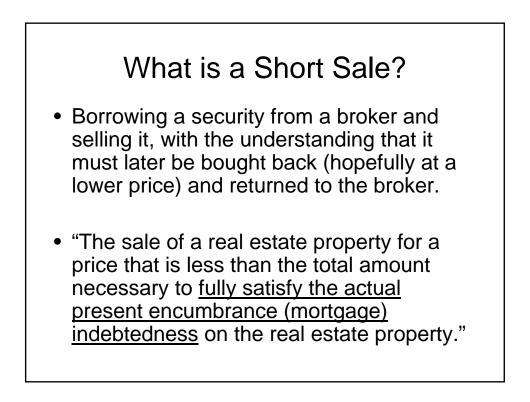
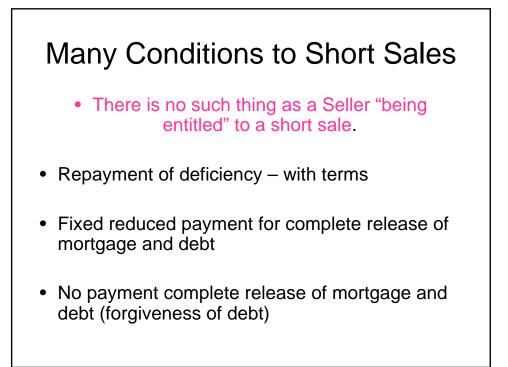
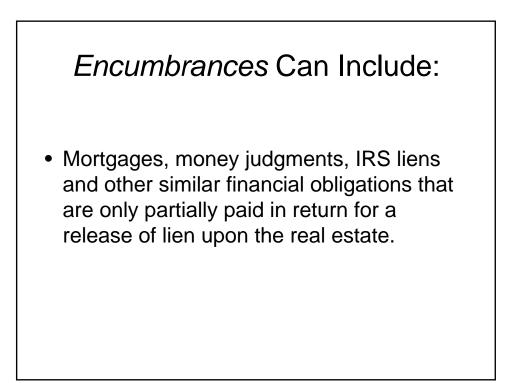


LOAN MODIFICATION SOLUTIONS TODAY







Lender Participation in the Short Sale Transaction

- A short sale requires not only a buyer and a seller, but ALL of the lien holder(s) accepting the terms of the transaction.
- The approval of the transaction should be a <u>mutual agreement</u> between seller and its lender(s).
 - IT IS NOT AN AGREEMENT BETWEEN THE BUYER AND THE LENDER!

FAR Short Sale Documents

- <u>RPZARETSKY.ACTIVERAIN.COM</u> My Blogs (Articles on Short Sales and Loan Modifications)
- The Florida Association of Realtors Documents (October 2007 and July 2008) consist of the Short Sale Addenda to the Exclusive Listing Agreement and Contract for Purchase and Sale.

Listing Agreement Short Sale Addendum – 1 (f) right to disclose mortgage information to buyers

I. Seller authorizes Broker and its agent (whether serving as transaction broker or single agent) to: (a) market the Property as a short sale or pre-foreclosure property in the MLS, in accordance with the MLS rules and regulations or other marketing medium; and (b) continue to market the Property for sale according to the MLS rules and regulations until Seller's lender(s) and/or lien holder(s) (collectively the "Lender") approves the short sale; and (c) disclose or provide any requested information or documentation to the Lender for the purpose of obtaining approval from the Lender in connection with the sale of the listed property; and (d) contact the Lender's loss mitigation or similar department to obtain loan and/or lien status, account and payoff -related information; and (e) provide comparables, broker price opinions (information regarding comparable properties, general condition of the community and the condition of the Property in relation to the other properties in the community), MLS and other data documenting the current value of the Property; and (f) provide any and all mortgage and/or other lien account and payoff information to prospective buyers and/or their agent or brokers; and (g) coordinate visual inspection of the Property by authorized representative(s) of the Lender.

Listing Agreement Short Sale Addendum – 5 (b) requirement to pay deficiency

5. Seller acknowledges that: (a) Seller will not receive any net sales proceeds at closing and may be required by the lender to deposit own funds into escrow; and (b) sale of the Property is possible if the Lender agrees to take less than what was owed as a payoff and that the Lender may require the Seller to pay the difference of what was owed as a deficiency judgment; and (c) if Lender refuses to honor the approved discount(s) and closing is not possible, the Property could go to foreclosure; and (d) if the short sale is successful and there is no deficiency judgment, the discount received may become a taxable event to the Seller. Seller may also be taxed on gain in the value of the property from the date of Seller's purchase to the date of the sale. Seller is advised that other options, including but not limited to modification of the existing loan/lien, refinancing, bankruptcy, foreclosure or deed in lieu of foreclosure may be more appropriate than a short sale. Seller is advised to consult with the appropriate legal, tax and financial professionals.

Contract Short Sale Addendum – Lender sets terms for Seller obligation – no negotiation with Lender

1. Approval of the Lender: This Contract is contingent upon: (a) the Seller's lender(s) and/or other lien holder(s) (collectively the "Lender") approval of the purchase price, terms of the Contract and the HUD-1 settlement statement (b) the Lender's agreement to accept a payoff which is less than the balance due on the loan or other indebtedness and (c) the Lender's release and satisfaction of the mortgage(s) and/or other lien(s) upon receipt of discounted payoff. If Seller does not deliver written notice to Buyer that Lender has approved the purchase price and contract terms within ______ days from Effective Date ("Approval Deadline") (45 days if left blank), either party may within five (5) days thereafter cancel the Contract by delivering written notice to the other.

FAR Short Sale Document Practical Problems:

- No option for the seller to negotiate with the lien holders – or to reject a lien holder demand for payment of the loan in full under terms set by the lender.
- Notwithstanding the inability of the seller to perform under the lender demand, the seller is obligated to sell to the buyer and is obligated to pay the Realtor commissions if a qualified buyer is introduced to the seller and the lender(s) approve the contract between the seller and the buyer.

FAR Short Sale Document Solutions:

- Leave open in any "fix" language the ability for the seller to negotiate the terms of any repayment of all or a portion of the deficiency.
- If the seller and lender cannot come to an agreement – the seller should not be obligated to continue the sale.

Preliminary HUD-1 and Other Submission Documents

 Each lender has its own requirements for analyzing whether to accept a short sale or modification, but general parameters include:

Preliminary HUD-1 and Other Submission Documents

 If it is a sale: Preliminary HUD-1 – although this is "Preliminary" it should NOT be submitted without all known payments, including prorated real estate taxes and assessments, condo or HOA unpaid fees, closing costs and broker commissions, city liens, judgments and junior lienors IN FULL.

Preliminary HUD-1 and Other Submission Documents

 If it is a sale: Fully executed contract including Short Sale Addendum, Exclusive Listing Agreement from the Realtor with Short Sale Addendum, and any addenda, and financial qualification letter or loan commitment for the buyer.

Preliminary HUD-1 and Other Submission Documents – Short Sale or Modification

ancial Statement for the seller a

- Financial Statement for the seller along with last two months' credit card bills, W2's and other regular expenses and bank account statements, and last year's 1040.
- Don't take a position without supporting documentation to back it up!

Preliminary HUD-1 and Other Submission Documents

- Hardship letter from the seller explaining why the sale must occur as a short sale (loss of job and income, health, divorce, death, severely adjusted interest rate, etc).
- Ability to show that the actual income of the borrower is sufficient to service a modified amount of loan, which must be at least 100% of the market value of the home.

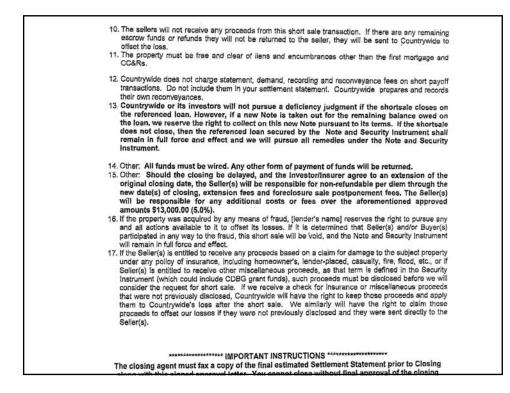
SHORT SALE APPROVAL LETTERS

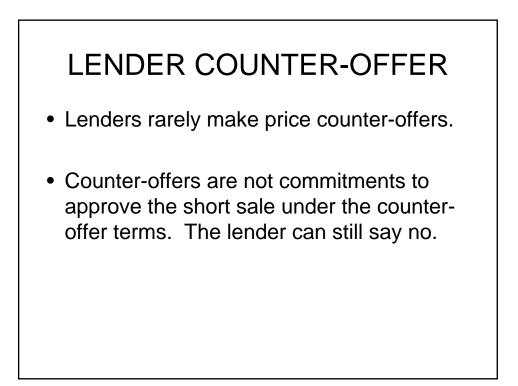
- Lender approval documents usually include some sort of estoppel letter and can include a modification of the existing promissory note, or a new promissory note, or even a consent to judgment
- Whatever the letter is *insist it be clear*
- Be sure the Seller gets a copy of the lender's letter and signs an acknowledgment they got the letter – AVOID problems at the closing table

 A performance in the states of the above reference in property. If the less than the total payoff of the property. America's and will release its lies, contingent upon the following terms: a. Which a purchase price of \$200,000.00 in which the required minimum met proceeds for ASC loan number and the load is the load is the states of the states of
In response to your request for a sale of the above referenced property, for less than the total payoff of the property. America's Servicing Company hereby signess to de short sale between the seller(s), and the buyer(s), and will release its lien, contingent upon the following terms: and will release its lien, contingent upon the following terms: A copy of the HUD1 Sectiement Starsment (Ireliminary) must be faxed to America's Servicing Company. A copy of the HUD1 Sectiement Starsment (preliminary) must be faxed to America's Servicing Company. This fax should be sent to 866-331-7960. Or Emailed to <u>ASCCLosingMilwaukec@WellsParce.com</u> . Do not close without an approved HUD from ASC. N N NO EVENT SHALL THE BORROWER RECEIVE ANY FUNDS FROM THE SALE OF THIS PROPERTY. Ary surplus funds above the agreed upon Short Sale payoble to America's Servicing Company. The motigagor(s) also waive their rights to any extension of lands of the solution or tofond from previal approved fill of the solution of solution or tofond from previal approved fill of the solution of solution or tofond from previal approved fill of the solution of the colusing the magnetized for the solution of the solution solution will be disablest of the Solution of the solution for solution of the solution for solution of the solution solution of the solution of the solution be solution to a satisfaction of this soproval, the pending foreclo
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 A copy of the HUD1 Settlement Summent (preliminary) must be faxed to America's Servicing Company. This fax should be sent to 866-331.7960. Or Emailed to <u>ASCCIoningMilwaukce@WellsParge.com</u>. Do not close without an approved HUD from ASC. IN NO EVENT SHALL THE BORROWER RECEIVE ANY FUNDS FROM THE SALE OF THIS PROPERTY. Any surplus funds above the agreed upon Short Sale purchase price at the time of closing is the exclusive property of America's Servicing Company and shall be made psysble to America's Servicing Company. The mortgagor(s) also waive their rights to any encryout funds or refunds from prepaid Expenses. The Following items are in agreement to be paid at closing: ".". 2nd line-if applicable to receive S5,000.00 Commission paid to be 25,054.00 Commission paid to be 25,054.00 Commission paid to be 35,054.00 Items of this approval, the motgage will be discharged and a release document will be forwarded for recording. If a foreclosue of a discussive will be grouperly, the motgage will be discharged and a release document will be forwarded for recording. If a foreclosue of and appropriate instruments recorded. ALX REMITTANCES MUST BE MADE BY CASULERC CHECK or CERTIFIED FUNDS, PAYABLE TO ASC, and shipped avernight to ASC, also be with 24 hours or closure.
 should be sent to 566-31.7960. Or Emailed to <u>ASCCiosing/Milwaukee/MWeitsParze.com</u>. Do not close without an approved HUD from ASC. IN NO EVENT SHALL THE BORROWER RECEIVE ANY FUNDS FROM THE SALE OF THIS PROPERTY. Any surplus funds above the agreed upon Short Sale purchase price at the time of closing is the exclusive property of America's Servicing Company. The mortigigor(s) also waive that rights to any encryoked funds or tributed from prepaid expenses. The Following items are in agreement to be paid at closing: "". 2nd line-if applicable to receive S5,000.00 Commission paids to be go more than 83,000.00. Closing cost paid to be 537,595.49 Any outstanding estimement costs to be paid by <u>SELLER(S).EUYER(S) OR AGENT(S)</u> If a foreclosure of against this property, then upogas staffaction of all terms of this approval, the pending foreclosure action will be disnissed and appropriate instruments recorded. <u>ALL REMITTANCES MIST BE MADRE BY CASHURE CHECK or CRETIFIED FUNDS, PAYABLE TO ASC, and shipped sovernight to ASC at Labore.</u>
Ary surplus funds above the agenced upon Short Sale purchase prices at the time of closing is the exclusive property of America's Servicing Company and shall be made payable to America's Servicing Company. The mortgagor(s) also waive their rights to any excrewed funds or trefned from prepaid expenses. 5. The Following items are in agreement to be paid at closing: *** 2 ⁴⁴ liber-it applicable to precive \$5,000.00 *** Commission paid to be a come than \$8,000.00 *** Closing costs paid to be 537,955,49 *** Upon satisfaction of all terms of this approval, the mortgage will be discharged and a release document will be forwarded for recording. If a foreclosure of agent this property, then upon satisfaction of all terms of this approval, the mortgage will be discharged and a release document will be forwarded for recording. If a foreclosure of agent this property, then upon satisfaction of all terms of this approval, the mortgage will be discharged and a release document will be forwarded for recording. If a foreclosure of agent this property, then upon satisfaction of all terms of this approval, the pending foreclosure action will be disnissed and appropriate instruments recorded. ALL REMITTANCES MOST BE MADE BY CASHIERS CHECK or CERTIFIED FUNDS, PAYABLE TO ASC, and shipped avernight to ASC at laborate bey within 24 hours of closing:
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If a forcelosure action was commenced against this property, then upon satisfaction of all terms of this approval, the pending forcelosure action will be dismissed and appropriate instruments recorded. <u>ALL REMITTANCES MUST BE MADE BY CASHIERS CHECK or CERTIFIED FUNDS, PAYABLE TO ASC, and shipped</u> overnight to ASC at address below within 24 hours of closing: ASC
overnight to ASC at addreas below within 24 hours of closing: ASC
11200 W. Parkland Avenue Milwaukes, WI 55324 NAC # X9400-02M Atta: ASC Liquidations
ASC is requised by Fair Debt Collections Practices Act to inform you that if your loan is currently delinquent or in default, as your loan servicer, we will be attempting to collect a debt and any information obtained will be used for that purpose. However, if you have received a bankroptory discharge, and the loan was not reaffirmed in the bankroptory cass. ASC will only exercise its right against the property and is not attempting any not to collect the discharged debt from you personally. PLEASE NOTE: Should your requires an attemption on the closing, please email your request to <u>ASCClosing/hilwrauken@WellsFargn.com</u>

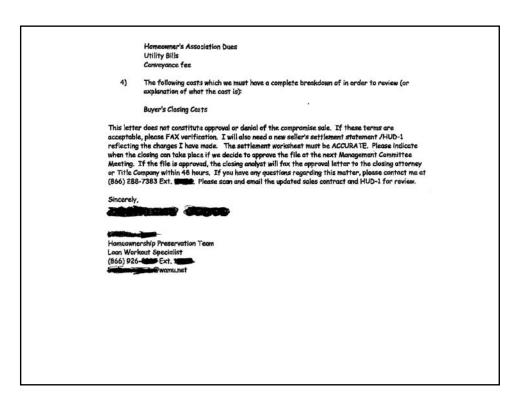
	Re	: Short Sale Settlement and Agreement on: F Account No. Account Balance: St Property Address:	TELOC			
	Ba		ank of America has agreed to the following short payoff. The f no less than \$3,200.00 from the proceeds of sale, on the subject			
	Upon receipt of the funds the bank will release the lien. The deficiency balance will be reported to the credit bureaus as "Charge Off" collectable balance. Liabilities for the deficiency balance to be determine.					
	Th	is offer is contingent upon the following condition	ns being met.			
		1. That borrower (a)	sells the property			
	 With no proceeds going the seller (s) Borrower(s) is aware that the liability for the deficiency balance is to be determined. This offer is Null and Void after December 15, 2008 					
		Lien Release to be prepared by the closing: Attorney, Title or Escrow Company; forwarding the document together with the settlement check to Bank of America, NA for notaring and recording.				
		Please remit certified funds or Wire to:				
	AB	<u>Bank of America Wire Instructions</u> 3A: 028009593 O/LA: 194200-0008880 In: Cheryl Orr. RMS Pmt Processing,	Electe remit payment lo: Bank of America, NA Attention: Müchael Robles Mail Code -CA, 7 701 03 89 275 S. Valencia Avenue Brea, CA. 92823			
	rep	The Bank may be required by law to report this settlement to one or more taxing authorities. The Bank makes no representations about any tax consequences this settlement may have or any requirements, which may be imposed, on the Bank. You should consult independent tax counsel of your own choosing if you desire advice about any tax consequences, which may result from this settlement.				
	Ia	agree to the terms stated in the above letter agreen	aent.			
				_		

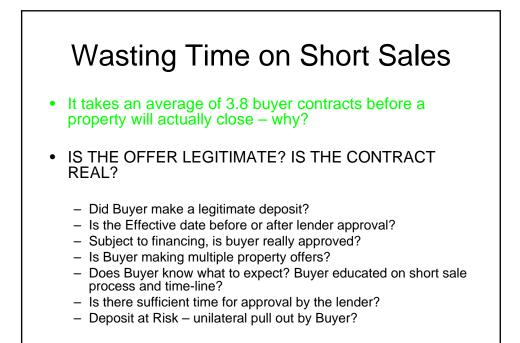
Dear Borrower:	Dear Borrower:					
Loans and its Investors and referenced property (the Shor our formal demand statement	for Insurers have agreed to ac t Sale transaction). This deman	cept a should a issued.	ses you that Countrywide Home nort payoff involving the above- be used by the closing agent as This approval is exclusive to the al are as follows:			
The approved buyer(s) is	o later than December 24, 2008, /are		approval is VOID. a sales price for the property is			
\$260,000.00. 3. Another buyer cannot be this short sale.	substituted without Countrywide	s prior wr	itten approval in connection with			
 Proceeds to Countrywide t Total closing costs, includ \$1,000.00 for second lie Termite reports and repair Realtors commission not t The property is being sold specifically stated otherwise 	n & \$3,000.00 for third lien. not to exceed \$0.00. o exceed \$13,000.00. in "AS IS" condition. No repairs the Seller to contribute \$0.00	will be pa	29,266,49. This figure includes id for out of the proceeds, unless in the closing of this transaction.			
	PROMISSORY NOTE CASH	\$	0,000.00 0.00			
If a promissory note is requir escrow. It is the responsibili returned to Countrywide.	red, it must be signed and retu ty of the closing agent to ensur	rned to C re that the	countrywide prior to the close of e promissory note is signed and			
Mortgage Insurance Compan	v. a signed, certified copy mus	t be provi	een the seller, Investor and the ided to Countrywide prior to the agent to ensure that Countrywide			
*** Sales proceeds will be re	eturned if the note has not bee ible cancellation of this short s	n receive	d. This will result in a delay of			





	ashington Mutual HOME LOANS	
Novembe	er 14, 2008	
Attentio	n: Aurora Lovelady	
R	RE: WAMU Loon Number: PROPERTY ADDRESS:	008 37978979 (ATArakang) act of the second West Palm Beach FL 33405
Dear Day	vid Marshall ,	
	mmunicate the following COUNTER OFFE osts and purchase price:	R for the above stated property in regards to the
1)	Purchase Price: \$235,000.00	
	The following contingencies MUST be i a) "Offer is contingent upon investor agreement." b) Property is sold "AS IS."	ncluded in the contract: and/or Lender's approval of compromise sale
2)	Closing costs which we will consider pay Property Taxes until the closing date Owner's Title Policy County documentary transfer tax Escrow fee Drawing Deed Commission	ring:







1099 and Short Sale Ordinary Income

- Whether or not a *lender* reports forgiven or canceled debt is NOT the trigger for <u>the</u> <u>obligation of the taxpayer</u> to include that forgiven debt on his or her income tax return in the year the debt was forgiven.
- Forgiven debt applies to short sales, foreclosure, deed in lieu, and modification!

FIRPTA and the Short Sale

FIRPTA requires that the "buyer" (inclusive) withhold 10% of the "<u>amount realized</u>" from property sale.

 "Foreign Seller" - Non-US citizen / non-US income tax resident

FIRPTA and the Short Sale

• Remember, the seller is not the lender - it is the owner of the real estate.

> Richard P. Zaretsky PA 1655 Palm Beach Lakes Blvd. Suite 900 West Palm Beach, Florida 33401 Telephone 561 689 6660

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Short Sale and Modification Seminar SOLUTIONS TODAY