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Tips for Navigation the Short Sale Process

by Joshua Marks

Tips for Navigating the Short Sale Process

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With homeowners defaulting on their mortgages at a record pace, many people are practically begging their lenders for some form of relief or assistance in order to prevent themselves from ending up on the street. While it is certainly disconcerting to receive collection letters and threats of impending foreclosure from a lender, those who are falling deeper into debt and enduring difficulty making their monthly mortgage payments need not despair. The "short sale" is one alternative worth considering as a viable means for resolving your debt with the lender and dealing with a home that is no longer affordable. Here are some basics you need to know before starting the "short sale" process.

What is a Short Sale?

A "short sale" occurs when the net proceeds from the sale of property is not sufficient to satisfy the outstanding mortgages on the property, and the seller does not have the financial ability to make up the difference. The lender is asked to take less than the full amount owed in order for the sale to be completed

What Causes A Short Sale?

Sometimes a short sale is brought about because the homeowner borrowed more than he/she could afford to pay back and miscalculated his/her financial status. Often, the short sale arises because of an unforeseen change in the homeowner's life, such as a long-term illness, disability, divorce or loss of employment, which has dramatically affected the person's income such that the mortgage payments are no longer affordable.

Why is the short sale a viable option for the seller?

A foreclosure can have a devastating impact on someone's credit report that has a lasting effect for years to come. A short sale is typically reported on a credit report as a debt that is "settled for an amount less than what is due". While this will cause a dip in credit score, it will be nowhere near as harsh as the reporting of a foreclosure.

Why would a lender agree to a short sale?

The answer is very simple: Lenders do not want to own houses. Lenders are in the business of loaning money, not in the business of stockpiling real estate. There have been numerous reports that banks can face fees of up to \$50,000.00-\$60,000.00 in actually foreclosing on a property. From a business standpoint, the lender will make out better if the property is put on the market and given an opportunity to attract a buyer through private sale.

How does the short sale process work?

Most lenders have a short sale package containing documents that the seller must submit in order to have the short sale approved. Such documents include: hardship letter from seller/borrower explaining why the short sale is necessary, seller's financial statement, two most recent pay stubs, two most recent bank statements, two most recent tax returns, copy of an Agreement of Sale with buyer, copy of proposed settlement statement (HUD-1) demonstrating net monies to the lender. Once the package is submitted to the lender, a negotiator is assigned to the file who handles the short sale on behalf of the lender through closing.

Miscellaneous Points to keep in mind

-If you find a buyer, don't expect closing to take place quickly. It may take 60 days, 90 days or even longer, depending on the lender, to get approval from the negotiator for the short sale to go forward.

-Lenders are not properly staffed to handle the number of short sale requests. In order to make sure that your file doesn't linger on someone's desk, you need to be persistent-your agent or attorney should make frequent calls to the negotiator in order to insure that your short sale moves forward.

-You must negotiate for the release of both the property and the underlying personal debt secured by the note. If you fail to do this, the lender may not forgive the personal debt.

-It is wise to consult with an attorney and real estate agent who has been through this process before and has significant experience working with lenders. Also, attorney's fees come out of the lender's net proceeds. Therefore, you will not have to pay out of your own pocket for an attorney to assist you in the transaction.

For more information about short sales, please feel free to contact Joshua M. Marks, Esquire at 215-832-3600 or send him an email to josh@lawmr.com. Josh focuses his practice on representing individuals, business owners and entrepreneurs in real estate and business transactions.

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