

SmartMoney

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DO-IT-ALL DEAL MAKERS

BY BRAD REAGAN

■ In this market, real estate agents have to do everything from strong-arming skittish banks to mowing abandoned lawns. What buyers and sellers need to know to get the right broker.

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YOU'D THINK IT WOULDN'T BE THAT HARD TO SELL a home for 60 cents on the dollar, especially when that home is a short bike ride from the beach and virtually surrounded by a duffer's dream of golf courses. Yet for more than six weeks, real estate broker Troy Huerta has been sweating blood to make headway, even though the

buyer and seller have agreed on the price and are anxious to wrap it up. The bottleneck: The banks that hold the notes—a first mortgage and a subsequent line of credit—won't sign off. ■ It's the same with virtually all of Huerta's listings. As early-morning fog burns off the hills outside his office window in Vista, Calif., north of San Diego, he dials one of the banks again. The minutes tick by. He is transferred four times, to three different departments, until he is put on hold again for another 10 minutes. Muzak tinkles over the speakerphone. "They put relaxing music on so you don't get upset," Huerta

says. Eventually, a disembodied voice from deep inside a call center says to call back on Monday. For every deal, Huerta will spend more days, perhaps weeks, being hung up on, disconnected, transferred and rebuffed. Yet for all that, he's more than happy to put up with the abuse. Huerta expects to close as many as 170 sales this year, more than double last year's tally. ■ Welcome to the world of real estate's new power brokers. Long gone are the days when "wheel estate" superstars ruled the housing game, raking in fat commissions by chauffeuring clients around town and then writing offers above the asking price. After more than two years of cratering prices and sluggish sales that drove one out of every five brokers out of business, today's masters play a different game. They're specialists in distressed properties, relics from the housing boom that owners are dying to unload and buyers are hoping to scoop up at rock-bottom prices. Once a down-market niche in

 **REAL ESTATE:
THE NEW RULES**
First in a series on buying and selling as the market recovers



TROY HUERTA has doubled his business in San Diego by specializing in “short sales” by strapped homeowners.

the industry, the distressed market is now prized territory for hungry agents. The category now accounts for about a third of all home sales, according to the National Association of Realtors, as buyers shrug off the stigma of foreclosure to bid on the middle-class and luxury properties that are popping up in the bargain bin. Of course, a whole new ball game requires a whole new set of skills—and not all agents have them. For buyers and sellers, choosing the right agent is therefore trickier than ever.

In many ways, a once-glamorous profession has become dirty and unpleasant. Lenders are surly, sellers are bitter, and buyers flex their newfound leverage by being especially picky. When the homes are already bank-owned, agents are forced to handle unsavory duties like evicting previous owners and fronting property-management expenses. “They are having to learn a whole new way of doing business,”

says Shannon Jones, a real estate attorney in Danville, Calif., who estimates she’s given seminars on distressed properties to more than 3,500 agents in the past year. National brokerage Weichert Realtors recently began offering free webinars to get its agents up to speed, while a cottage industry is developing to offer “certifications” for specializing in distressed sales. Many other agents are waiting out the slump and letting practiced specialists like Huerta work through the inventory. But for those willing to slog through the mud, business is good.

A FEW MILES SOUTH OF Huerta’s office, Erik Weichert turns the key on the front door of a gray stucco bungalow, pushes the door ajar and yells, “Realtor!” The idea, he says, is to warn potential squatters who might fear that he’s the police. The home,

in the upscale Kensington neighborhood of San Diego (the mayor lives nearby) is in foreclosure, though Weichert doesn’t know why. “A long time ago I quit asking. They are all bummers stories,” he says. Weichert, 37, wears tortoise-shell Prada sunglasses and a charcoal pin-striped suit and drives a navy BMW 750i with less than 10,000 miles on it. But his appearance belies his expertise in arguably the grimmest sector of the housing market—bank-owned foreclosures (known in the trade as REO, for “real estate owned”).

The two types of distressed sales that consumers are likely to encounter are bank-owned and short sales. A bank-owned sale involves a property that has been taken back by the lender after the owner stopped paying the mortgage, while a short sale is an effort by the owners to avoid foreclosure (and the ensuing damage to their credit) by selling for less than what’s owed on the mortgage. Bank-owned homes are sold “as is,” meaning the buyer accepts the property warts and all—and some of these warts can be rather grotesque. Strapped homeowners often let the homes fall into disrepair before being evicted or even vandalize them out of spite. But investors with the stomach for it often find bargains: Bank-owned homes sell for an average 20 percent discount to comparable properties, and that’s on top of already huge price drops in some markets.

There were years during the boom when there were hardly any foreclosures in San Diego County, but Weichert alone now carries hundreds of bank-owned listings at a time, which explains why he employs a staff of 18. Among his tricks, he sends a “good neighbor letter” to the 10 nearest homeowners once he gets a listing, notifying them that the home is in foreclosure and asking that they keep an eye out for vandals and squatters. In this climate, he doesn’t bother “selling a dream” or making a property look perfect. At the Kensington bungalow, the terraced front lawn needs to be mowed, and the carpets could stand a deep cleaning. But Weichert won’t be lavishing the place with TLC. “There’s no emotion in this. It’s all

dollars and cents,” he says. His job is to make sure the place doesn’t get totally trashed, and then sell it quickly. Weichert covers so-called carrying costs, including all repairs and maintenance—an average of \$5,500 per property, he says—until the property sells.

It’s not uncommon for banks to enlist agents to offer stubborn homeowners a few thousand bucks to leave, a transaction known as “cash for keys”; brokers’ tales of being threatened by hostile owners or tenants are so common they’re almost clichés. Agents have to fight harder for commissions on these properties too. While many lenders offer traditional, full commissions—3 percent to the listing agent and 3 percent to the buyer’s agent—others play hardball on the percentage or even try to force agents to take a flat fee. With lower home prices further squeezing margins, agents have to deal in volume to succeed. During the boom, agents could make a good living selling just a handful of luxury properties annually; Weichert, in contrast, may move as many as 1,000 homes this year.

Nevertheless, at a time when the number of agents is shrinking—down almost 20 percent in the past 18 months—many are clamoring for a slice of the bank-owned business. In April, Weichert joined almost 3,000 real estate pros in Palm Springs, Calif., at a conference called Reomac, for the mortgage-default industry, where the attendance was double that from two years earlier. Weichert learned the business from his mother, who got into the foreclosure market during a downturn in the 1980s, but it’s a steeper learning curve for newcomers. It doesn’t help that some outfits offering to “certify” agents as distressed-property specialists are teaching dubious methods, according to critics. Mark Ryan, a broker in Dayton, Ohio, says he took an online course in which he was taught to submit a bid as soon as he got a short-sale listing in order to get the process started—even if no actual bidder existed. That practice is unethical and possibly illegal, real estate attorneys say, but it’s also dismayingly common. “There are people running around in this industry who are dangerous,” says Alex Charfen, cofounder of the Distressed Property Institute, based in Austin, Texas.

More than 12,000 agents will take his two-day course this year, Charfen says, up from 1,400 last year. But what they learn

won’t exactly be rocket science, he concedes: There’s a guide to the paperwork involved in a short sale, for example, along with tips on avoiding liability if a transaction goes sour. The National Association of Realtors offers several distressed-property classes, but there’s no official certification. Indeed, many experts think field experience far outweighs even legitimate coursework. Coldwell Banker, for example, identifies agents as “specialists” only after they’ve completed 20 short sales.

CONTRARY TO POPULAR opinion, a foreclosure is not generally in the bank’s best interest financially. A foreclosure results in an average loss of 40 percent for the lender, versus just 19 percent for a short sale, according to the consulting group Clayton Holdings. Yet short sales remain an arduous alternative. In early 2009, the average short-sale offer waited more than eight weeks to get a response from the lender, up from 4.5 weeks a year earlier. Kelli Ketchum of Auburn, Ala., put a \$429,000 short sale offer on a beachfront home in the Florida panhandle but withdrew the bid when her agent couldn’t get an answer after two months. “It was excruciating,” Ketchum says. “We didn’t know if it was sitting on someone’s desk or what.”

There are a variety of reasons for the impasse. For one, the banks aren’t exactly jazzed about eating the losses. Bank mortgage officers say they simply didn’t have the staff to absorb the flood of calls that came in as last year’s economic crash picked up speed, and neither did the mortgage-servicing firms that many banks hire to manage the loans. “As an industry I can’t say we were fully ready. It happened very quickly,” says David Knight, vice president for default and retention with Wells Fargo Mortgage. Knight says his department has more than doubled the staff devoted to short sales in the past year. But even under the best of circumstances, working out an agreement that satisfies everyone is a bit like herding cats. Many deals involve multiple lien holders, a mortgage insurer, the buyer, the seller, and the agent fighting for his or her commission—and all have to sign off on the deal. One increasingly common deal breaker is when banks reserve the right to sue the homeowner to recoup their losses. With all these obstacles, only about a quarter of short-sale offers get approved.

By most accounts, banks have shown improvement in speeding the process. Still, problems persist. Rita Driver, a short-sale specialist in Memphis, says she is often asked to fax paperwork five or six times because the bank repeatedly loses it. Brokers swap conspiracy theories about banks switching off their fax machines to stem the tide of paperwork. Even when agents connect with lenders, they often receive conflicting information about the status of a file. “Every person will tell you something different,” says Michelle Clark, who works in Troy Huerta’s office. “It’s a joke.” One recent day Clark sat on hold with a bank for almost 90 minutes, was finally promised a transfer to the person she needed—and then got disconnected.

Huerta, 40, is a competitive cyclist who spends his afternoons pedaling through the hills around Vista, where a third of all homeowners are underwater on their mortgages. He had a nice ride for most of the boom as a mortgage broker, but he says he quit after multiple customers ignored his advice that they could not afford the mortgages they sought—and simply borrowed the money elsewhere. Sensing an opportunity, he learned the distressed-property game through trial and error, and eventually helped several of his onetime customers sell their properties through short sales. He now boasts three full-time and two part-time staffers, who spend most days barraging lenders with calls in an effort to break the logjam.


Even though the market is growing, many agents won’t accept short-sale listings or show them to potential buyers—even when that’s what buyers want to see. Dolores Murillo, a 29-year-old credit manager for a bank, waded into the Coral Springs, Fla., housing market this year after hearing from several colleagues who purchased shorts in her price range. But after working with an agent for four months and finding few bargains, she learned—to her surprise—that he was screening out short sales; he even refused her specific request to show her short-sale listings. “I get that the short sale may not go through,” she says. “But I should at least have a shot at it.” She changed agents, to specialist Lynn Pineda, and she’s currently in contract on a two-bedroom town house overlooking a lake.

For strapped homeowners, a short sale offers a glimmer of hope. According to Fannie Mae guidelines, owners who

go through a short sale can be eligible to buy a home again after two years—versus five years for foreclosure. That’s a big difference for Rose Curtis and her husband, Mike, who invested heavily in real estate during the boom. Both worked in the industry—she as a mortgage broker, he as an appraiser—and their combined annual income topped \$500,000 until the bubble burst. Their credit score has since plunged from 759 to 569, and they’ve sold two homes through short sales. They recently

moved into a rental with Rose’s mother, but they’re determined to own again. “This time we aren’t going to make a bunch of silly mistakes,” Rose says.

Huerta haggled for seven weeks before pushing through the Curtises’ first short sale—and the bank approved it only after he agreed to cut his commission. But at least his customers are satisfied. The tough climate is leading to a new phenomenon: clients suing their brokers and agents. Shannon Jones, the real estate

attorney, says lawsuits are starting to pile up, filed by buyers who claim their agents didn’t disclose problems with the distressed properties they purchased. It’s a far cry from the party atmosphere that surrounded home sales in the boom years, when deals were struck in minutes and all parties walked away feeling like winners. Real estate consultant Marylyn Schwartz has a message for those agents not up to the task: “Get out of the way for people who are serious.” 

THE LONG AND SHORT OF SHORT SALES

Done right, everybody wins in a “short sale,” where the home sells for less than the seller owes on the mortgage. The buyer gets a bargain, the seller avoids foreclosure, and the bank escapes with a manageable loss. But the process can drag on for months, and only about 25 percent of offers get accepted by banks. Here are some ways to make the process as painless as possible.

FOR BUYERS

VET THE OTHER GUY’S AGENT.

With under a quarter of offers making it all the way to a completed sale, the key is making sure the seller’s agent is experienced with short sales, since that person will do the haggling with lenders.

MAKE A SMART BID. An extreme lowball offer rarely works, as banks still have the option of foreclosing and selling the home. Short-sale specialist Troy Huerta, of San Diego, recommends making an offer that’s no more than a 10 percent discount to recent comparable home sales in the neighborhood. Also: Buyers should get preapproved for a mortgage before they bid.

BE PATIENT. It takes two months on average for banks to even respond to short-sale offers—getting to actual closing can take several more months. Would-be homebuyers making an offer should make sure they have a rental option or other place to stay while the process plays out.

FOR SELLERS

PROVE HARDSHIP. Banks won’t approve short sales for investors or homeowners simply because they’re underwater on their mortgages. The seller needs to prove hardship by demonstrating legitimate problems like recent job loss, medical bills or divorce. Rita Driver, a short-sale specialist in Memphis, asks clients to submit handwritten hardship letters in hopes of persuading hard-hearted mortgage lenders.

START EARLY. Sellers can shave weeks off the process by letting lenders know as soon as they consider a short sale. The banks can get the paperwork started and may even provide a ballpark estimate of what sale price they would accept.

PUT SKIN IN THE GAME. Because lenders are taking a loss, they want to see the seller sacrifice as well. Offering the bank a payment as small as a couple of thousand dollars on top of the buyer’s offer will sometimes move a bank to approve a short sale.