

Financially Troubled Property



What Sellers Need to Know

When your market value is less than what you owe

Realty3 Carroll & Agostini – Mitchel Agency – Valley Properties



Don't Wait to Consult with a Professional

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- The longer you wait the worse your situation will become for you.
 - Almost all of the liens, judgments and delinquencies are a matter of public record
 - We do not judge you or your circumstances since bad things happen to good people all the time
 - Don't be embarrassed to honestly share the details of your situation with us – we can't help you if we don't know all the details



Definition of a Short-Sale

Defined as follows:

- *Short sale is one where title has transferred, the sales price was insufficient to pay the total of all liens and costs of sale; where seller didn't bring sufficient liquid assets to close to cure deficiencies.*

A “Potential Short Sale” is defined as:

- *A potential short sale is one where the listing agent reasonably believes the purchase price may not be enough to cover payment of all liens and costs of sale and the seller is unwilling or unable to bring sufficient liquid assets to the closing*



Details the Professional Needs

- How much is owed and if you are in default on any loans, taxes or association dues
 - Copies of all mortgage statement(s) including 2nd mortgages and lines of credit; most recent property tax statement and association dues bill.
- Total debt, arrears and penalties will be verified with the tax assessor, title company, and association since most sellers are not always aware and may minimize outstanding total balances
- Your time frame, where you are in the process and who your legal specialist is



Elevated Pricing Diligence

- An assessment of the property value will be done by the Realtor® or an appraiser
 - Comparative Market Analysis (CMA) or Broker Price Opinion (BPO) using the most current comparable sales
- An aggressive price will be suggested since you can't afford to try a high price first and adjust later – time is your enemy
- Costs of sale, commissions, closing costs, any interest/penalties on loans or taxes in default will be provided
- A realistic value will determine if there will be positive proceeds or be financially 'upside-down' in value to debt



Specialized Legal Services

- Not every attorney can effectively help you
- An attorney who specializes in short-sales, pre-foreclosure and bankruptcy and collection issues will be required
- Our job is to partner with this legal specialist to expedite the circumstances of your transactions
- It will be determined whether your loan(s) might be subject to a deficiency in a short sale are “Recourse” or Non-recourse”



Recourse and Non-Recourse Loans

- Each state treats loans differently and you will need not only legal but also tax advice
- **Recourse Loan:** borrower retains personal liability for any deficiency after sale/foreclosure since the lender has “recourse” to the personal assets of the borrower to make up any deficiency
- **Non-recourse Loan:** lender limited to only funds available from its security interest - the property and can't force borrower to repay any deficiency

Seller Options



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Overview of Options

In rough order of “least damage to credit” to “most damage to credit” they are:

- *Keep the property*
- *Rent the property*
- *Sell the property and bring cash to close*
- *Attempt a workout with the lender*
- *Offer the lender a “Deed in Lieu”*
- *Offer the lender a ‘Short-Sale’*

If none of these can work, the lender will foreclose



Possible ‘Keep’ Options

- ***Keep the Property*** if you are unhappy with the current property value and have no pressure to sell even if there is some short term financial distress, it need not result in loss of the property
 - A refinance may not be possible due to the lack of equity but there may be special “hardship refinance” programs a particular lender may offer
- ***Rent it*** if you must move, even at a negative cash flow if possible and sell it later



Options if Sale is Necessary

- ***Sell the Property and Bring Cash to Close***
 - This avoids the credit damage that even a successful short sale will cause
 - Convert any deficiency into a personal note, or note on another property owned by the seller
- ***Attempt a Workout with the Lender***
 - Using a short-sale attorney, lenders are more willing to help owners stay in their homes
 - They have been willing to reduce or roll back interest rates, or reduce the allowable payment, to help sellers avoid short sales and foreclosures



More Options- Deed in Lieu

- ***“Deed in Lieu of Foreclosure”*** If you owe more than the property is worth, are unable to make payments, and are likely to lose the property in foreclosure in the near future
 - Using a short-sale attorney, offer to trade the property to the lender in exchange for a loan cancellation if your state has very long foreclosure timelines
 - The lender can obtain the property much sooner and may feel that the mitigation of loss is worth the cancellation of the note



Short-Sale Option

- ***Offer the Lender a “Short Sale”*** utilizing the help of a short-sale attorney, the lender may agree to close the transaction and the seller will receive no funds
- On occasion, lenders have “approved” short sales that included personal notes for the deficiency so your attorney will insure that you fully understand the agreement details
- If none of this works, the property will be foreclosed upon



The Lender Can

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- Accept the offer
 - Ignore the offer without any response
 - May ask you to bring some/all of financial shortfall to close
 - Refuse the offer, either with or without an indication of what net proceeds would be acceptable

Your Realtor® and Short-Sale Attorney will attempt to get the lender to agree to place the property in the MLS as an “approved short sale” with a price and terms the lender will accept



Successful Short-Sale Elements

- The property is worth less than is owed
- Seller has hardship that makes it impossible or extremely impractical to keep the property
- Seller is cooperative and willing to work with a real estate broker to package the short sale.
- Lender is willing to entertain a short sale
- Property is listed with caveats and protections for seller, well priced, and effectively marketed
- Lender is presented with a non-contingent market-priced offer with completed short sale package
- The lender accepts the offer and closes as usual



About Realty3

- Realty3 is a large independent firm with a local presence and an International Network
 - Offices to serve you throughout the Central CT and CT Shoreline areas
- Realty3 is a full service real estate firm with the following divisions:
 - Residential, Commercial, Foreclosure, International & US Relocation, Auction, Rentals, New Construction, Property Management
- Our highly skilled professionals are ready to help you with any of your real estate needs