The Home Owner's Guide to Real Estate Short Sales

Inside you'll discover how you can…

Sell Your Home For Less Than You Owe.
Have Your Lender Pay All The Fees.
Avoid Foreclosure, Save Your Credit And Owe Absolutely Nothing!

&

Receive Legal Representation Throughout The Process At No Cost To The Homeowner As The Bank Pay's All Costs!

The Legal Stuff

The author/publisher has done their best to produce a high quality, helpful and informative book.

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As always, you should seek legal and tax counsel for any matter related to real estate.

Short Sale Contents

About This Book

Let's start with the end in mind. It's important that you be clear about your goals and objectives from the beginning. Whether you're a homeowner looking for a way out of a stressful situation or a real estate professional seeking to increase your knowledge and improve your own skills I trust that you'll find practical and useful information here.

Now, because I wrote this book for homeowners, I'm going to assume that you're somebody facing foreclosure and looking to find a way out and so I'm going to do my best to help show you that way. As an experienced short sale attorney, I've helped many people just like you, escape foreclosure and am confident I can help you as well. You will only get one opportunity to get this right and the experience level of who you choose to work with is critical.

Whether you're current on your payments or months behind, I'll tell you exactly what to do next if you want your bank to *seriously* consider accepting tens or even hundreds of thousands of dollars less than is owed them *and* agree to pay all of the costs and fees associated with the sale of your home through a real estate short sale.

In this practical guide, I'll provide step-by-step instructions for modification or selling your home for less than you owe the bank(s) and with absolutely zero expense to you.

When you've finished reviewing this guide, you'll know more about facilitating a successful modification or real estate short sale than the majority of the so-called *experts* who will soon be leaving flyers at your door step attempting to sell you on their services, if they're not doing so already.

This book is short and to the point. I keep it simple to read and easy to understand and I suggest you complete it in one sitting. Scan through it entirely, highlight key points you wish to remember and then keep it handy as a reference guide as you go through the process and it should serve you well.

On page 10 I'll lay out exactly what's required for the short sale package so that you can begin getting your documentation together and on pages 12-15 I've provided letter samples and templates to make the job way easier.

Let me say this. I understand how you're feeling right now. Millions of other Americans have either recently faced, are currently facing or will soon be facing a situation very similar to your own.

Many families weren't even aware of the modification or short sale option or chose the wrong real estate advisor to help them and lost their homes to foreclosure, destroying their credit in the process. One thing is for certain, there's light at the end of the tunnel and whether that light is salvation and a new beginning or a train coming at you is now up to you. Seeking the right information right now is a smart move on your part.

With a specialists help, a modification or real estate short sale *can* help you and provide a fresh start without the added weight of a foreclosure on your credit report dragging around behind you like an anchor for years to come.

I wrote this book for people facing very difficult circumstances and choices. The thought of a County Sheriff knocking on the door and advising that you have 30 minutes to get everything you can carry and load into the car and get out is unfathomable to me.

You can avoid that. I've helped many others avoid it. I will do my best to help you avoid it. All you need to do is use the information and the tools I provide to take *immediate* action. Working together, I can almost guarantee you success but you must act quickly. You've taken that first step by getting and reading this guide, now you need to take action. I'm going to show you how. Ready? Okay let's go.

Why Listen To Me?

There are two reasons why I think you'll want to listen to me. The first reason is that I know what I'm talking about. I am a real estate attorney and my loss mitigation team has combined experience of 30 years. Over the last 7 years my focus on loss mitigation has put me at ground zero of the real estate meltdown our whole country is going through. I have guided enough people through the process to, well, write a book about it.

The second reason I hope you'll continue reading is that once you have the knowledge of this process you will begin to see you have options. From that point forward you will be able to get on a path to resolving this situation and relieve yourself from the unbelievable amount of ***STRESS*** it is causing.

This book is about you, your options, your future. Read it. Weigh it. Measure it. There's nothing here to trick you or trap you.

If you question the validity of my advice it won't be terribly difficult to hop on your computer or go out and speak with true legal and real estate professionals in your community and confirm everything I share with you.

Modifications and Short Sales aren't rocket science but they do require knowledge *ideally* born of experience, persistence, patience and several heaping tablespoons of top shelf finesse.

While negotiating with banks is a conundrum in itself, getting a solid offer from a qualified buyer in a tough market presents another unique challenge and let's face it, without a rock solid offer you've got nothing to negotiate with the bank over anyhow.

I know it sounds like a lot but try and have some faith. I'm going to help you get your home sold and your short sale proposal to the bank accepted!

The Short Sale Solution

So, what exactly is a short sale? Put simply, a short sale is the sale of a home in which the amount owed to the lender(s) is more than the amount that the home can be sold for. Instead of the home owner having to bring in money to complete the sale, the sale is completed through negotiations with the existing lender(s) and the lender(s) agree to accept less than the full amount owed to satisfy the debt and allow it to be paid off "short."

Put even more simply, a short sale is a real estate transaction that requires an approval from the lender - period. It's not some complicated legal process that requires paying an attorney. As a matter of fact, watch out for that trick!!

Now don't get me wrong. Short sales are most definitely a different animal than a regular real estate transaction because once you stop making your mortgage payments, the clock starts ticking and the hangman starts preparing his noose.

You'll get one shot to do a successful short sale. If your agent is inexperienced at short sales, makes mistakes, gives up, slacks off, drops the ball, or simply doesn't know how to negotiate with banks, you'll wind up being foreclosed on and believe me, you *do not* want to go through a foreclosure.

A foreclosure will devastate your credit. Your credit score can be lowered by as much as 300-400 points (or more) and you'll be hounded day and night by your lender. Even worse, you'll have difficulty getting credit cards, auto loans or even renting a home or an apartment for the next 5 *years.*

Your home may be repossessed by the bank and the bank will sell your home, either at auction, or more likely through a real estate agent, with a large sign out front that says "Bank Foreclosure".

Here's something important you need to know about short sales, depending on whether the loan on your home is a "purchase money" loan or whether you did a "cash out" refinance after your purchase, you either have a "non recourse" or a "recourse" loan. This makes a BIG difference as to whether or not your lender can go after you to repay your debt, even after your home has been foreclosed on.

A non-recourse loan is...

A loan agreement under which the collateral securing a loan is the ultimate source of repayment, and the lender ***cannot*** *hold the borrower personally liable in the event of a default. The lender can seize (and sell) the collateral but cannot seize non-pledged asset or property.*

A recourse loan is...

A loan agreement under which a borrower gives an undertaking to repay a debt even if the funded asset (acquired with the loan proceeds) cannot be liquidated to cover the loan amount. In case of a default, the lender can seize and sell the funded asset as well as the borrower's un-pledged assets or properties.

That recourse loan sounds scary huh? They can be. The great news is, I can help you either way but the steps are different. Now, if you want to see *really scary,* just ask the next real estate agent you meet claiming to be a short sale expert if he or she can explain the difference between the two.

So, I applaud you now for doing your home work and not simply trusting this process to the first of many typical real estate agents who are likely to come along promising help.

While I'm at it, you should also be wary of the many unscrupulous companies operating now that actually encourage you to go through foreclosure so you can live in your home a few more months without paying your mortgage. These companies prey on people who are vulnerable and unaware of the foreclosure and mortgage laws.

They even charge you a hefty fee for the privilege of getting foreclosed on! This is financial suicide, and it is totally unnecessary because...

Your lender does not want to foreclose on your home.

It’s true. They would much rather have you stay in your home and continue making your payments, or have you sell it and get it off their books, even if it requires them taking a financial loss. Remember, banks are in the lending business, not the real estate business, which brings me to my next point:

It makes absolutely zero difference whether your lender was Indymac, Wells Fargo, Chase, Countrywide / Bank of America, Downey Savings, CITI, Chevy Chase, Washington Mutual, Wachovia, World Savings, First Franklin, Flagstar, GMAC, Greenpoint, Homecomings, HSBC, Irwin, Novastar, Option One, Aurora, Deutsche Bank…

They all work pretty much the same – if you submit a sensible offer and a clean package and have the systems and resources in place to consistently and continuously follow up on the file, it has the best chance of being accepted and your home will be sold “short.” You’ll pay nothing. You’ll owe nothing. You’ll avoid having a foreclosure on your credit report and you’ll survive to fight another day. If you qualify for the Home Affordable Foreclosure Alternatives Program (HAFA), you may receive up to $10,000.00 in relocation assistance along with being completely released from any deficiency. To be eligible for this, you must meet the following criteria:

1. You have a documented financial hardship.
2. You have not purchased a new house in the last 12 months.
3. Your first mortgage is less than $729,750.00.
4. You obtained your mortgage on or before January 1, 2009.
5. You must not have been convicted in the last 10 years of felony larceny, theft, fraud, forgery, money laundering or tax evasion in connection with a mortgage or real estate transaction.
6. Your mortgage is owned or guaranteed by Fannie Mae and Freddie Mac.

The Short Sale Package

The documentation required to process a short sale is commonly referred to as a "Short Sale Package" and is usually submitted by the agent representing the seller or the seller of the property themselves if they are attempting to do the short sale on their own. Here's a sample short sale package:

* Note that items may vary depending upon the lender.

- Cover Letter.
- Authorization to Release Information (pgs. 11)
- Sellers Hardship Letter (pgs. 12-15).
- 2 years W-2's.
- 2 months pay stubs.
- 2 months bank statements.
- Supporting Hardship Info - HOA liens, medical/disability statements etc.
- Repair Estimate for the property (when necessary).
- Comparable area sales (see BPO on pg. 23).
- Listing & Purchase Contract(s).
- Net Sheet (provided by agent).
- First mortgage holder may ask for a payoff amount from the 2nd (obtain pay-off statement from lender).
- Second mortgage holder may ask for a payoff amount from the 1st (obtain pay-off statement from lender).
- Lender may ask for an Initial Title Report.
- FHA and VA may have their own forms and special requirements as well.

If you plan to work with a real estate professional and can have your last two years tax returns as well as past two months bank statements and pay stubs together with your hard ship letter and authorization to release information statement for them at your initial meeting you'll give them a running head start and they will love you!

The Hardship Letter

The *Hardship Letter* is an integral part of the short sale package and should be written by the seller and NOT their representative. It is used to explain to the lender the reasons for the borrower's need for a short sale. Reasons such as divorce, job loss, medical issues, etc. can and should be included. Usually just a one page letter with the pertinent information will suffice however if your letter makes them cry it's even better!

I'll provide some examples over the next few pages however a simple letter in the following form should suffice:

Date

Lender Name
Address
Loan Number

Dear Sir/Madam,

{Explain your hardship and why you must utilize a short sale - some example hardship reasons are listed below}

- Unemployment
- Reduced Income
- Divorce
- Medical Bills
- Too Much Debt
- Death of my Spouse
- Death of a family member
- Payment Increase
- Business Failure
- Job Relocation
- Illness
- Military Service
- Incarceration
- Other (Please Specify)

Borrower's Signature
Date

Co-borrower's Signature
Date

Hardship Letter Example #1

To whom it may concern:

I purchased my home at _____________ in ___________. At that time I was employed by _______and business was very good. My salary and the possibility of a promotion and raise made me sure that I could easily support my mortgage. Unfortunately, a downturn in the market caused my company to reduce its workforce and I was laid off.

After searching for a comparable job, I finally got a temporary position as an office assistant as I continuing seeking other work. I struggled for several months to make my mortgage payment, and was also hit with some medical payments that I did not expect (the COBRA payment was more than twice what I was paying when employed). I knew I would have to sell my home to protect my credit rating and possibly have enough cash left over for moving expenses and some savings. I put my home up for sale by owner in _________, but there were several problems that I did not have enough money to fix, such as the broken fence in the back yard and some pretty severe leaks in the roof which indicated a new one was needed. Over the next three months I lowered the price three times but still had no takers. I am now working with a real estate agent and I believe she will be able to help me sell quickly.

I really love my house, but I know that I cannot afford it. I am a single parent, working as a temporary employee with few benefits and no savings. My financial situation cannot sustain a home mortgage of nearly $2200 per month. I want to sell the home, avoid foreclosure and salvage my credit. I know that a foreclosure on my record will affect me for years to come. I would ask that you please assist me in avoiding this.

Please accept this offer as payment in full. My attorney has advised me to file bankruptcy, but I prefer to avoid further destruction of my credit. I just want to move on and start over.

I deeply appreciate your help and understanding in this matter. If you have any questions, or need anything further from me, please contact my agent or me personally.

Sincerely,

Home Owner Name

Address and Contact Information

Hardship Letter Example #2

To Whom It May Concern:

I am writing this letter to explain the unfortunate set of circumstances that has caused us to become delinquent on our mortgage. We have done everything in our power to make ends meet. But unfortunately, we have fallen short and would like you to consider working with us to allow a short sale. We would really appreciate the opportunity to work with you on this matter.

The main reason that caused us to be late is (insert your reason here and be concise and to the point). With our income not being nearly enough, we had fallen further and further behind. It is our full intention to pay what we owe. However, it's now to the point where we cannot afford our current payments. We have exhausted all of our income and resources so we are turning to you for help.

(State the approximate date and circumstances of your hardship and whether or not your situation is temporary or will be permanent.)

We feel that a loan modification (or short sale) would benefit us both. We would appreciate if you can work with us to lower the monthly payment so we can keep our home and also afford to make amends with your firm (or agree to a short sale).

We truly hope that you will consider working with us and we are looking forward to settling this so we all can move on.

Sincerely and Respectfully,

Your Signature

Date

Hardship Letter Example #3

Dear Sir/Madam,

This letter is a request for your cooperation in a "**short sale**" of our home located at ___________________.

[Sample text regarding reason for request: My husband has been laid off from his job because of a work injury. He worked at Acme Manufacturers for twenty-five years. On June 15, 2006 a forklift ran over his foot and he has not been able to work since then. He receives $2,200 disability every month.]

I work at ______________ but only make ___________a month. Combined we both take home _________ which is not enough to cover our bills and the house payment.

The house is vacant. We are living with my elderly parents.

We have a real estate agent and she has found a buyer for the property with a purchase agreement offer of $__________ (its current market value). This offer will not be enough to pay off our existing first and second loans on the property. It is a good offer and the buyer is anxious but I will need both the first and second existing lenders on the property to agree to cooperate in a short sale and therefore accept short payoffs.

Attached is my written authorization for you to speak with my real estate agent, ___________and my escrow officer, __________, at _____________Title Company about this matter. [Ask your real estate agent and escrow officer for their forms.]

I have enclosed a Borrower's Financial Statement and Explanation of Hardship Form for your consideration. [You should ask for these forms from the lender.]

Thank you for your prompt attention to this matter.

Sincerely,

Your Signature and date

Authorization to Release Information

Dated: _____________

TO: ____

Borrowers: ____

Property: ________________________________ Loan Number: ________________

We, the undersigned, hereby authorize you to release information regarding the above-referenced loan to ________________________________ and/or their agents or assignees. This form may be duplicated in blank and/or sent via facsimile transmission. This authorization is a continuing authorization about my loan, including duplicates of any notices sent to me about my loan.

Borrower:

Sign: X________________________________ DOB: ______________________

SSN: ______________________

Mothers Maiden Name: ______________________

Borrower:

Sign: X________________________________ DOB: ______________________

SSN: ______________________

Mothers Maiden Name: ______________________

Tax Consequences of a Short Sale

If the lender agrees to your short sale, in some cases the lender may possess the right to issue you a 1099 for the shorted difference, due to a provision in the IRS code about debt forgiveness. Many situations are exempt from debt forgiveness according to the Mortgage Forgiveness Debt Relief Act of 2007, you should speak to a tax accountant to determine the amount of short sale tax consequences and whether you can afford to pay those taxes, if any exist.

Key Information Regarding the Mortgage Forgiveness Debt Relief Act of 2007 From the Governments Site.

What is the Mortgage Forgiveness Debt Relief Act of 2007?

The Mortgage Forgiveness Debt Relief Act of 2007 was enacted on December 20, 2007 (see News Release IR-2008-17). Generally, the Act allows exclusion of income realized as a result of modification of the terms of the mortgage, or foreclosure on your principal residence.

What does exclusion of income mean?

Normally, debt that is forgiven or cancelled by a lender must be included as income on your tax return and is taxable. But the Mortgage Forgiveness Debt Relief Act allows you to exclude certain cancelled debt on your principal residence from income. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.

Does the Mortgage Forgiveness Debt Relief Act apply to all forgiven or cancelled debts?

No. The Act applies only to forgiven or cancelled debt used to buy, build or substantially improve your principal residence, or to refinance debt incurred for those purposes. In addition, the debt must be secured by the home. This is known as qualified principal residence indebtedness. The maximum amount you can treat as qualified principal residence indebtedness is $2 million or $1 million if married filing separately.

Does the Mortgage Forgiveness Debt Relief Act apply to debt incurred to refinance a home?

Debt used to refinance your home qualifies for this exclusion, but only to the extent that the principal balance of the old mortgage, immediately before the refinancing, would have qualified. For more information, including an example, see Publication 4681.

How long is this special relief in effect?

It applies to qualified principal residence indebtedness forgiven in calendar years 2007 through 2014.

Is there a limit on the amount of forgiven qualified

principal residence indebtedness that can be excluded from income?

The maximum amount you can treat as qualified principal residence indebtedness is $2 million ($1 million if married filing separately for the tax year), at the time the loan was forgiven. If the balance was greater, see the instructions to Form 982 and the detailed example in Publication 4681.

If the forgiven debt is excluded from income, do I have to report it on my tax return?

Yes. The amount of debt forgiven must be reported on Form 982 and this form must be attached to your tax return.

Do I have to complete the entire Form 982?

No. Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Adjustment), is used for other purposes in addition to reporting the Section 1082 Adjustment), is used for other purposes in addition to reporting the exclusion of forgiveness of qualified principal residence indebtedness. If you are using the form only to report the exclusion of forgiveness of qualified principal residence indebtedness as the result of foreclosure on your principal residence, you only need to complete lines 1e and 2. If you kept ownership of your home and modification of the terms of your mortgage resulted in the forgiveness of qualified principal residence indebtedness, complete lines 1e, 2, and 10b. Attach the Form 982 to your tax return.

Where can I get this form?

If you use a computer to fill out your return, check your tax-preparation software. You can also download the form at IRS.gov, or call 1-800-829-3676. If you call to order, please allow 7-10 days for delivery.

How do I know or find out how much debt was forgiven?

Your lender should send a Form 1099-C, Cancellation of Debt, by February 2, 2009. The amount of debt forgiven or cancelled will be shown in box 2. If this debt is all qualified principal residence indebtedness, the amount shown in box 2 will generally be the amount that you enter on lines 2 and 10b, if applicable, on Form 982.

Can I exclude debt forgiven on my second home, credit card or car loans?

Not under this provision. Only cancelled debt used to buy, build or improve your principal residence or refinance debt incurred for those purposes qualifies for this exclusion. See Publication 4681 for further details.

If part of the forgiven debt doesn't qualify for exclusion from income under this provision, is it possible that it may qualify for exclusion under a different provision?

Yes. The forgiven debt may qualify under the insolvency exclusion. Normally, you are not required to include forgiven debts in income to the extent that you are insolvent. You are insolvent when your total liabilities exceed your total assets. The forgiven debt may also qualify for exclusion if the debt was discharged in a Title 11 bankruptcy proceeding or if the debt is qualified farm indebtedness or qualified real property business indebtedness. If you believe you qualify for any of these exceptions, see the instructions for Form 982. Publication 4681 discusses each of these exceptions and includes examples.

I lost money on the foreclosure of my home. Can I claim a loss on my tax return?

No. Losses from the sale or foreclosure of personal property are not deductible.

If I sold my home at a loss and the remaining loan is

forgiven, does this constitute a cancellation of debt?

Yes. To the extent that a loan from a lender is not fully satisfied and a lender cancels the unsatisfied debt, you have cancellation of indebtedness income. If the amount forgiven or canceled is $600 or more, the lender must generally issue Form 1099-C, Cancellation of Debt, showing the amount of debt canceled. However, you may be able to exclude part or all of this income if the debt was qualified principal residence indebtedness, you were insolvent immediately before the discharge, or if the debt was canceled in a title 11 bankruptcy case.

If the remaining balance owed on my mortgage loan that I was personally liable for was canceled after my foreclosure, may I still exclude the canceled debt from income under the qualified principal residence exclusion, even though I no longer own my residence?

Yes, as long as the canceled debt was qualified principal residence indebtedness. See Example 2 on page 13 of Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonment's.

Will I receive notification of cancellation of debt from my lender?

Yes. Lenders are required to send Form 1099-C, Cancellation of Debt, when they cancel any debt of $600 or more. The amount cancelled will be in box 2 of the form.

What if I disagree with the amount in box 2?

Contact your lender to work out any discrepancies and have the lender issue a corrected Form 1099-C.

Whew!

Okay, so that's just a small sample from FAQ section of the Governments website. You can check it all out for yourself at http://www.irs/gov

Again, you don't need to know all of this but you will need to contact a CPA or tax attorney for advice on the legal and/or tax ramifications of the short sale and how they might affect you. I can refer you to somebody.

Step 1: Qualifying For a Short Sale

If you can answer YES to the following 3 questions, you very likely do qualify for a real estate short sale.

- **Has Your Home's Market Value Dropped?**

  Hard comparable sales will be used to substantiate that the home is worth less than the unpaid balance owed the lender. The expert you choose should be able to provide a thorough BPO (Broker Price Opinion – *next chapter*). The unpaid balance can include any prepayment penalties you might have.

- **Is Your Mortgage Currently In Default or Are You Certain It Soon Will Be?**

  It used to be that lenders would not consider a short sale if the payments were current, but not anymore. Realizing that other factors contribute to a potential default, many lenders are eager to head off future problems at the pass.

*You do not have too been late on your payments but you must be able to <u>convince them</u> with your **hardship letter** that you will soon become delinquent with your payments.*

Have You Fallen on Hard Times?

The seller must submit a letter of hardship (see the examples I've provided on pgs. 13-15) that explains why the seller cannot pay the difference due upon sale, including why the seller has or will stop making the monthly payments.

Obviously, these aren't real difficult questions for the majority of Americans to answer "yes!" to however let's be clear – not all situations merit a short sale.

Situations that definitely would NOT constitute a hardship in the banks eyes:

1. Making bad purchase decisions. Blowing your paycheck on a home theater system with surround sound does not qualify as a hardship.

2. Not getting along with the neighbors. Even if every home on your block has turned into a methamphetamine lab or a biker gang club house, that will not qualify as a hardship.

3. Buying another home. The lender does not care if you have decided the home is no longer suitable for you or your family. Seriously - they don't.

4. Pregnancy. Increasing the size of your family or starting a family is not considered a hardship, until they become teenagers of course, at which point they will have more compassion but still not except it as an excuse for shorting them thousands.

WARNING

If you think your lender cares enough about your self-inflicted pain to accept a short sale, think again. No way, no how will the lender ever consider your poor purchase making choices or the fact you just don't like the neighborhood any more in considering accepting less than is owed them. You must be able to prove financial hardship!

Step 2: Finding The Right Help

Let me be clear. I've intentionally created distinctions throughout this book between what I consider to be *typical real estate sales people* and true *real estate professionals* because it's critical for you to be able to make the right choice, the first time. Remember, you'll only get one shot at a successful short sale.

So here's the problem. When short sale listings became a significant percentage of the available inventory of homes to be sold, *typical real estate sales people* with just enough knowledge to be dangerous instinctively began pitching themselves as *short sale experts,* which they clearly are not, and which is evidenced by the huge inventory of former short sale listings that have been foreclosed on.

Many of today's foreclosed upon homes are former short sale properties that never successfully closed escrow with the banks even though in many cases they received multiple offers; offers that went nowhere because the listing agents were real estate agents who were inexperienced, unskilled and unsuccessful in working with the banks or the buyers.

These agents represent the 90% plus who sell 1-4 homes per year according to the National Association of Realtors.

Whether a surgeon, professional athlete or real estate professional, the skill brought to a task is only gained through time and with vast amounts of experience. Tiger Woods makes golf look easy but seriously, how many times do you think he has practiced his swing?

A true real estate professional can sell homes in hot and cold markets. A true real estate professional not only knows what a BPO is, he or she has created boat loads of them. The learning becomes unavoidable when you're consistently performing the same task.

In order to maximize the odds of a successful short sale, you need to find a pro. Obviously, it's imperative that your real estate expert know how to market your home effectively in the current tough market conditions we are all experiencing. However, the 3 primary tasks that a true real estate professional performs are as follows:

1. **Educate** – This means to act as your consultant and advisor. They must ask the tough questions and then *listen deeply to understand* your particular situation so that they can provide the best advice.
2. **Negotiate** – When it comes to making their client money or saving their clients money, they take the task seriously and treat their client's money as if it were their own.
3. **Coordinate** – They must have the structure, systems and experience to coordinate the hundreds of transactional details including phone calls, emails, documents – everything. A mistake anywhere throughout the short sale process can cost you BIG time.

Step 3: Determining Your Home's Value

This is the point in the game where it's going to help having an experienced real estate professional on your team. You can log onto any number of websites such as Zillow.com or Realtor.com for a very rough estimate of your home's value however, a true real estate professional will understand the subtle as well as not so subtle nuances in your market place that can change your home's value – things like **pent-up demand** due to a lack of similar inventory or recently sold comparables that really aren't all that comparable and know how to adjust for the differences.

It's important that the valuation be precise, reliable and logical. A real estate expert will create and provide a **B.P.O.** (**Broker Price Opinion**). The B.P.O will show the (3) most **comparable recent sales** and (3) most **comparable active listings**. It will also explain price adjustments. In a perfect world, they'd find exact model matches right next door or just across the street from your home however things usually (read *never*) go that easy and when they don't…

Your real estate advisor will strive to show the bank comparables within a **1 mile radius** that were **built roughly the same time** and include **basically the same features** and are **approximately the same size** that have **sold within the**

past 6 months. When this is not possible, they will need to begin making adjustments to distance, age, features, size etc. until they come up with the most logical comparables.

The BPO will incorporate and *explain* adjustments made to the value determination based on any number of possible scenarios including but not limited to property condition, area noise, views, neighborhood blight, proposed community changes, proximity to shopping, parks, schools, airports – anything that can affect value.

If and when your lender agrees to entertain the short offer you submit, they will send an appraiser out or hire a local real estate broker to provide a B.P.O. for them. If your real estate professional under priced the property, expect the lender to want a higher offer. If they over priced it, expect the lender to agree with it and then you're screwed later when it doesn't sell and you have to negotiate for a price reduction. Understandably, they want the highest and best offer or an offer that reflects fair market value based on their own BPO or appraisal.

Your listing agent should *always* seek the highest and best offer that he or she can obtain. The bank needs to feel their best interests are truly being represented since they are the ones taking the loss and paying all the costs and fees associated with the sale. Many "typical real estate agents" will make the often times fatal mistake of either under or over-pricing the home and/or submit the very first offer they receive straight away to the bank.

A true real estate expert will always demonstrate to the bank that they have done all they possibly can to determine fair market value and obtain the best possible offer.

Let me say one last thing about determining your home's value. *Your home is only worth what somebody is willing to pay you for it.*

How do most interested home buyers determine what to offer? Hint: It’s not your asking price. Your asking price plays only a small part in that it either attracts or repels offers.

If your asking price is too high because you’re working with a typical real estate agent who either a) *didn’t have a clue when suggesting the list price or* b) *allowed you to dictate the price based on your own emotional attachments and intuition because they were intimidated by you*, most buyers will simply ignore your home and it will stagnate on the market, becoming harder and less likely to sell with each passing day.

A home that’s been on the market 180 days is harder to sell than a home that’s been on the market 30 days. Why? First, buyers assume something must be wrong with it and second, if they are interested, they will assume you don’t have any other offers and low-ball you.

A typical real estate agent doesn’t know how to handle this self-inflicted chaos. They will either accept the low ball offer (which the bank will reject) or make a pathetic effort at counter offering the buyer up but at this point it’s often times too late because you’re now only attracting bottom feeders who either can’t afford to increase their offer or are only looking for “deals” and all the while the clock keeps ticking.

Many short sales fail and become foreclosures because the bank got tired of waiting for your agent to “get real”, that’s why it’s critical you work with a true real estate professional who understands all of this.

Step 4: Listing Your Home for Sale

Let's assume now you're qualified for a short sale and that you've found an expert to guide you safely through the process and that he or she has created a solid BPO and determined the "30-Day Sales Price", that is, the price that you can reasonably expect to obtain from more than one motivated and qualified buyer(s) within 30 days.

In this stage, putting your home up for sale as a short sale is no different than listing your home for sale as you would a traditional sale *except for the fact that you must advise interested buyers that any final sale is subject to lender approval.*

There's no ominous sign in the yard to indicate you're doing a short sale. In fact, there may not be any sign in the yard at all. Every market is different. Leave the marketing up to your expert.

A true real estate professional will want to "fly the plane" so to speak. When it comes to having a sign or not having a sign, whether or not you should allow agents to access your home when you're away, holding open houses or not holding open houses, a pro will gently insist you avoid coming up into the cockpit and trying to fly. Just like you, they don't want their time or resources wasted.

A flyer cannot sell the house as well as a professional realtor can over the phone and I'd rather a potential buyer actually see the home personally before making a decision one way or the other. Sometimes a picture on a flyer will falsely convince a potential buyer that the home is not for them even when it just might be exactly what they are looking for.

Step 5: Selecting the Very Best Offer

Offers come in all shapes and sizes and as they say, bigger is not always the best. Here's an example of what I'm talking about:

Subject property asking price based on detailed BPO and experienced agent's knowledge of market: $329,000.00.
Time on market: 7 days.
Offers received: 3

Buyer #1: These folks got their offer in fast. They are frustrated after having already submitted offers on 4 other homes over the past 46 days and been rejected on each occasion. The *typical real estate agent* they are working with is also frustrated and would love to earn a commission check and move on to the next transaction. They are aggressive this time and come in over asking price.

Offer: $335,000.00
Financing: FHA
Earnest Deposit: $3,000.00
Close of escrow: 30 days.
Requested seller concessions: 0

Buyer #2: This is the first offer they have written. They have a slightly more experienced typical real estate agent helping them who wrote up the contract and sent it over via fax. It included a meaningless pre-approval letter and nothing else except for the blank cover page with my fax # written across it.

Offer: $329,000.00
Financing: Conventional 20% down.
Earnest Deposit: $10,000.00
Close of escrow: 30 days
Requested seller concessions: $3k credit toward closing costs.

Net offer: $326,000.

Buyer #3: First time home buyers lucked out and got referred to an experienced real estate professional who has helped several colleagues at their place of employment find or sell a home. This is their first time looking and only their 3rd home visit but the place is perfect and the price is right. It's no accident they were able to avoid previewing 2 dozen homes before finding just the right one because their experienced real estate professional took the time and asked great questions up front and got a crystal clear picture of what "perfect" would look like for them.

Offer: $325,000.00
Financing: Conventional 20% down.
Earnest Deposit: $10,000.00
Close of escrow: 30 days.
Requested seller concessions: 0

In the case of buyer #3 the agent also included a copy of the buyer's credit great credit report, as well as a letter from a bank indicating they had been *approved for conventional financing* for the appropriate price *contingent upon appraisal and property condition only*, as opposed to a basic pre-approval letter anyone with a pulse can obtain. They also included the sales comparables they used to arrive at their offer price. The offer was presented very neatly and professionally and included a cover letter indicating what the offer contained and shared some of the enthusiasm the buyers had for the home.

The experienced real estate professional recognizes the ideal candidate is buyer #3 immediately. The fact that they have a 20% down payment makes them stronger candidates than the FHA buyers and less likely to experience financing problems after the offer has been accepted.

The way the offer was presented instilled confidence in the selling agent that the buyer's agent would be able to manage his or her side of the transaction effectively and probably be easier to work with than buyers #2, who don't appear as strong since they are seeking a cash credit to help with their closing costs.

According to the National Association of Realtors (N.A.R.) the average real estate transaction generates 107 phone calls from the time the offer is received to the day the escrow closes. With a short sale, quadruple that. Having to rely upon a sloppy or lazy agent on the other side of the transaction while trying to get a short sale closed not only increases the work load with additional phone calls chasing documents and signatures but also increases the time it takes to close and the odds of outright failure.

Let me share with you another secret and save you a ton of trouble. *Many buyers submit multiple offers on several properties at the same time assuming it will increase their odds of success.*

If you accept an offer from a buyer like this, what do you think will happen if they have another offer approved before you get an approval? What will happen is they will cancel their offer and leave you high and dry.

If you're fortunate, you've obtained a back-up purchase offer from another buyer but still, you'll be forced to re-submit the new offer and start the entire process all over again with the bank.

I'm going to tell you how I've evolved my practice to completely avoid this problem with a powerful and simple technique. I require the buyer with whom we've accepted an offer from to submit a 1% earnest money deposit.

If they are not willing to provide a deposit, you should not be willing to accept their offer and it's that simple. Of course some buyers will complain. Which ones? The ones you don't want; the type who will inevitably waste your time and ruin your chance of a smooth and successful short sale. Think of a buyers deposit system as a filter that keeps the junk out.

A solid buyer who truly wants your house will be thrilled to provide a deposit because it will make them feel one-step closer to getting it.

Step 6: Submit Your Short Sale Package

It's time to talk to the bank. The very first communication I have with the bank is over the phone. If I haven't worked with the bank before, I'll simply call the bank, explain who I am and what my role is and then ask where I need to send the "Authorization to Release Information Form" so that the bank will authorize a negotiator to speak with me regarding my clients loan information and the short sale proposal.

Once I've obtained the proper contact information for the banks "work-out dept" I will make contact and confirm where to send our short sale package, including offer. I will request an email address, fax number, and physical address to send the package to.

Whenever possible, I submit 3 packages. I will overnight, fax and email all of the documents in one fell swoop including but not limited to:

- Seller's financials to include W-2's, pay stubs and bank statements.
- Sellers net sheet with breakdown of estimated closing costs.
- Listing contract.
- Purchase offer including counter offer(s).
- Sales comparables (BPO).
- Hardship letter and supporting documents if any.
- Copy of Authorization to Release Information.
- Preliminary title report.
- Contact page with my team's phone numbers, fax numbers, email and mailing address.

The overnight package is sent in an organized binder with labeled tabs for each section so it's very easy to handle and review.

Step 7: Negotiating With the Bank

Contrary to popular opinion, short sales don't have to take months. The reasons they often take so long are numerous but working with an experienced professional is guaranteed to speed things along.

The 4 Critical Questions: Answer them properly and get your short sale offer approved in a much shorter time.

1) **What's the value?**
2) **What's the offer?**
3) **What's the 1st Getting?**
4) **What's the 2nd Getting?**

It's *almost* that simple however….

You first need to know how to quickly gain access *to* and establish a great relationship *with* the asset manager assigned to your account and as always, first impressions really are *everything.*

Since you only get one shot at first impressions, how tight is your short sale package? I can assure you that the short sale packages my team submits are the exception and not the rule. Send a tight, clean package with an offer that can be supported by your BPO.

Key: I make available sales comparables and information about the neighborhood that supports the BPO I've already submitted with the original BPO to the bank. This is always appreciated and makes their job easier.

Every communication we have with the bank is designed to make them want to work with us.

Every time we call to check the status of our offer (*my rule is a minimum of 3 communications per week regardless of their requests*) I know that when the negotiator looks at our file, they will breathe a sigh of relief because unlike all the other files they are working, ours is clean and accurate and answers their **four critical questions** properly!

What's the value?
What's the offer?
What's the 1^{st} getting?
What's the 2^{nd} getting? (2^{nd} mortgage if applicable)

Again, good answers to those questions are <u>*all*</u> that's required for the banks loss mitigation manager to sign off and accept your short sale. These answers must be supported by their B.P.O. (broker price pinion), preliminary title report and HUD-1.

The faster you can put the right answers, supported by the facts, into the hands of the decision maker at the bank, the quicker you can get an acceptance to your offer, a sold home and a credit report that's often improved with the removal of the mortgage debts.

By working with an experienced real estate professional who understands the process for immediately delivering *the right package* to *the right person*, you can practically guarantee your success AND avoid *months* of unnecessary stress brought about by not knowing if you'll be able to successfully short sale your home and save your credit.

Step #8: Deficiency Judgments

Pay very close attention to what I am about to tell you. Not reading this section can cost you thousands of dollars!

Homeowners can still be on the hook for the difference between what they "short-sell" their home for and what is actually owed the bank on the original note through what is called a “deficiency judgment.”

Deficiency judgments can be ticking time bombs that come back and blow up in your face years after you’ve short sold your home and moved on thinking you’ve been released from all obligations. Imagine getting a phone call from a collection agency one night 3 years down the road and the caller informing you that you owe them $65,000.00?

Just because your bank approved the short sale doesn’t necessarily mean you’ve been released from any deficiency judgments. You must insure you have negotiated and received in writing a release from any and all deficiencies.

Whether banks can and will pursue deficiency judgments depends on many factors, including what state the borrower lives in and whether or not there’s a second mortgage or other liens. Ignoring the possibility of a deficiency judgment is can ruin you. In the case of foreclosures, lenders can pursue deficiency judgments in more than 30 states. Some states, such as California, have non-recourse laws and don’t allow deficiency judgments. Be careful however because even in non-recourse states you may be subject to claims if your original purchase loan had ever been refinanced.

Lenders are often willing to release their right to recourse however you must ask! Don’t assume. Be certain to insure that your short sale professional is able to secure in writing a release from future claims and/or negotiate an acceptable settlement.

So, knowing what you now know - if you want professional legal assistance in getting your short sales negotiated and you’d like to take the next step in the process, just call **847-383-5538** for a FREE over the phone consultation email me at **Dimaggiolaw1@gmail.com.**

Put us to work for you for FREE today…

We will work hand in hand with you, the real estate professional and the seller to construct the perfect short sale package.

I wish you the very best of success with your real estate future and hope to be able to serve you in the process!

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