SANDIEGOSOURCE The Daily Transcript®

Banks, homeowners prefer short sales over foreclosures

New guidelines streamline process

By **SAMANTHA HENRY**, The Daily Transcript
Monday, November 26, 2012

Short sales remain the better choice over foreclosures for both banks and homeowners, and local real estate experts believe the number will continue to increase, unless the Mortgage Forgiveness Debt Relief Act is not extended.

"I think the government truly understands that there's a need to have people in short sales rather than foreclose," said Sean Mayer, principal at **Legacy Real Estate Ventures**. "The impending onslaught of properties coming onto the market — I don't think that's going to happen. They've just worked much, much, much too hard to stabilize housing prices to flood it once again. That's why I think short sales are really going to be a huge proponent for the future."

The Federal Housing Finance Agency released new guidelines that help to streamline the short-sale process and allow homeowners with a mortgage through Fannie Mae or Freddie Mac to sell their homes through a short sale even if they are current on their mortgage, according to FHFA guidelines, which went into effect on Nov. 1.

To qualify, homeowners have to show they have an eligible hardship, which would include: death of a borrower or primary or secondary wage earner in the household, unemployment, divorce, long-term disability, distant employment transfer or relocation, increased housing expenses, man-made or natural disaster, or business failure, according to the FHFA. The guidelines also consolidate existing short-sale programs into a single, uniform program.

The FHFA guidelines may help some in San Diego, said Kurt Wannebo, CEO and broker for **California/San Diego Real Estate & Investments**, in an email, but the government-sponsored enterprise investors don't have as large of a presence in San Diego as in other parts of the country.

John Altman, Realtor, broker and owner of **JT Altman & Associates**, said in an email that the number of government-sponsored enterprise investors is increasing and the new guidelines "will be positive for San Diego in the condo environment."

Wannebo said he has completed "hundreds and hundreds" of short sales over the past seven years. The short-seller demographic has changed from those who got trapped into subprime loans and couldn't refinance, to those who had Alt-A loans who were also unable to refinance, to people who lost their jobs, businesses or had a pay reduction during the 2008 meltdown, and finally to people who are upside-down.

"Not many of my clients today are people who are struggling with their payments. At this point, almost everyone can get a loan modification, or some form of relief in the form of reduced payments," Wannebo said. "So it often isn't the case of struggling to make payments anymore, but rather a financial decision to sell a property that is underwater."

The short-sale process can be dangerous for the homeowner. If the negotiations don't go well, they could end up in a foreclosure, Mayer said.

"Fortunately, we've been able to work with Wells Fargo, Bank of America and Chase on numerous projects that allowed us to understand what they're looking for and likewise save the homeowner," Mayer said. "We understand the process to the point where we can align ourselves with the homeowner, have them understand that our goal is basically their goal: They don't want to get foreclosed upon and they want to preserve their credit. What's happening in a lot of these situations, these investment firms around the county, across the nation, sit there and have a certain price target … and the fact is, during the final stages they'll balk at certain price points, and then the individual gets foreclosed on."

Legacy Real Estate Ventures performs residential rehab on the short sales his company purchases. It takes about three months from acquisition to disposition, Mayer said. After purchasing the property, Mayer goes with his architectural team to make sure all permits are pulled to prep for construction, and then they have about four to five weeks depending on the size of the project and the depth of the rehab, he said.

Mayer's company spends on average $45,000 to $50,000 on each home. He has spent between $200,000 and $300,000 on a property he's working on in Encinitas. Mayer uses a multitude of contractors and has 1,700 acres of land for plants and a rock quarry in Mexico.

"We have pride in ourselves that it's a full turnkey model," Mayer said. "The homeowner feels good in that home. It's just not about the profits — the fact is we're actually improving the community."

Short-sale closings are up 24 percent year-to-date with 8,925 short sales compared to 7,177 in 2011, according to Altman. Short-sale listings make up 8 percent, or 392 of 4,873 total active listings. The price per square foot is down 3 percent year-to-date for short sales.

REO/bank-owned closings are down 34 percent from 2011, Altman said, and the price per square foot is up 2 percent. REO listings make up less than 5 percent of the total active listings.

"Short sales should go up as banks continue to cooperate, but they will be less flexible with discounting due to improvement in the market and shortage of inventory, assuming interest rates stay down [or] low," Altman said.

The number of short-sale transactions in San Diego has remained fairly consistent, Wannebo said. While there are more short sales recorded this year than last year, that number coincides with the total increase in closings. Sales volume was up 31 percent in October from October 2011, according to Wannebo.

"Now the banks — after three or four years since I went online — they understand that foreclosing on people is not what they want to do," Mayer said. "Now they have the opportunity to stay in place. [The banks] almost don't have to pay for these asset managers because now someone is guarding the home. And it costs almost $50,000 for them to foreclose. Why not let the person stay in the home and no one really loses?"

When Mayer first started at Legacy Real Estate Ventures, he said the properties were about 60 percent REO, 20 to 30 percent equity sales and 10 percent short sales. Now, he sees about 10 to 15 percent REO sales and a 50/50 split between homeowners and short sales.

The available supply of REOs tightened in October, with the Unsold Inventory Index for REOs falling from 2.2 months in September to 1.9 months in October, according to the California Association of Realtors. The Unsold Inventory Index was 3.1 months for short sales and 3.2 months for equity sales.

"Most people again are waiting to decide to do a short sale or not based on whether or not the Mortgage Debt Forgiveness Act of 2007 is going to be extended after this year so they don't have to pay taxes," Wannebo said.

Without the Mortgage Forgiveness Debt Relief Act in place, debt forgiveness results in taxable income, meaning that when someone short sells a home, the forgiven debt is considered income to the homeowner. The act is scheduled to expire on Dec. 31.

"I predict they extend it at least one more year sometime in the first quarter of next year, which will lead to a last-ditch, mad-rush of short sales for all those people who held on for one reason or another," Wannebo said.

If the debt relief act isn't extended, Mayer said it will be "problematic for the whole entire real estate environment."

"The whole point of doing a short sale is that you don't have to pay the debt that you owe. If you're sitting there and you have to pay that debt, why wouldn't you just get foreclosed on?" Mayer said. "And then the banks are in the same position they were in in '08-'09. No one wants to be back in that situation. At least we're troughing along the bottom and there's appreciation occurring."