



Short Sales Are the Superior Solution!



By Mark Powell

In the July/August 2010 edition of the REOMAC® Update™ you will find my article; "Short Sales: a Passing Trend or Superior Solution?" Almost 3 years later we now know that short sales appear to be the Superior Solution. For the most part, short sales are occupied REO's. Many of the occupants have not made a mortgage payment in months and sometimes years. One force driving the short sale alternative is cost. The overall financial expenses a bank or servicer incurs short selling a home are less than a foreclosure. Examples are the legal costs associated with the foreclosure proceedings, evictions, property maintenance, and marketing.

Another factor driving short sales in California is the implementation of the California Homeowner Bill of Rights which took effect January 1, 2013. With the Homeowners Bill of Rights there is much greater risk of litigation for the servicer of the loan which has made the servicers extremely cautious when moving forward with a foreclosure. One specific stipulation of Homeowners Bill of Rights makes it possible for a borrower to sue the servicer for a material violation. Material violations include dual-tracking,

failing to provide a single point-of-contact, and neglecting to deliver proper notice of loss mitigation options. In addition to the material violations, a homeowner can seek an "injunctive relief" to stop the foreclosure process, and the homeowner can pass all of the legal cost to the servicer, even if it is found out at a later time that no material violations of Home Owners Bill of Rights occurred. The injunctive relief could add another 6-12 months to the foreclosure process.

Finally, banks and loan servicers are offering substantial financial incentives to home owners in short sale situations. Financial incentives in excess of \$40,000 are being offered to homeowners by some banks if the homeowner is willing to participate in their short sale process. Offering financial relocation assistance is not new a concept as it was called

"Cash-For-Keys" in the foreclosure process, but the concept is new to the short sale process. It is no secret that there has been a substantial decrease in foreclosures and short sales across the country, and in most large cities property inventories are at an all time low. With low inventory and low interest rates, home values have been climbing quickly and we have switched from a buyers market to a sellers market. This may be another "real estate bubble," or the market leveling off itself. All economic real estate cycles have ups and downs. As long as interests rates remain low and servicers continue to work with underwater homeowners we could see the short sale alternative last well into 2014. ☪

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