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Rick 321-403-1762

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LOOK



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MORTGAGE CORNER



Mortgage lender responsible for prompt response to short sale request

By Ilyce Glink and Samuel J. Tamkin, Tribune Content Agency, Real Estate Matters

Q: I have not been making mortgage payments to our lender for almost two years because of our divorce. We owe \$243,000 on the house from a second mortgage, but a real estate agent I trust said it looks like we can only get about \$190,000 due to roof damage and other needed repairs. Our lender, which is one of the huge national lenders, has been very difficult in helping me get the short sale process started. Do I have to use them for the short sale?

A: Unfortunately, only your lender can approve a short sale. So, the short answer is, yes, you must go through your lender. But it's unclear why you're not getting a faster answer. New rules that went into place in the aftermath of the Great Recession require mortgage lenders to respond to short sale request in 30 days. In other words, you're supposed to hear back from your lender almost immediately.

To start the short sale process rolling, you need a buyer and a contract to purchase. Your letter didn't indicate that you have a buyer that has signed a contract for the purchase of your home and that your lender isn't working with you. Rather, it seems that you are looking to find out whether your lender would approve a short sale at a price around \$190,000.

We think that you might get more traction with the lender if you list your home for sale and get a prospective buyer to put in a contract for the purchase of the home. At that point, the lender should go through the process of evaluating your situation and determining whether to approve the short sale or not.

When lenders were inundated with short sale requests from 2009 to 2012, it was understandable (though still against the rules) to take months to connect with struggling sellers.

Today, there are far fewer short sale requests that are going through. There's no excuse for not getting a prompt answer from your lender, along with instructions on what to do to make the short sale palatable. And, this is more so if you have a buyer waiting to close on the purchase.

Once you have a buyer, you will need to contact your lender and move the home sale process through their short sale department. Fill out the forms and send them in. You should keep electronic copies of everything you send in just in case you need to send them again. (Yes, lenders do lose paperwork.)

Once you send the forms in, you should hear back from

the lender within 30 days. If you don't, you should escalate your situation through a few levels or just call the corporate office. You'll want to speak to the head of the mortgage division of the bank or the corporate ombudsman. If you get the runaround, let them know you'll be filing a complaint with the Office of the Comptroller of the Currency (OCC).

(You told us your lender is one of the nation's biggest lenders, which means it is likely regulated by the OCC, which is the federal regulator of the nation's largest mortgage lenders and banks.)

If you don't get anywhere with the lender, then, go to www.helpwithmybank.gov, which is the place that anyone who is having trouble with an OCC-regulated bank should go to file a complaint. You'll be assigned a complaint number, and can check on the status of your complaint.

Inside the OCC, there is a committee that meets weekly with representatives with the nation's largest lenders. Each of these complaints is investigated. If you don't like the results of the investigation (or the lender's response), you can refile and the investigation will be looked at by the OCC's legal team.

This will certainly get your case looked at. But we have to be honest: The decision on whether to approve a short sale is sometimes made far above the local level, and that can cause a myriad of problems. The person making the decision might be looking at national or even regional home value projections, and he or she will assume that your property should be rising in value just like all of the other homes in the region.

That's a false assumption (but one that was made millions of times during the Great Recession), and it caused banks to lose untold amount of money because someone in another part of the country, looking at a spreadsheet, rejected a valid short sale and the property eventually went to foreclosure.

And in the end, you have a couple of other ways to unload the property. You could do a deed-in-lieu of foreclosure or just allow the house to fall into foreclosure. Your credit is already destroyed, and while you'll recover more quickly from a short sale than a foreclosure, sometimes it just helps to get the clock ticking.

But we think you should try again and see if you can find someone to make an offer and get that short sale approved. Good luck. Let us know how it goes.