

# Short Sales

## Seller's Frequently Asked Questions

### What Is a "Short Sale"?

**Answer:** A real estate transaction between a Seller and Buyer where:

- 1) The net sales price is not enough to pay the Seller's Mortgage; and
- 2) The Seller cannot pay the balance owed & asks its Mortgage Lender to reduce the Mortgage so the Seller can sell its House.

### Why Would the Seller's Bank Accept Less than What They are Owed?

**Answer:** If the Sales Prices is reasonable, then it might be the best deal the Lender will get.

If the Seller's Lender does not accept the "Short Sale", then it might have to foreclose on the Property (which could take up to a year). The Bank would then have to carry the Property Taxes & Loan Interest, pay Foreclosure Fees and risk the possibility that the House could be in much worse physical condition. All of these factors would increase the possibility that the Bank would receive less money from a Foreclosure than a "Short Sale"

### What Are the Seller's Basic Steps?

**Answer:** Typically-

- 1) A Real Estate Attorney experienced and familiar with "Short Sales" is retained.
- 2) The Seller contacts it's Lender to initiate the "Short Sale" process and authorize the Seller's Attorney to speak with the Lender.
  - ↳ These 1st 2 steps should always be done immediately since authorization can take a long time and every Bank has different requirements.
  - ↳ The Seller should ask the Lender if they can discuss the "Short Sale" approval at this time; however, many Banks will not discuss the "Short Sale" until contracts are signed with the Buyer.
- 3) A Buyer is found, a bottom line price is negotiated and Contracts are signed.
- 4) The Seller submits a full "Short Sale" package to its Lender.
- 5) The Seller's Bank does its own Appraisal.
- 6) The Seller's Bank provides a "Short Sale" Approval and the parties close promptly.

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## What Paperwork Will the Seller's Bank Want?

**Answer:** It can vary, but typically the Seller's Bank will want from the Seller the following:

- 1) Contract of Sale
- 2) Seller's Financials
- 3) Listing Agreement
- 4) Written Authorizations to speak with the Seller's Attorney
- 5) A Preliminary HUD-1
- 6) Hardship Letter

☞ The Seller's Bank will also want to perform an Appraisal of the Property to see if they are comfortable with the current sales price.

## What Will the Seller's Bank be Looking For?

**Answer:** The Seller's Bank will typically approve the "Short Sale" if they believe:

- 1) The House is being sold for an acceptable amount.
- 2) The Seller cannot afford to make up the difference and is suffering from a financial hardship.

## Are There Other Options?

**Answer:** Yes. Instead of forgiving the entire balance of the loan, the Lender might be willing to:

- 1) To secure the balance owed with other assets; or
- 2) Have the Seller sign an unsecured Promissory Note.

## How Long Can the Process Take?

**Answer:** It varies widely, but typically the Seller's Bank's approval can take ~ 8-16 weeks from the time the Seller's Bank receives a full "Short Sale" package. It can take longer if there are additional circumstances such as other liens or mortgages on the Property. Once Lenders provide an approval, they typically want to close within a few weeks.

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## **Should the Buyer be Notified that This is a "Short Sale"?**

**Answer:** Yes.

They need to be prepared to take the Property in its "AS IS" condition. Accordingly, the Buyer should perform inspections immediately so a final bottom line price can be negotiated.

Further, they will need to be prepared to close on a last minute's notice. Finally, they will need to retain the right Professionals (Lender, Attorney, etc.) who can act quickly and are very familiar with this type of transaction.

## **Does the Seller Still Sign all of the Transaction Papers?**

**Answer:** Yes. The Seller will always be the Seller. Accordingly, they will need to sign the Contracts, Listing Agreement, etc. and maintain the Property.

## **Is This Very Different Than a Regular Transaction?**

**Answer:** In many ways no.

Effectively, it is a regular deal except that there is the additional element of the Seller procuring "Short Sale" approval from its Bank.

## **Who pays the Seller's Attorney, Real Estate Agent and other Seller's costs?**

**Answer:** Effectively the Seller's Lender pays all of the Seller's costs. The Seller's Lender will be issuing the "Short Sale" approval after reviewing all associated costs and the net sale proceeds that it will be receiving after these costs are paid.

## **What Should be Investigated at the Beginning?**

**Answer:**

- 1) Are there any other judgments or liens against the Seller? If there are other judgments or liens, then these will have to be negotiated as well.
  
- 2) Does the Seller own other Real Estate or have sufficient funds to pay the balance owed to its Bank? If the Seller has other Real Estate, the Seller's Bank might want to move its lien to that Real Estate so the current House can be sold. If the Seller has sufficient funds to pay the balance owed to its Bank, the Bank probably won't approve the "Short Sale" and will expect the Seller to use those funds to pay the balance owed.
  
- 3) Are there any Building Department violations or missing approvals for improvements? If there are, these will need to be addressed.

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## When Should Other Professionals Become Involved?

### Answer:

- 1) Accountant: The Seller will need to discuss the tax consequences of the "Short Sale" with their Accountant immediately.
  
- 2) Attorney: The Seller should speak with an experienced Real Estate Attorney as soon as the Lender starts to ask for papers. This should be no later than when a Buyer is found and a final price negotiated.

## What Type of Attorney Should be Retained?

**Answer:** A Real Estate Attorney fully familiar and experienced in "Short Sales".

There are many nuances to this type of transaction, and it is important that things be done correctly. Otherwise, the Seller's Bank might decline the transaction, or not pursue other solutions. There have been transactions that were terminated because the Attorney neglected to address certain issues or was unaware of other available options.

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