



The Fund

Real Estate tip sheet

For release Nov. 3, 2008

Short sales drive transactions

Distressed properties account for nearly 40 percent of national sales

By Charles J. Kovaleski

As foreclosures rates continue to climb in Florida and throughout the country, buyers increasingly look to non-traditional purchase methods. One of those that continue to draw interest is the “short sale”— an agreement by a lender to accept less than it is owed when a property is sold.

From the standpoint of the seller, the consumer convinces the lender to forgive a portion of the mortgage balance; the borrower avoids foreclosure – a more costly event for the bank, which with a short sale is able to minimize its losses. The buyer, in turn, purchases a home for substantial discount – 10 to 30 percent off the previous sales price, though the property may be in need of repair. Nearly two of every five houses sold today are the result of distressed situations, either short sales or foreclosures, according to the National Association of Realtors.

The practice has been around for years but has accelerated in recent months, especially as nearly one in five U.S. mortgage borrowers owe lenders more than their homes are worth, according to a recent report by First American CoreLogic.

The report concludes that roughly 7.63 million properties had negative equity in September 2008 and more are headed that way if home prices fall another 5 percent. Florida is among the seven hardest-hit states (including Arizona, California, Georgia, Michigan, Nevada and Ohio), accounting for nearly two of every three borrowers who owe more than the value of their homes while accounting for only two of every five mortgages.

Further, U.S. home prices fell a record 16.6 percent in August from a year earlier, with declines in all 20 major metropolitan areas measured by the S&P/Case-Shiller Home Price Indices.

For buyers interested in the short sales market, there are deals to be had, but only if the consumer expends the effort to understand the process. For example, the buyer should understand the property in question. Is the seller behind in payments and in default? These situations make for a short sale candidate and should be known before starting negotiations.

Establish a time line: If your time frame is tight, this might not be the option for you. Lenders are taking longer – in excess of 60 days in many cases – to approve short sales proposals. In some cases, buyers can

accelerate the bank's decision by offering to pay with cash. As a general rule, the more deficient a seller is with the lender the longer the negotiation can take. If you begin negotiating on a short sale, talk with your real estate attorney about a contract that provides you, as the buyer, a way out of the deal if the seller does not conclude negotiations with the lender within a specified period of time. Make sure that all paperwork is completed on time. Missed deadlines can delay the time before closing.

Know all the lien holders: Find out what liens there are on the property. All liens will need to be satisfied, including both primary and secondary holders, before a contract is approved. Holders of secondary liens might hold up a short sale until they're paid to minimize potential losses. Check for holders of tax liens as well as mechanic's liens.

Make a reasonable offer: One that is too low creates more delay. Your real estate broker can assist by compiling a comparative market analysis, which indicates the prices of similar property in your area. Seen from the other side of the deal, the lender is trying to minimize loss on a property when dealing with a distressed borrower. While lenders aim for fair market value, there's anecdotal evidence that banks may be enticed by offers that are least 90 percent of what an independent broker figures the home is currently worth. Know market value is a critical element in making an offer.

Examine the costs: Even though there may be a discounted purchase price involved in a short sale, all of the other costs remain. You should get an estimated closings statement for the short sale – including expected sales price, unpaid loan balances, real estate commissions, outstanding payments and late fees – which your real estate attorney can compile for you.

Short sales continue to attract attention throughout the real estate industry. Consumers should explore these and all tools at their discretion but understand the hazards so that they can proceed with maximum security.

Charles J. Kovaleski is president of Attorneys' Title Insurance Fund, Inc., (The Fund) the leading title insurer in Florida and the sixth largest title insurance company in the country. Acknowledged as the Florida residential real estate expert, The Fund has been in business for more than 50 years and supports a network of more than 6,000 attorney agents statewide who practice real estate law. The Fund, based in Orlando, Fla., underwrites more than 300,000 title insurance policies for owners and lenders in Florida every year. For more information, visit myrealestatestory.com