Moving Forward Plan
Short Sale Frequently Asked Questions

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1. What is a Short Sale?

A ‘Short Sale’ is a sale of a real property after the process of negotiating with the Mortgage lender(s) to accept less than the amount owed to payoff on a property loan. Lender(s) will typically consider a short sale on properties with little or no equity and those with defaulting payments to avoid potential foreclosures and bankruptcies.

2. Why would a bank accept a short sale?

Foreclosures are extremely expensive for Mortgage Lenders. Lenders do not want to own real estate, they are in business to lend money and make money on the interest of the loan. Federal guidelines require that banks must reserve money for all of their nonperforming assets such as foreclosures and loans in default. Banks prefer to cut their losses and take a discount rather than to continue losing money on a bad loan. Today, it costs a lender over $50,000.00, on average per house that they have to repossess through foreclosure.

3. How long does the process take?

The Short Sales process contains many phases and can be a lengthy process. The time can vary depending on the cooperativeness of the Homeowner and the Mortgage Lender(s). Typically, short sales will take up to several months from the time A.C.E. receives the completed short sale package to the closure date. As complicated as is, it is important to be patient during this process.

4. Does a short sale cost me any money?

Moving Forward Plan is absolutely FREE, You should beware any program asking you to pay money for services. However, the Seller may be subject to other costs such as city charges, housing inspection costs, obtaining a housing report, etc.

5. Why pursue a Short Sale?

A result of a successful short sale is that the homeowner can avoid a foreclosure on his/her credit report. When a homeowner needs to transition their home and does not have any equity the options are few. A short sale vs. an auction can limit the damage to your credit, possibly lengthen the time you have to transition to a new property, allows you to save money, allows you the opportunity to purchase again in as little time as 2 years vs. 7 years with an auction, helps your neighborhood by not allowing an abandoned property to damage their property values, and avoids the stigma and embarrassment that many people feel with an auction.

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6. Will I owe taxes on the difference to the lender?

The Mortgage Debt Relief Act of 2007 applies to most homeowners and may free them of paying the liability of being fully taxed on the short fall difference. Previous to 2007 homeowners would be liable for the cancellation of debt when a lender does not receive a full payment of their loan. For example if a loan was for 200,000 and the short sale paid the lender 170,000 the lender would send a 1099 to the homeowner, whereby the homeowner would be taxed on the 30,000 as income This was a major problem as homeowners that could not afford their home were now being taxed on something they already could not afford. Criteria will be different for primary residences vs. secondary homes. To see if you meet the eligibility requirements go to www.irs.gov..

7. What is a Deficiency Judgment?

*An assessment of personal liability against a mortgagor, a person who pledges title to property to secure a debt, for the unpaid balance of the mortgage debt when the proceeds of a foreclosure sale are insufficient to satisfy the debt.**

In basic terms it is where your lender can reserve the right to legally sue you for the difference in the sale price and the amount of your loan including (back payments and legal costs). If this is not properly negotiated as part of the terms of sale and your short sale approval it can possible leave you liable to be pursued by your lender. Moving Forward Plan properly mitigates this and is extremely successful at getting homeowner a full settlement on their debt. This is where a homeowner does not have to repay any debt to the bank.

*West's Encyclopedia of American Law, edition 2. Copyright 2008 The Gale Group, Inc. All rights reserved.

8. Is a Deficiency Judgment Likely?

Your Lender can reserve the right to pursue a deficiency judgment, but it is uncertain if they are likely to. Most cases, it will not make sense for a lender to come after you for the debt. The legal expenses are costly and the likelihood of you having funds or assets to repay would seem low. For the most part your lender understands that if you had the money to repay a deficiency judgment you would have used those funds to pay your mortgage and wouldn’t have fallen behind in the first place

9. What is a Promissory Note?

A Promissory Note is a written promise to pay a specified sum of money to a designated person or to his or her order, or to the bearer of the note, at a fixed time or on demand. *

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This is another way your lender may attempt to collect money from you as a condition of your Short Sale. Basically your lender will attempt to have you sign a personal loan that is not attached to the property you are selling for a certain sum. This way they avoid the legal costs of a deficiency judgment and recoup some money they will lose in the short sale. Again if you do not have a professional negotiating that there will be no Promissory Notes as a condition of the Approved Short Sale than you can leave yourself open to a series of issues when trying to complete a Short Sale. Moving Forward Plan successfully mitigates Promissory Note issues on a regular basis as part of its service to homeowners.

10. **How does a short sale affect my credit?**

First let's look at what a foreclosure auction will do to your credit; a foreclosure auction will remain on your credit report for 7 years. For those 7 years it will be difficult for you to obtain financing for a personal loan, car loan, and especially a home loan. Where as a short sale will be recorded on your credit report as paying off your obligated debt. Now, if you have missed payments that will hurt your credit score significantly depending on how many payments you miss. You should consider that with a completed short sale you are possibly eligible to purchase a home again within 2 years.

11. **Does my property have to be my primary residence?**

No. Short Sales do not depend on your property being a primary residence. It can be a secondary home, investment, or rental. The process is the same towards resolution. There are obviously less concerns about transitioning to new housing. There are differences pertaining to tax liability that you will need to discuss with your accountant.

12. **But I have already received an auction notice, is it too late for a short sale?**

Depending on how many days there are until auction and how quickly you can submit your paperwork will determine if you can still submit a short sale package to your lender. Normally a lender will require a completed short sale package be submitted 14 -30 days before a scheduled auction. If you are unaware if there is an auction schedule contact your lender immediately. The short answer is no, but there are a few variables that can affect the foreclosure timeline.

13. **I haven't missed any mortgage payments; can I still do a short sale?**

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You can be eligible for a short sale even if you are current on your payments, but you will need to show that you are faced with an undue hardship that will make any further payments difficult to make or that any of your previous payment although on time strained you financially. Examples of this are

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1. You are struggling to pay your current mortgage payment and have used all of your savings, borrowed from your retirement account, credit cards, etc.
2. You have a undue hardship that is upcoming, resulting in a decrease in income or increase in expenses, such as, a notice you are being laid off or increased medical expenses,
3. You have an increase in your mortgage payment that you will not be able to afford
4. This was an investment property that is vacant or tenants have not paid rent

14. **How do I pay the Realtor commissions, taxes and other expenses associated with a short sale?**

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Normally closing costs, such as, real estate commissions and seller concessions asked for by a buyer are paid by the lender as part of the closing costs allowable. Lenders vary on what they will pay for and will either ask for costs to be reduced or in some cases see if the homeowner would be willing to contribute. In most cases they will ask agents to reduce commissions or buyers to reduce seller concessions.