

Decoding the Real Estate Market

Short Sale

Provided by TCAOR P.R. Committee Chair-Sandra Hayes

Used to be, homes were for sale by owner or through a real estate broker. Occasionally, a foreclosure or probate sale was announced. With home loan rates at historic lows and many homes on the market at the lowest prices in many years, this is a good time for buyers. The conditions that have led to this buyer's market have also made the process more complicated. Here is a definition of Short Sale how it affects the home buying process:

Short Sale- Simply put, a short sale is when the proceeds from the sale of real estate fall short of the balance owed on the property's loan. This happens when the property owner cannot make the loan payment on the property, and the lender decides to try and sell the property at a loss rather than foreclosing. Lenders will generally get more from a short sale (with fewer expenses) than from an REO. Property owners who can sell their homes through a short sale rather than get foreclosed upon take less of a credit hit, too. Both the property owner and the lender must consent to the short sale process. This agreement, however, does not necessarily release the borrower from the obligation to pay the remaining balance of the loan, known as the *deficiency*. The good news for California borrowers is all purchase-money loans on a one-to four-unit residential dwelling are exempt from deficiency judgments. Loans taken out after the home was purchased through a refinance or second mortgage may be subject to a deficiency judgment.

What is not so simple is the process of buying a short sale property. Whereas the purchase of a home that is for sale conventionally or via REO can take 30 days or less, the sale process of a short sale property may drag on for months. In 2008 and 2009 when the housing market and the economy were collapsing at the same time the myriad of sub-prime and option loans were adjusting from 1% to 12% and more, short sales were taking up to a year to complete. Short sale transactions were like saloon brawls in the lawless Wild West. Lenders were cavalier and inconsistent with the rules, changing terms and conditions mid-transaction. Finally, public outcry and complaints from the Californian Association of Realtors spurred State Senator Calderon to author SB306 which enacts law regulating these sales.

The law requires that lenders must accept, reject with counter offer or completely deny a properly submitted short sale offer within 21 days of receipt. The lender must respond to offers in writing. This has sped up the process of buying a property via a short sale, but buyers can expect a longer more complicated process.

When attempting to negotiate a short sale with your lender or making an offer on a home for sale under a short sale, it is important to enlist the services of a real estate agent who is experienced with short sales and can negotiate the best deal in the quickest time frame for you.

The next installment of **Decoding the Real Estate Market** will discuss **Foreclosure Rescue Scams**.