

Don't Want No Short Sales 'Round Here

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With apologies to Randy Newman and his classic 1970's song, *Short People*, this refrain, "Don't Want No Short Sales 'Round Here," equally applies to the lenders who must process and approve requests for short sales as well as the attorneys and closing agents and their clients who are tasked with processing and closing them. Why is this? Because short sales are anything but short!

Lenders don't seem to want to deal with them and throw up every possible obstacle to discourage a distressed homeowner from closing a short sale. Those of us who work to get the approvals on behalf of sellers grow old attempting to get the attention of these lenders.

I have written about this before. It was common occurrence during the foreclosure crisis. Banks wrote the problem off as the volume of files that loss mitigation departments were working on. But that doesn't hold water anymore. The crisis is over. While lenders still deal with a large number of foreclosure files, that volume has significantly decreased. And, the number of modifications and short sales is a small fraction of the peak during the crisis years of 2010-2014. Now, a homeowner requesting short sale approval, even if the request is before a mortgage default (which is a common scenario) is required to jump through so many hoops in order to obtain the approval that it is nearly impossible to satisfy all conditions for sale.

I recently closed a short sale that took two years to obtain the approval. I won't even go into a discussion of the RESPA and TRID violations on the part of the lenders in the delay of the approvals. However, the delays caused significant hardship on the part of the clients. They lost two bonafide purchasers who cancelled their contracts because of the length of time that the lenders took to review and approve the short sale. As such, the sale price fell well under \$100,000 by the time the third and very patient purchaser came along.

There were two mortgagees involved in this sale. The second mortgagee approved all three sales very quickly. The first mortgagee was extremely

difficult, requesting submittal of the same documents multiple times, but only after ignoring the application for months on end. These delays were directly responsible for the reduced sale price and therefore, the reduced payoff to the lenders. Of course, the forgiveness of debt income to the client and potential tax liability was greater.

It is very difficult to understand why lenders behave this way. A simple yes or no is easy to give on a short sale. After all, new mortgage approvals are routinely given in under ten days, even when an appraisal is required. It is understandable that lenders are reluctant to write off loans, but why carry bad debt indefinitely? And why resort to the costly foreclosure process if the end result is going to be that the asset will be sold by the bank. The loss will be mitigated significantly if the borrower does the work for the bank.

Fortunately, we don't handle many short sales any more - perhaps one per year. After every one that finally closes, we say, that is the last one. And then another comes along! "Short sales got nobody to love..."