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Property sellers can help themselves: Think outside the hole
By Curtis Seltzer

BLUE GRASS, Va.—Many sellers are stuck. They want to sell, but can't because buyers are stuck too.

Why is everyone stuck? Fear and money.

Sellers are afraid to sell at prices lower than a year ago, and buyers are afraid to buy until the market bottoms out.

Sellers and buyers are afraid to lose money; lenders are afraid to lend it.

Everyone is scared of the future.

Might it be said that the main thing we have to fear is…ourselves.

Doing the same will not solve this mess. Doing different -- lenders lending, sellers selling, buyers buying -- will.

It's important to understand that it was less subprime lending that produced this crisis, and more the burying of IED-type adjustable-rate mortgages under these borrowers. Lenders knew these ARMs would explode when the economy weakened or rates rose.

Long-term, fixed-rate mortgages work with subprime borrowers. They did with the subprime WW II vets who drove our economy for 25 years after WW II.

Everyone -- lenders, buyers, sellers, appraisers, brokers and mortgage investors -- produced this crash by perceiving a shared self-interest in blowing air into a real-estate balloon. Everyone should share the pain and responsibility for putting things right with each other.

How can sellers help themselves?

Adjust your expectations to fit the game as it is. Forget about an all-cash, full-price offer. Times have changed. Sellers need to talk frankly with themselves.

Is it more necessary for you to get your property sold quickly, or wait a year for the price you might have gotten a year ago? Can you comfortably carry the property for a year or two before selling? In that case, take it off the market. How much cash do you need immediately? If you don't need cash from a sale, don't insist that a buyer give you his life savings.

If you need to sell because you have to buy something else, ask your seller to do what you will be doing for your buyer--helping the other side solve the other side's problem as a path to solving yours.

Stop being a victim. Some sellers are more pinched than others. Those who can no longer make their monthly mortgage payment need to march into their lender's office with a Barney Frank proposal: Knock off some of the principal and figure out a fixed-rate loan that works for both sides. Many lenders understand that foreclosure in a falling market is a worse alternative.

Start being a banker. Take responsibility for making the sale. It's time to be aggressively helpful. Identify your buyer's weakness and see if a way can't be found to do a deal that will work for both sides. Stop thinking conventionally.

When a reasonably qualified buyer can't find conventional mortgage money, offer seller-financing for a couple of years. If it's lack of down payment, finance the sale and take a first lien on some additional buyer asset that will add security. If he can't cover all the closing costs, many ways are available for a seller to help out. If he's fearful of falling values, offer a lease-purchase option.

Seller-financing arrangements need to be fair to both buyer and seller. The buyer gets a big break on interest if only because the seller generally does not frontload interest. The buyer is also spared the loan-origination fees that typically stack an additional two to five percent on top of a conventional loan.

Seller financing gives buyers better terms, lower costs, more flexibility, more speed, less rigmarole, possible waiving or discounting of a down payment and whatever other help a seller finds that it's in his interest to do.

A financing seller helps himself too. He gets his property sold on a delayed-closing track and is paid interest while he's waiting. He gets to spread capital gains over time and may avoid being slung into a higher tax bracket in the sale year.

The seller is secure, because his own property -- and possibly other buyer assets -- collateralize the deal. The seller is not lending money to the buyer, but he is lending his property under specific conditions and terms of payment. In return for helping the buyer, a seller usually charges a slightly higher interest rate.

Lawyers for both buyer and seller should write the seller-financing documents. Both sides need to be protected. A seller who finances his own sale for a couple of years is giving the buyer time to arrange permanent financing in better times.

As long as his property will not be harmed or devalued during the buyer's occupancy, a flexible seller can get a sale moving by acting as his buyer's short-term banker. At worst, the seller gets his property back and keeps whatever money the buyer has paid.

If you think you have no flexibility, rethink your situation. Do you really need all cash immediately? Isn't there a way to take some now and the rest later? Have you set your price based on what you actually need or on what comps were selling for at the beginning of 2007? If you're an upside down seller, the best course may be tell your lender to help you tough it out.

Find mortgage money. If a seller doesn't want to finance the purchase, help the buyer find a lender.

Talk to your own lender first. Disclose your circumstances. Ask him to give you a hand with a buyer before you fail to perform on "his" mortgage. In return for getting a stronger borrower on a property he already knows, see if he will discount terms and fees. Even if your mortgage does not contain an assumption clause, ask the lender to help himself and you by okaying a replacement without the usual scalping.

If your current lender is no more flexible than an Easter Island Moai statue, then find one who gets the current market.

Think outside the bank. You may need to forget the big lenders, particularly those who are immersed in a misery largely of their own making. You and your buyer should look toward credit unions, small lenders and state-chartered banks. The regional coops organized under the federal Agricultural Credit Associations provide loans for farms and rural housing at http://www.farmcredt.com/. Advertise for a private investor willing to finance a two- or three-year bridge.

Think more complicated, less simple. If you want to sell in this market, prepare to be flexible and more involved both financially and over time with your buyer than you might want.

Help your buyer understand your property's potential for him. Rural real estate often lends itself to paying down a mortgage more or less immediately through the sale of non-core assets such as merchantable timber or an unwanted piece of land, leases of land or rights and donation of a conservation easement that limits development in return for substantial tax benefits. If the buyer needs someone to hold his hand doing new things, offer yours.

A real-estate lawyer and a CPA can help you and your buyer think through different approaches.

The way out of our hole begins when we stop digging it.

Lenders need to stop foreclosing because each such property new on the market further depresses real-estate values and increases the likelihood of additional defaults. Foreclosures make the future worse.

Lenders should convert their troubled adjustable-rate mortgages to long-term fixed rates and keep as many of their borrowers in their houses as they can. That's not an act of charity; it's an act of self-interest.

If no one stops digging, inflation coupled with increasing unemployment, stagnant economic growth, falling property values and a rising tax burden will wreck us all.

A lot of people need to take small, often painful steps that, together, will slow, then stop, digging this hole to China.

Today, the seller controls the buyer's ability to acquire the seller's property. The ladder out requires both sellers and buyers to hold it in place.

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