Foreclosure By Walking Away

The housing market has been a wild exhilarating and joyful ride up these past several years only to nose dive down with increasing speed and equal frustration. The stomach turns within the belly of the homeowner, as this once profitable investment becomes a heavy weight around his or her family's neck. Mortgage Millstone; perhaps a fitting name for the negative equity experienced by millions upon millions of Americans today. Our finances affect our lives, our disposition, and our ability to function from day to day. So, what to do? Some say simply to walk away.

Have you ever failed a test? I've failed a test. I'm sure we all have at some point. Whether academic, work-related, personal, etc. we've all failed a test; but does it stop there? Do we throw the proverbial baby out with the bath water? Wouldn't we be failing another test in so doing?

I'll argue that at this point the test for homeowners is ongoing. But what are the rules? The rules and the goals are what defines your next coarse of action. Ultimately, what matters is where you will be in the future and not where you are today. The game is halfway done and the test is not over until the end of the game.

Lenders have failed the test too. Mortgage loans are upside down. The Federal Reserve Chairman Ben Bernanke in a March 4, 2008 speech suggested: "In my view, we could also reduce preventable foreclosures if investors acting in their own self interests were to permit services to write down the mortgage liabilities of borrowers by accepting a short payoff in appropriate circumstances." This is a profound suggestion and one that could provide a passing grade for millions.

Your mortgage loan can be written down to a lower balance and forgiven. This is something that I personally am seeing being done every day. A mortgage loan that is $100,000 higher than the value of the home is written down by $100,000 and that $100,000 is forgiven. Poof! An instantaneous passing grade is achieved in real estate.

With a reduce mortgage balance a homeowner can refinance the mortgage to an FHA mortgage loan with a 5.5% fixed rate of interest. With a reduce mortgage balance a homeowner can sell the home on a short sale to a new buyer. With a reduced mortgage balance a homeowner can avoid foreclosure. With a reduce mortgage balance a homeowner can pass the test!

In any of the above scenarios where the mortgage lender reduces the principal balance of the loan for the homeowner to facilitate a short payoff for a refinance or a short sale, the homeowner is able to preserve his or her credit standing. This has the effect of controlling the damage done to that homeowner's reputation in functioning in business and in life. About half of the state foreclose through judicial process and the foreclosing lender can then pursue a deficiency judgment against the homeowner immediately or can bring a suit under common loan years later based on the defaulted note. This article is not to be considered legal advice. It's just some of the issues that one needs to investigate with an attorney.

Yet, some say walk away. This is insane; walk away and leave the test. Walk out of the school and leave the test. Holding your head low forever. This is not responsible. This is not a solution. This, my friends, is simply failing the test.

About the Author

Paul Jerome brings together mortgage lenders involved in loss mitigation and negotiating reduced short payoffs for homeowners on short refinances and short sales. www.SellerHelpsBuyer.com makes this loss mitigation work available for free to enable distressed homeowners who are upside down on a mortgage loan to successfully refinance with the short payoff to an affordable mortgage balance and low FHA rate. The short payoff also enables distressed homeowners to sell through a short sale to a new buyer at a discounted price.

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