you today so I can take care of this for you with the fewest hassles in the least amount of time possible.

I look forward to working with you!

Best Regards,

Angel Barreiro, Short Sale and Foreclosure Resource (SFR) Certification.

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