

REAL ESTATE DOUGH®

Session 19: Distressed Properties: No Easy Recipe

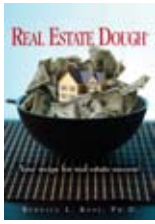
Chapter 27

Agent Manual

Your recipe for real estate success!

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Agent Manual

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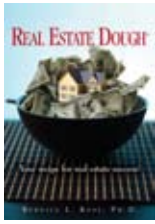
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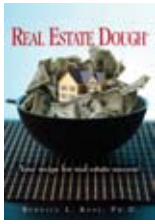
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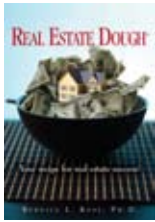
Skills Check: Place a checkmark (✓) next to what you do now. Leave the remaining items blank. Review the action steps at the end of today's session to determine the strategies that you will implement in your business.

- 1. Before taking any listing, I always check the loan balances on the property, not only by asking the seller about them, but also by checking with the title company or other independent source.
- 2. I know how to show lenders who refuse a short sale or workout with my clients the benefits of accepting an offer now rather than waiting to complete the foreclosure process.
- 3. I always have the sellers review their loan documents to see if they have a prepayment penalty prior to listing their property.
- 4. When clients have trouble working out a short sale, prepayment penalty, or other difficulty with the lender, I refer them to a consumer attorney who can help them with the process.
- 5. I advise my clients who are facing a short sale or a foreclosure situation to contact the workout department at their lender or to work with a loss mitigation company.
- 6. I always check the public record to determine whether there are any state, local, or IRS tax liens.
- 7. I always advise sellers to check with their tax professional to determine the consequences of entering into a short sale agreement or giving a deed in lieu of foreclosure.
- 8. I advise sellers to talk with their tax professional or attorney regarding whether they should stop making payments in a short sale situation.
- 9. I advise sellers in short sale situations to consider taking out a personal loan from their lender to cover at least part of the cost of the short sale in exchange for the lender agreeing not to provide a negative rating on their mortgage.
- 10. I know how to persuade banks that own REOs (real estate taken by the bank in foreclosure) to accept realistic offers from qualified buyers.

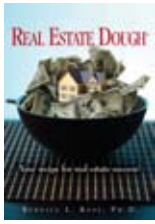


Key Learning Points

- I. In today's session you will learn:
 - A. How helping troubled homeowners stay in their homes can be a huge plus for your business.
 - B. How to use short sale and REO strategies to protect both you and your clients.
 - C. Strategies to help you close more distressed property transactions.
- II. Key terminology
 - A. *Delinquency*: seller has missed one or more payments.
 - B. *Notice of Default*: The lender files a "NOD" to begin the formal foreclosure process.
 - C. *REO (Real estate owned)*: properties that have gone through foreclosure and are now owned by the bank.
 - D. *Short sale*: homeowner owes more to the lender than the house is worth. Lender will have to reduce what it will take as a payoff to close the transaction.
- III. Home retention first, short sales and foreclosures after exhausting other options.
 - A. Common reactions of distressed property owners.
 1. Try to sell the property without an agent.
 2. Stay in the property as long as possible during foreclosure to pick up "free rent." Ruins credit.
 3. Attempt to sell using a short sale.
 4. Give keys back to the lender (i.e., "deed in lieu of foreclosure). Many lenders provide a "cash for keys" program.
 5. Declare bankruptcy and delay foreclosure.
 - B. Options they may not realize that they have.
 1. Stay in the property and keep up payments. Most markets will recover. Preserves their credit.
 2. Request a reduction in the interest rate from the lender or a change in the payment program. This is known as a loan modification.
 3. Rent the home and move to a less expensive property.
 4. Hire a loss mitigation firm to negotiate a workout or short sale.



- C. Strategies to help your clients delay or avoid foreclosure.
 - 1. Start with lender—bypass customer service department and ask for loan workout department.
- D. Who is the decision-maker at the lender?
 - 1. This varies from lender to lender. It can be very difficult to find the right person.
 - 2. One alternative is to work with a loss mitigation company (no charge to homeowner in many cases, but they expect part of the commission).
 - 3. Be sure that your clients have a well-prepared hardship letter. There are plenty of examples available by doing a Google search.
 - 4. Beware of loan modifications where the lender just tacks on the extra payments to the end of the loan. They then re-amortize the loan and charge a higher monthly payment.
- IV. Other key resources to help struggling homeowners:
 - A. HopeNow.com (do a Google search on HopeNow and the names of your state to find a location near you).
 - B. NACA.Net: Consumer attorneys who examine loan documents to see if there any problems that may give the owner some leverage with the lender to delay or avoid foreclosure.
 - C. “Ask for the Note Strategy”
 - 1. Many lenders have sold their loans. Others have misplaced the original loan documents.
 - 2. Some people have been successful in delaying or stopping foreclosure by asking the lender for the original note.
 - D. When you make a short sale offer and the lender says, “We’ll foreclose,” share this statistic from the Mortgage Bankers Association: *A foreclosure costs the lender 30 percent more than doing a short sale.*
 - 1. Also show the lender how much inventory is on the market and whether a particular property is located in an improving market, flat, or declining market.
 - 2. Show how much property values are changing each month in that area. (Trulia and Zillow have “heat” maps that track these numbers.)
 - 3. You can also use a square footage CMA.

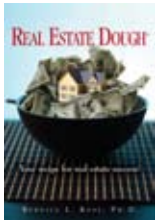


- V. A simple guide to working with distressed properties.
 - A. Always check loan balances.
 - B. Never rely on what the seller says that they owe. If you cannot get accurate information from a title company, there are other alternatives. Search on Zabasearch.com or Intellius.com to check for bankruptcy, liens, and other debts (small fee of @\$30.00).
 - C. Check the seller's loan documents for pre-payment penalties.
 - 1. This can be six months of interest or more if the borrower sells before the prepayment period ends.
 - 2. Lender may add prepayment penalty amount to the balance due as part of a short sale.
 - D. Have the seller hire a consumer attorney to review the loan documents (NACA.net). If there is an error, it gives the seller power to negotiate.
 - E. Who is the decision maker at the lender?
 - 1. Avoid customer service—go to workout department.
 - 2. Work with a loss mitigation company (no charge to homeowner in many cases, but they expect part of the commission).
- VI. Short sale package: documents you will need:
 - A. Cover letter outlining contents of package.
 - B. Purchase contract.
 - C. Hardship letter including documentation of the nature of the hardship.
 - D. Seller's current financial statement (net worth) including tax returns, W-2, six months pay stubs, and bank statements.
 - E. Title search of the property.
 - F. Estimated seller net sheet (HUD 1 Settlement).
 - G. Seller authorization for Realtor® or attorney to speak with the lender.
 - H. Competitive market analysis (use Zillow and HomeGain values if they support the price).
 - I. Interior and exterior photos of home including pictures of needed repairs plus estimates.
 - J. Payoff statements from any other lenders or liens against the property.
 - K. IRS tax liens can take years to resolve. Do you really want to take that listing knowing it may take a year or more to close?



- L. City and state tax liens take a tremendous effort to resolve. Is it worth that much work on your part?
- VII. Have the sellers check with their CPA or tax attorney before entering into a listing or sale agreement.
- A. They may owe taxes on the short sale or foreclosure amount if they refinanced and have what is known as phantom income. (Phantom income refers to money the owner may have taken out and spent on other expenses. It is treated as regular income in many cases.)
 - B. Have them compare the consequences of a short sale, foreclosure, and a deed in lieu (give keys to lender without a foreclosure).
 - C. Should the seller stop making payments? Do not advise seller on what to do.
 - D. Often times a loss mitigation company can help the seller work out a short sale, even if the payments are current.
- VIII. Protect the seller's credit.
- A. Lenders may be more willing to accept a short sale if the seller is willing to take a personal loan for part or all of the short sale amount.
 - B. In exchange, have the lender guarantee in writing that they will not post anything negative on the seller's credit report.
 - C. This protects the sellers' credit and may lessen any potential tax difficulty. Always check with a tax professional first.
- IX. Distressed properties—good buy or money pit? How to protect your clients.
- A. On foreclosure properties (or probate sales) have buyer obtain title report, check for tax liens, and a complete physical inspection.
 - B. Foreclosure properties often have not been maintained or are damaged by the previous owner.
What examples have you seen?

 - C. Protect yourself! Have an attorney review any REO listing agreement before signing it. Many lenders are trying to transfer their liability to you and your company.



- D. Don't agree to do property management for the lender—it's not covered under your Errors and Omissions Insurance.
 - 1. Doing property management makes you responsible for the property condition. In a lawsuit, you have to defend yourself and the lender!

X. Select Your Action Steps

- ___ 1. In the future, I will carefully investigate the loan balances and tax liens on a property before listing it.
- ___ 2. I will ask the sellers to check if their loan documents to see if they have a prepayment penalty.
- ___ 3. I will advise anyone considering a short sale, stopping their payments, or going through foreclosure to check with their tax professional about the tax consequences of each of these alternatives.
- ___ 4. I will refer owners of distressed property to their lenders workout department, not customer service.
- ___ 5. I will be persistent with lenders who turn down a short sale and explain how they save 30 percent by not going through foreclosure.
- ___ 6. If the lender is uncooperative, I will refer the sellers to a consumer attorney or loss mitigation company to see if their foreclosure can be delayed or stopped.
- ___ 7. In exchange for not ding the seller's credit on a short sale, I will advise sellers to consider taking out a personal loan to partially payoff part of the lender's losses.

XI. What were your biggest “aha’s” from today’s session?
