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March 2008

Texas Real Estate Teachers Association Newsletter

2008 Conference "Continue the Excellence"

Join us in Dallas on April 17-19
at the Omni Park West Hotel!

Registration

Register today!

Register by March 31 and pay \$120
 -with credit card online at [treta.org](http://www.treta.org)
 -with check through mail by downloading
 conference registration form online
<http://www.treta.org/registration.pdf>

Registration fee goes up to \$130, April 1.

Hotel Reservations

Reserve your room before March 26!

-Visit <http://www.omnihotels.com>
 -Use group code 10100106397
 -If you have any problems, contact the
 front desk; e-mail or call Lisa Jones
 at ljones@omnihotels.com, or
 214-442-2136.

Conference Outline

Thursday

Opening Reception and Networking

Friday

Opening Remarks

-Dennis Walker, President, TRETA

Introduction of Keynote Speaker

-Philip Schoewe

Keynote Speaker

-Stefan Swanepoel

"The Top 10 Trends Shaping the
Future of the Real Estate Industry"

Lunch

Roundtable Discussion

-Subject Matter Experts at each table

Debrief From Each Table Subject Matter
Expert

Break

Update from the Real Estate Center

-Harold Hunt, Research Economist

Update from TREC

Closing Remarks

-Dennis Walker, President, TRETA

Saturday

Welcome and Opening Remarks

-Dennis Walker, President, TRETA

Demonstration

-Creative Games for Classroom

Learning

Mortgage Update

- Jerry Rutledge

Legal Update

-Chuck Jacobus

Ending Remarks and Adjourn

DOWN MARKET SALES AND TAR's NEW SHORT SALE CONTRACT ADDENDUM

Nationwide, many areas of the U.S. are currently experiencing a drop in home prices and an increase in foreclosures – creating “down market” conditions. This time, it's not our fault down here in Texas, unlike the 1980's, when a collapse in oil prices collapsed Texas housing prices. Unfortunately, it's not a sure shot that Texas can stay entirely clear of the nationwide downward trends much longer. The subprime loan market, amid allegations of rampant fraud, saw its mortgage backed securities lose their good status with secondary market bond raters, leading to a general collapse of such loans. Countrywide, itself in trouble, saw a sudden 94% drop in subprime originations this past fall. It wasn't just Countrywide, the largest lender, the whole subprime market all but evaporated last fall. That could pull 15-20% of the buyers out of the market, even in Texas. That's bound to hurt prices. Neighborhoods that relied on subprime loans heavily are likely to be the hardest hit. Moreover, the constant bad news reports in the national media about trouble in the real estate market and the loan market may discourage buyers with good credit who otherwise would be “move-up” buyers or buy vacation homes. Investors may be quite interested in buying, but not until they see real blood from price cuts – they want to buy and hold for the future upswing, but only with a here and now comfortable margin. Down market conditions will necessitate changes in the way real estate operates and in the way educators train their professional learners.

Older educators who remember the 1980's in Texas already have a good background in down markets. The “doom boom” in a down market unfortunately can adversely affect new entrants into the real estate profession – by discouraging them from coming into the profession. However, a lot of misconceptions exist about down markets – sales agents are badly needed in a down market due to the huge volume of sales and the inadvisability of non-broker sales. In Houston in the 1980's, in a very down market, sales volumes reached some of their highest levels ever. The prices were terrible and the sales work could be arduous; listings lasted a l-o-n-g time on the market but the sheer numbers of sales were surprisingly high. In a down market skilled brokers are often the key to sales. In contrast, in very up markets, such as California, even a few years ago, the markets were so hot that a buyer could literally put up a “For Sale” sign on the front lawn in the morning and receive multiple offers by the end of the afternoon. Listing brokers, if they were used at all, fell to the level of “order takers” . In such markets FSBO's and internet listing schemes thrive. In down markets however, they shrivel. Desperate sellers might want to save money by skipping brokers and undertaking FSBO efforts, but if they are short on income (job loss, divorce) and low on equity (likely) it could be a fatal mistake to do so. In down market conditions, good agents are critical, in this attorney's opinion. *When you've got to have the sale you've got to have a broker.* They give far more credibility in working with lenders if we need to do short sales; PMI assisted presales, or set up various types of financing arrangements. Skilled agents are also badly needed to accurately assess prices which may be falling rapidly. The ability to find buyers and get a listing to stand out in the crowd among the huge number of listings on the market are key skills. In an up market, listings are king, in a down market, buyers rule. Older brokers, whose extensive networks of hard earned contacts developed over years of activity make them tough competition in an up market, may tire of the chase in a down market. They may look for early retirement or spending more time with a high grossing spouse and maturing family. Opportunities therefore exist for new (not necessarily young) and aggressive salespersons who have the energy to work the long hours needed to get sales in a down market. Success breeds success, salespersons with a track record in a down market have an edge with lenders who have REO portfolios to list with selected “strong” agents. Texas is not quite to this level yet, fortunately, but the meantime, some down market tricks and skills are increasingly useful. (the kind of techniques FSBO's know nothing about). In order to sell a home with low equity, down market techniques may include: “short sales”, PMI assisted presales, and seller contributions (even with no ready cash!).

In a “short sale” we have a house that is “upside down” – more is owed on the loan than it's worth. Some brokers throw up their hands and say it's a hopeless situation and do nothing. Actually, that's not the case; the house often can be sold through a short sale. There's even room there for a commission. Here's how it works: (1) the broker finds a buyer at or near market price; (2) the lender agrees to the deal, with regular closing costs and commission, and simply takes less than they are owed on the loan. The seller, as an added bonus, will be released from further liability on the missing loan balance, thereby eliminating the possibility of being sued in the future for that sum. Discharge of debt generates taxable

income, but that problem is not nearly so severe in a short sale as it is sometimes claimed to be, if the IRS rules are checked carefully. Many title companies are now offering canned MCE courses in how to do "short sales." TAR recently issued a new addendum on short sales. (more in a minute) Let us hope our need to be familiar with it will be short lived. The short sale is often combined with a PMI assisted presale.

In a PMI assisted presale, the loan, when it was set up, involved private mortgage insurance (PMI). If the lender sustains a loss after a foreclosure, the PMI company, up to the limits of the policy coverage, may be hit with a claim from the lender on the insurance. The payout on the claim will cover some or all of the lender's loss. As with any form of insurance, the desire is to take in premiums and not pay out claims, but if a claim has to be paid, the ways and means of reducing that claim payout are of interest to any intelligence mortgage insurer. If a broker finds a good buyer for a seller at or near market price, then the PMI company may rally to support the sale – with cash on the barrel head chipped in. Here's why: if the house is legally foreclosed on, it's likely to be stigmatized. Even worse, despite security efforts, assorted bad things happen to foreclosed homes with sickening regularity. A few I remember well from the 1980's: the neighbors who decide to "save" the home's beautiful plants and shrubs by an emergency transplant, or air conditioner compressors that so often seem to develop little legs and run off. The notorious copper bandits strip the house. The house may be without power and water, making showing more difficult; with no wires or busted pipes, why bother to turn it on anyway? Brokers who show such homes wear Iraq style combat boots, Texas working blue jeans, and carry metal cased police flashlights. Helmets anyone? (for the falling water sogged ceiling pieces) Some insist on packing under Texas' new concealed weapons law – for the druggies, psychotic bums and other freaks who may greet our happy home makers at the door. Upon entering the dark house, invisible "things" may scuttle on the floor or flutter on the ceiling. Such a home may just sell for less, if it sells at all. PMI companies no doubt hear the cash register ringing up the claim payout loss in such circumstances and they know the broker found buyer who buys before foreclosure is a better deal. It's time to belly up to the bar, so to speak, and pay up to help get the sale done before foreclosure, with the existing seller, on a PMI assisted presale. TAR's new short sale addendum, attached to a TREC form, can be used to help set up the deal.

TAR's Short Sale Addendum (TAR-1918) 8-16-07 have five paragraphs, A through E. A states the addendum makes the contract a short sale. B defines the short sale as one in which the "seller's net proceeds" (D defines seller's net proceeds as Sales Price (3.C.) minus paragraph 12's expenses) will not pay off the existing loan balance. Therefore, under B, Seller must have (a) the lienholder's approval, and (b) the lienholder's agreement to release the lien and accept the Seller's net proceeds in full satisfaction of the loan. (No deficiency, but watch out for a possible IRS bite). Paragraph C is a bailout, giving a time deadline to get the lender's approval as required in B, or if the lender timely agrees, but then doubles back and refuses to do B at the last minute, the seller still gets to bail out even past the normal deadline. The form can handle more than one lienholder – supposedly. (That may get to be a complex transaction at some point – get a lawyer!)

Brokers intending to effect a short sale will pass the contract back to the seller's existing lender, and if they approve, it's a deal. The short sale addendum lets us lock up the sale (stronger to present to the lender) but seller can get out if the lender doesn't approve. Actually, the sale will fail anyway without the lender's approval since the title company can't insure past an unreleased main lien, obviously.

PMI assisted presales can help tremendously in getting the short sale accepted. However, this transaction is getting complicated, and it will take a good and diligent broker to put it all together. Sometimes, think buyer's side, the buyer can get a fairly good deal on a house they really wanted while less knowledgeable brokers are still looking for other deals, missing this good one altogether. FSBO's aren't even in this game. Let's hope market conditions do not deteriorate to the point where all of us get too much experience in this area. Short sales can be a powerful technique, even in an up market. A sharp lender should sign off on a near price market deal, even if they come up short on the loan balance,

Seller contributions with no cash? Hmm.. sell the boat, furniture or stamp collection. Use the cash value on life insurance. Sign a promissory note. The worst, absolutely worst approach is for everyone to gang up and beat up the broker to cut in a share of their commission. Fight that! Short sale – believe it!

Jim Wiedemer

2008-2009 Officer Nominations

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If you have not been receiving mail or email from TRETA your contact information may be incorrect in our official membership directory on www.treta.org.

- 1) Log onto www.treta.org
- 2) Click on "My Profile"
- 3) If your information is wrong: Click "Edit"
- 4) Click "Update Your Profile"
- 5) Correct your contact information
- 6) Click "Update"

Thanks for your part in keeping our membership directory current!



Texas Real Estate Teachers Association

"Our Active Membership is
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