

UPDATE ON HAFA
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(from Blog at www.stevebeede.com)

Last week I posted comments on the Home Affordable Foreclosure Alternatives program which is taking effect on April 5th. I was not very complimentary and in fact was pessimistic as to its impacts on the economy. While those negative sentiments may still prove true, I have since then taken a closer look at the program and spoken extensively with lenders, real estate agents, and upside-down borrowers. From this, I must now admit I see a lot to like in HAFA... if the lenders will cooperate.

HAFA has two parts: First an attempted Short Sale and then, if that fails, a Deed in Lieu of Foreclosure. Since it was designed as an add-on to the Home Affordable Modification Program (HAMP), the participation requirements are the same: principal residence, first-lien mortgage, serious delinquency, unpaid balance under \$729,750, and a mortgage payment over 31 percent of gross income. If a borrower fails a modification or is denied a modification under HAMP, then they can enter the HAFA program and their lender must participate.

Short Sale - There are several benefits to pursuing a Short Sale through HAFA compared with doing so outside of the Program: 1) Lenders will pre-approve what will be an acceptable sale price; 2) The Application must be considered within 30 days; 3) Up to \$3,000 is provided to satisfy the liens of junior lenders (juniors *must* release their liens); 4) Borrowers can get \$1,500 in moving assistance; 5) Real Estate Agents get commission protection; and most importantly 6) No Deficiency judgment is allowed against the borrower. These are all very good benefits that will both speed up short sales and improve the market. The downside is whether lenders will actually cooperate with the HAFA program. They are only compelled to consider the Short Sale Application, they are not compelled to approve it. Nevertheless, cooperation may grow as lenders realize that it is in their own best interests to get the Short Sales done and remove upside down properties from the market faster.

Deed In Lieu - This is an important addition as well. Currently, if a short sale fails, the property goes into foreclosure with all of the negative consequences of credit damage, job impact, and depending upon the State, potential recourse liability. The HAFA Deed in Lieu program eliminates this. The 1st lender will accept a Deed transferring ownership of the property to the lender. Any junior lenders must agree to release their liens and any recourse. if this occurs, foreclosure and all of its impacts are avoided.

Will all of the benefits of HAFA work? We'll all have to wait and see how the Lenders respond.

If you have any questions concerning your rights and obligations concerning real property, foreclosure, or any related issues, please feel free to contact me at stevebeede@bpelaw.com or contact my office at 916 966-2260 for a confidential appointment by phone or in person.