Short Sales – Leslie answers the tough questions

With short sales so prevalent and so many homeowners under financial distress, Leslie confronts head on the issues, questions and concerns facing so many families through a series of short newsletters.

Questions? Curious about ***short sales?*** Learn about the US Treasury's H.A.F.A. program, designed as a "graceful exit" for homeowners in distress.

Videos at DonNelsonTeam.com

What is a Short Sale?

Deficiency Judgments and Promissory Notes

A short sale is a transaction in which the lender allows the property to be sold for less than what is owed on the mortgage.

This money difference is referred to as a "deficiency balance".

When a borrower defaults, the lender can pursue either a judicial foreclosure through the courts (for a deficiency judgment) or via a trustee's sale.

California is a non-judicial state so a lender will go through the trustee sales foreclosure auction process because it's faster.

Loans used to buy a home are non-recourse loans, but re-fi's and subsequent lines of credit are recourse, meaning the lender can try to recover some of their loss.

With a traditional short sale, there is the possibility the lender will try and recover some of their loss. If the loan(s) were recourse debt, the lender may require the homeowner to sign a promissory note to pay off some of the debt.

To learn more about this and junior liens being protected from a promissory note under the US Treasury HAFA program:

- turn the page for more detail, or
- go online to www.DonNelsonTeam.com to learn about the US Treasury's HAFA program.

Realtors are not qualified to offer legal or tax advice. You are encouraged to consult with your legal or tax advisor.

Don Nelson Team

674 County Square Drive, Suite 203
Ventura, CA 93003
Leslie's email: LeslieNelson@DonNelsonTeam.com
805.659.2000 office • 805.302.5030 (Leslie cell)

Curious to learn more about short sales? Please visit us at **www.DonNelsonTeam.com**

Hi,

A short sale is a transaction in which the lender allows the property to be sold for less than what is owed on the mortgage. This difference is referred to as a "deficiency balance."

When a borrower defaults, the lender can pursue either a judicial foreclosure or a trustee's sale. With a judicial foreclosure, the lender goes to court to try and recover the deficiency balance against other assets the borrower might have. However, California is a non-judicial state and normally, a lender will go the trustee's sales auction route because it's faster.

As of January 1, 2011 with the passage of SB 931, the lender cannot pursue the borrower for the deficiency of the first deed of trust. If the lender consents to a short sale by the borrower, the deficiency is considered fully discharged. This applies to a purchase money loan or a refinance. Junior loans are not protected - except under a HAFA short sale.

In a regular short sale, the lender can pursue and demand the borrower sign an unsecured promissory note for the deficiency balance of a junior loan or line of credit. HOWEVER: **with a HAFA short sale**, there is no promissory note and the lender can't seek to recover any deficiency balance.

Realtors are not qualified to give legal or tax advice. You are encouraged to consult with your legal or tax advisor.

In our next newsletter, we'll talk about the HAFA short sale: who's eligible, what are the benefits and what are the next steps.

To learn more, see two short videos about the US Treasury's HAFA program on our website, www.DonNelsonTeam.com

Questions? Curious about short sales? Give me a call or email me. I'd love to hear your story – and I'm very discreet.

Leslie Nelson

DON NELSON TEAM
674 COUNTY SQUARE DRIVE | SUITE 203 | VENTURA | CALIFORNIA | 93003 | Office: 805.659.2000
EMAIL: LeslieNelson@DonNelsonTeam.com | Cell: 805.302.5030 | Toll free: 800.540.6117
CA Broker License: 01775127