



NEWS RELEASE

FOR IMMEDIATE RELEASE: May 5, 2010

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California Real Estate Commissioner Issues Short Sale Consumer Alert *Information includes the potential perils of short sales*

SACRAMENTO – The California Real Estate Commissioner, Jeff Davi, announced the issuance of a Consumer Alert by the California Department of Real Estate (DRE) warning consumers and real estate agents about the perils and potential pitfalls of short sales. The alert has been posted on DRE's Web site at: http://www.dre.ca.gov/pdf_docs/ca/ConsumerAlert_ShortSales.pdf

“The number of short sales is on the rise and many consumers do not understand the consequences of such a transaction,” DRE Commissioner Jeff Davi said. “Moreover, the Consumer Alert educates consumers and real estate agents to recognize the elements of a fraudulent or questionable deal.”

To put it simply, a short sale transaction involves the sale of a property wherein a seller receives an offer from a buyer that is less than the amount of the mortgage loan(s) on the property. In order to complete the sale, the seller requests the lender to accept less than what is owed in order to allow the transaction to close. While short sales are a popular alternative to foreclosure, like all real estate transactions, they are complicated and sellers need to lookout for the pitfalls.

For example, in some instances a seller may be required to pay taxes on the forgiven debt. In addition, a seller may be an unwitting participant in a fraudulent transaction wherein an unscrupulous agent or a short sale negotiator working with a straw buyer will make a lowball offer to the seller and in turn misrepresent the true market value of the property to the lender. If the lender accepts the offer, the straw buyer immediately re-sells it at the true market value, with the profits split among the conspirators. Had the property been sold for the most amount of money that the market will bear, the potential tax consequence to the seller is diminished and the lender would have received fair market value.

A few of the key elements a homeowner should look out for are the following:

- Short sale negotiators must be licensed real estate brokers (or a licensed real estate salesperson where that person is working under the supervision of his or her broker).
- Any and all payments must be fully disclosed and made part of the escrow documents. If there are any fees to be paid “outside” of escrow, this may be the red flag that the payment is illegal.
- If your agent explains that the buyer is a fictitious person or entity, or your buyer is purchasing the property under a power-of-attorney or is a limited liability company (LLC), this may be a red flag that fraud is involved in your transaction.
- If you are told that an unlicensed processor, negotiator or facilitator is handling your short sale, this is a red flag that unlicensed activity is taking place. Only real estate licensees, California lawyers acting as lawyers and investors acting on their own behalf can engage in short sale negotiations.



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