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WHAT IS A SHORT SALE?

For real estate owners who can no longer afford to keep current on their mortgage payments, a short sale is an alternative to foreclosure that can help preserve their credit and avoid bankruptcy.

A short sale is when a distressed seller finds a purchaser who is willing to buy their property for less than what is owed to the lender (bank) and the bank accepts less than what is owed on the mortgage in full settlement of the seller's obligations to avoid having to foreclose on the property.

It may seem counterintuitive, but a lender may not want to foreclose on a property because the foreclosure process is expensive and time-consuming for the lender. In today's market with foreclosures on the rise, lenders are becoming more and more willing to negotiate short sales.

Real estate agents may be enlisted by sellers who are at risk of being foreclosed to help market their properties and find potential purchasers. And just as in any sale, brokers are entitled to commissions on the short sales of properties.

Finding a competent attorney with experience in short sales is important because there are many ramifications of short sales that people may not immediately consider. For example, debt forgiveness may be considered income which would be taxed at the seller's ordinary income tax rate. Also, in addition to paying off the lender, there are various closing costs which will need to be paid as part of the sale such as transfer taxes, real estate agent commissions, legal fees and any judgments and/or liens against the sellers. All of these closing costs need to be considered in determining the short sale price.

With foreclosure rates on the rise, adjustable rate mortgages scheduled to be re-set and property values on the decline, many property owners may avoid foreclosure by entering into such short sales. The Law Offices of James G. Dibbini has experience in the negotiation of short sales and will ensure that all parties work together toward a favorable settlement. For legal representation for your sellers or buyers in short sales or for more information regarding short sales in general, please do not hesitate to contact our office.

Disclaimer: The information provided is not intended to be legal advice, but merely conveys general information related to legal issues commonly encountered.

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