Homeowner Options in Today's Marketplace

Resale Markets, Refinancing, and Sale Alternatives

By

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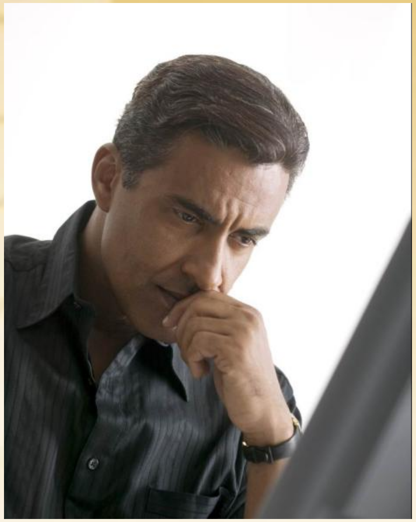
Many Homeowners are Facing Challenging Market Conditions

- What are the Issues Being Faced?
- What are the Options?
- What are the Consequences?



Mortgage Issues Being Faced

- Adjustable rate mortgages are adjusting upward, causing significant rate and payment increases.
- Option Arm mortgage payments may be depleting equity, and could require refinancing.

Adjustable Mortgage Payment Options

- Pay the new higher adjustable mortgage payment.
- Refinance your loan into a new fixed rate program such as a 5/25, with a fixed interest rate for 5 years.
- Refinance your loan into another fixed loan option, such as a traditional 30-year fixed program.
- Ask your lender to work with you to modify your loan, extend your payments, or forgive a portion of the debt.

Refinance Challenges

- Banks have tightened their lending guidelines on virtually all loan categories. Credit, income, and debt-to-income measurements are all stricter now, making it more difficult to refinance.

- Many homes have lost value, causing their equity to be “upside down.” These homes would require a substantial cash payment to refinance the loan balances in excess of the home value.

What are the Selling Decision Factors?

You May Need to Sell Because:

- You received a job transfer or need to relocate.
- You cannot afford your existing mortgage payment.
- Your Adjustable Rate Mortgage is adjusting, causing the rate to go up and an unaffordable payment increase.
- You cannot refinance under the new stricter lending guidelines.

Options for Selling

Your First Option is to List the Property for Sale:

- List the property for full market value and use the sales proceeds to pay off the bank in full.

Selling Issues Being Faced

- Due to changing market conditions, your property may have depreciated in value and you may owe more than the property is worth.
- With the lower property value, you may not have the additional cash needed to pay off all loan balances and closing costs to complete the escrow.
- You may already be behind in mortgage payments or your property is currently in foreclosure.

One Possible Solution - a Short Sale

<u>This happens when:</u>

- A Seller owes more than the property is worth.
- The Seller has no cash to close.
- The Lender will accept less than what they are owed.

What Lenders Consider

- Mortgage is in foreclosure
- Homeowner hardship
- Overall financial situation & need to sell
- Depreciated property value / CMA
- Debt overload / Other defaulted loans
- Property condition

A Seller Should Understand

- You should seek tax and legal advice.
- The Lender will not be paid in full and the debt may not be forgiven.
- Debt relief may be considered taxable income.
- There can be no proceeds to the seller.
- If there is a second deed of trust, there may be more than one lender to work with.
- Generally, the Buyer will be expected to pay closing costs and the property sold “as-is.”

A Seller Should Understand

- If you do not have the money for real estate commissions to sell the property, they will be handled by the Lender through the short sale.
- Most lenders won’t consider a short sale until homeowners are behind on payments, and can demonstrate an inability to meet payments.
- You will need to provide a complete picture of your financial situation.
- You will need to cooperate with your agent and the lender to provide the documents requested.

What is the Short Sale Appeal?

Why would a Lender or Seller find a Short Sale appealing?

- Homeowners benefit by being released from an obligation they can no longer afford, and by avoiding the long-term negative consequences to their credit associated with a foreclosure.

- Lenders benefit because they can avoid the substantial expense of a foreclosure proceeding. Most lenders do not want to own the properties used as collateral for their loans, because the maintenance costs and taxes add to their cost and decrease profitability.

What are the Affects on Credit?

How does a Short Sale affect your Credit?

- A lender may report a short sale loan as being “Satisfied.”
- A Lender may also report the short sale loan as being settled for less than the full balance, such as “Settled,” or “Paid Settled.” This would show up on the borrower’s credit report as a negative mark.
- However the lender enters the information, a short sale record will be far less damaging to the borrower's credit report than a foreclosure.

What are the Loan Effects?

Do you still owe any money after the Short Sale? (Example: A deficiency judgment)

- North Carolina has “anti-deficiency statutes” that protect certain borrowers from a deficiency judgment - the difference between the unpaid balance of the home loan and the amount produced by the sale.
- A North Carolinian lender typically chooses a trustee’s sale foreclosure, which is quicker and less expensive than a judicial foreclosure.
- With a trustee’s sale foreclosure, the lender generally cannot go after a deficiency judgment.

What are the Tax Effects?

Are there any Tax Effects of a Short Sale?

- The seller may be obligated to pay taxes on debt forgiven by the lender. Any relief of indebtedness is generally taxed as ordinary income.
- There are however, some exceptions to this rule that may benefit a taxpayer involved in a short sale:
  - Non-recourse debt - If the borrower never refinanced the home, the mortgage is probably a non-recourse debt. That means the lender has no right to anything but the value of the home, so there is no debt-cancellation income.
  - Insolvency - Sellers who are insolvent at the time of the cancellation of debt will not have to pay taxes on the forgiven amount. Insolvency would occur when a borrower’s liabilities exceed their assets. The seller would have to show this insolvency to the IRS when filing a tax return.

What are the Tax Effects? (Cont.)

- Additionally, The Mortgage Forgiveness Debt Relief Act of 2007 was passed in December, 2007. It provides relief to many people who have lost their home due to a short sale, foreclosure, or any similar arrangement that relieves the borrower of the obligation to pay some portion of their debt.

- The bill amends the Internal Revenue Code to exclude from gross income amounts attributable to a discharge, prior to January1, 2010, of indebtedness incurred to acquire a principal residence. It reduces the basis of a principal residence by the amount of discharged indebtedness excluded from gross income. It limits to $2 million the excludable amount of such indebtedness. It also sets forth rules for determining the allowable amount of the exclusion for taxpayers with nonqualifying indebtedness and taxpayers who are insolvent.

Sellers Should be Aware

- Notices of Default often work as a beacon to scam artists and predatory lenders offering fraudulent rescue loans, phony credit counseling, and other scams.
- If a Notice of Default has been filed on your property, be aware of these predators.

The Foreclosure Time Frame

If you are considering a Short Sale, the sooner you move forward, the better your chances for success.

- Day 1 – Notice of Default Recorded
- Day 91 – Notice of Trustee's Sale
- Day 115 – Deadline to cure Default
- Day 122 – Trustee's Sale

To Get Started with a Short Sale

To Get Started with a Short Sale:

- Sign the Listing Agreement, Short Sale Addendum, and other needed documents at which we will provide to you as well.

Your Agent or One of Our Agents:

- With your written permission, prepare and negotiate with the Lender(s).
- Negotiate with potential buyers.
- Prepare required Lender documentation.
- Work with you to provide the lender with financial information such as bank statements, tax returns, and a letter detailing your hardship.

Thank You

Thank you.

Questions?

Please Call or Email

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