

## **#89 FOR IMMEDIATE RELEASE: June 4, 2009**

When sellers need to sell fast, they need to do the buyer's due diligence  
By Curtis Seltzer

BLUE GRASS, Va.—I've had several calls during the last six months from sellers who are in a jam. "HELP! We must sell immediately." In one case, that meant within a week. In the others, it was four to eight weeks.

What do you do if circumstances make you a "crash" seller?

First, don't panic and don't despair. You must keep your head, which is the body part most likely to minimize the pain you will inevitably experience. Don't give up. If self-pity would improve your situation, I'd say, "Wallow away!" But self-pity simply wastes time and energy. Beating yourself up doesn't improve your prospects. You may get beaten down, but don't be beaten.

Try to consider your particular mess as a problem that needs to be solved with the best options available to you at the moment. As my father-in-law told me: "You eat an elephant one bite at a time."

The one benefit of being in a very tight pinch that I discovered was that very hard decisions become easy when other choices are worse. You do unpalatable things because they have to be done.

Second, look for a bridge to the future other than selling right now. A costly temporary patch may be better than permanent injury. Perhaps you can squirm through by refinancing, or selling a part of your property rather than all of it, or selling an interest in it rather than the property itself. An "interest" could include a share in the whole property, or the right to cut timber within a certain number of years, or the right to hunt, or a life estate, or a long-term lease or a right to inherit it.

Third, figure out what you absolutely need to net from a sale and what you will do if the proceeds fall short. Once you face square the worst that can happen, you've turned the mess into a problem of managing through.

Fourth, determine how much time you really have. More time may give you opportunities to promote your sale better or find a bridge. You're likely to lose money in step with how fast you need to sell.

A conventional auction may or may not help. They typically take a couple of months or more to organize and publicize. The auctioneer will want you to sell on an absolute basis. This is a sale at any price, which means you bear all risk of disaster, including winding up worse off than before the auction.

Fifth, do the buyer's work. Put together a sale packet that provides complete information on your property. Owing to your need for speed, you have to do a buyer's due diligence better and faster than any buyer. Don't fudge. Lay out the negatives and all the numbers. In addition to the usual things a listing sheet would provide (photos, description of improvements, etc.), your packet should include:

**Your deed**, showing legal description and acreage.

**ALL other recorded documents** relevant to property.

**Title certificate** at the time you purchased the property or other legal opinion showing that the title was then free of defect.

**Copy of title insurance policy**, if you have one.

**Opinion letter from your lawyer**, to include:

- Title is currently **free of defect**, or set forth exceptions and why.
- Seller holds and will convey **merchantable title**.
- Seller will convey with a **general warranty deed**, or lesser alternative if needed.
- Property will be conveyed in **fee simple**, with no severance of rights or resources, other than those of record. A mineral lease will be recorded.
- To the best of lawyer's knowledge, **no unrecorded docs** exist that would negatively affect the buyer's use, possession and enjoyment of the property. (Make sure this is accurate, of course.)
- To the best of lawyer's knowledge, property is **not burdened with encroachments**.
- Seller will **reserve no interest or profit** in the property.

**Opinion letter from surveyor** that boundaries as described in deed match boundaries on ground, or set forth the mismatches.

**Survey**, if available.

**Deed-mapper drawing of boundaries on topographical map**. Show boundaries and acreage from legal description. Get this from surveyor. Inexpensive.

**Current appraisal**, or at least a competitive market analysis (CMA) from a broker.

**Tax map and tax information:**

- Current tax-assessed value (TAV). Previous TAV. Date of last reassessment. Date of next reassessment.

- Ratio of TAV to appraisal or CMA value
- Photocopy of current Land Book page showing property's TAV, tax rates and annual tax burden.

**Price paid when you bought property.** Date of purchase.

**Mortgage details** if you have one--original principal, terms, outstanding balance, contact info for lender, assumable or not.

**Zoning status** and summary of regulations for division, setback and others that are relevant.

**Copy of property's soil map** from the county's Soil Survey. Include tables that show suitability of your soils for different uses.

**Financials** if property generates income, such as Schedule F for farm.

**Opinion letter from environmental consultant** regarding any environmental issues, such as floodplain, natural hazards, wetlands, presence of ETS species.

**Consultant report (s) on special assets or liabilities**

**Letter from you** discussing property negatives, responsibilities and idiosyncrasies (e.g., nuisances, boundary disputes, fence ownership, well goes dry in August). Don't play hide the ball. The seller must achieve complete credibility with the buyer. Show how you arrived at your asking price, and why you need a quick sale.

Take your property information packet to everyone who might be a buyer or know of a buyer, including CPAs, financial consultants, real-estate brokers who might want to purchase, lending officers, mortgage companies and real-estate lawyers. Publicize in local papers.

Your success will depend on your asking price in terms of how buyers determine your property's value.

You can consider combining this approach with a **sealed-bid auction** with a stated reserve price. Allow buyers to make offers before your lawyer opens bids.

If you get no bidders, your reserve price is too high. Lower it and try again. If you have some buyers who contacted you but didn't bid, ask your lawyer to approach each one.

When selling quickly is more important than getting the best price, do what

you have to do because you don't have other choices.

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