

MORTGAGE REPORT

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SONYMA REDUCES DOWN PAYMENT REQUIREMENT AND MORTGAGE INTEREST RATE

New York, NY—The State of New York Mortgage Agency (SONYMA) lowered the minimum down payment requirement (LTV) for its Low Interest Rate Mortgage Program to three percent for certain eligible properties, announced President/CEO Stephen J. Hunt.

Mr. Hunt also announced the lowering of the program's mortgage interest rate from 7.25 percent (7.45 percent APR) to 6.875 percent (7.07 percent APR).

"These initiatives are designed to put homeownership within the reach of more low- and moderate-income households. They are concrete examples of the State's commitment to utilize government resources for the maximum benefit of its citizens,"

said Hunt. "The combination of a lower interest rate and lower downpayment requirement, will make homeownership more accessible to a greater number of New Yorkers."

The Low Interest Rate Mortgage Program is available to eligible applicants who may apply for a 20, 25 or 30 year fixed rate mortgage on qualified one-to-four-family dwellings, (including condominiums and cooperative share units). Applicants must be first-time homebuyers unless purchasing a home in specifically designated target areas.

SONYMA Mortgages are available through the Agency's network of 97 participating lenders with hundreds of branches throughout the State.

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BANKS ARE LENDING MONEY TO BUSINESSES SO, WHY CAN'T YOU GET A LOAN?

By David Nimmo, Jr.

Flagday, June 14, 1995, as this article is being written, almost marks the half way point in this confusing, record breaking year. ITT has just announced a startling proposed break-up into three (3) more profitable entities. IBM has a multi-billion tender offer to purchase Lotus, but the Japanese Stock Market has reached a record breaking low. The SBA has reduced its loan amount guarantee to \$500,000 and will not allow any new refinances under its new restrictions. Clinton now wants to balance the budget so as to out maneuver the Republican initiative, while Wall Street continues in the euphoria of a record D.J. and record breaking

new low long term rates. More and more banks advertise and state they are back in the commercial lending mode but very few commitments or loan closings occur. This raises the question why then, are banks not lending for commercial loans?

The credit crunch for the New Jersey banks are a distant recollection for businessmen, accountants, bankers and lawyers. Now the banks are awash in lendable funds and want commercial banking relationships for checking accounts, pension accounts and trust accounts in order to earn current fee income as well as interest income. Furthermore, the statistics show that they have built up huge cash

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PORTRAIT OF A MORTGAGE PROFESSIONAL



This month Mortgage Report is featuring

Michael Bonito the Divisional Vice President of Empire of America Realty Credit Corp. a nationwide Mortgage bank headquartered in Buffalo, New York. The article appears on page 8.

KNOCKING OUT THE ANSWER - SOME STRATEGY TO SPEED THE FORECLOSURE

By Bruce J. Bergman

The mortgage loan was carefully underwritten. If a broker was involved all went smoothly and then a default ensues. Foreclosure is annoying enough, but even more so when the action is delayed by submission of a baseless answer by some defendant. The moment that occurs, the lender or servicer must move for summary judgment and possibly absorb the interest cost associated with the considerable delay, to say nothing of the increased legal fees attendant to what is now a litigated case.

Prevailing wisdom probably suggests that there is no solution for this dilemma other than vigorously litigating the case and banishing that transparent answer. But even in this too frequently irrational world, rationality can sometimes (and lets be sure to underscore "sometimes") present salvation.

Hastening to the point, there are occasions when a defendant can be persuaded to withdraw an answer.

How and when to attempt the approach merits some background.

As you know, a foreclosure case (in judicial foreclosure states like New York and New Jersey) can have multiple defendants in addition to the borrower or property owner. These include, for

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example, junior mortgagees, judgment creditors and mechanic's lienors. Consider the latter as an example. A lien is filed, is revealed of record in the foreclosure search and elicits naming the lienor as a party defendant to unburden the title of that interest.

The lienor is served - and probably doesn't even know why. He turns over the pleadings to his attorney who likely has little or no experience with mortgage foreclosure litigation. Since an attorney's natural - or trained - inclination when sued is to submit an answer, that is precisely what the lawyer does here. An answer postpones a conclusion and tends to clarify a plaintiff's position so it appears, and it is assumed, that some worthy goal is served. But is it? The answer is most often "no", even though counsel to the mechanic's lienor will not know that - unless told. And that is precisely the point of this missive.

Overwhelmingly, the mechanic's lien is in actuality junior and subordinate to the mortgage being foreclosed. That being so, the answer will not defeat the case. The only definition of success for the holder of a junior interest (other than the owner selling the property with generous equity and paying off everyone) is to claim against such surplus as the foreclosure sale will generate. Surplus is diminished, however, concomitant with the time and effort expended by plaintiff in forging through the foreclosure.

Lenders and servicers need not be reminded that the passage of each day in the foreclosure case increases the accrual of interest. The larger the mortgage and the greater the rate of interest - particularly where a default rate may apply - the greater will be the debt due the lender. Insofar as the answer then necessitates a motion for summary judgment (or perhaps even a trial), many months are added on to the case. Then, of course, additional legal fees are incurred which can become further increments to the debt.

All these factors portend reduction or elimination of surplus. Yes, lenders and servicers know this, but our not so hypothetical attorney for the mechanic's lienor may be completely unaware of the consequences resulting from that seemingly innocuous answer he submitted.

Defendant's attorney should be enlightened, and that is where self help can convince the lawyer to withdraw the answer. So, servicer's counsel is well advised on some occasions to respectfully make these points in a letter to the party who interposed the answer. The explanation is sensible (it is, after all, correct) and on some occasions is



Bruce Bergman

favorably received. The urging is for this defendant's attorney to substitute some less time consuming mode of appearance in the place of the answer. The lender's attorney should consider preparing the document and enclosing it with the letter to ease compliance.

This method becomes somewhat more problematic where the answer originates with the borrower. He is typically in a more desperate situation, grasping at any chance to postpone the inevitable. The delay engendered by submission of an answer could be advantageous for the borrower if there is a glimmer of hope that given enough time, the property can be sold or refinanced, thus saving the day.

There is, though, another aspect of the equation where the borrower is concerned. Not only does delay and litigation diminish surplus; it increases the likelihood and then the amount of a deficiency. Where the loan is recourse, the borrower can be personally liable for the shortfall. Because such liability is most often worthy of avoidance, even an otherwise recalcitrant borrower could be amenable to withdrawing an answer.

Obviously, all this involves dynamics, personalities, facts and circumstances. There is no rule. There is, nonetheless, a suggestion that a sage letter under the right conditions can be beneficial. Even if persuasion as a tool is successful only some of the time, each productive instance is one less headache - one less possible loss. These can add up and become meaningful across a mortgage portfolio.

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HOUSING TURNOVER RATE IMPROVES FOR THIRD CONSECUTIVE YEAR

Based on the national housing turnover rate for 1994, the average American home now changes ownership once every 11.8 years, according to the Chicago Title and Trust Family of Title Insurers.

The housing turnover rate is calculated by dividing the total number of owned housing units by the total number of home sales in a given year. Naturally, total home sales increased last year by 209,000 (3.9 percent). At the same time, the total number of owned housing units increased 1.7 percent, with the addition of 1.08 million owned units.

The 10 fastest 1994 housing turnover states are:

1. Arizona
2. Nevada
3. North Carolina
4. Utah
5. Tennessee
6. Colorado
7. New Mexico
8. Idaho
9. Washington
10. Oregon

Arizona finally surpassed Nevada this year, with the fastest turnover rate of 6.2 years. In 1994, Arizona had nearly three times as many owned housing units and home sales as Nevada.

There are eight states recorded

turnover rates of less than 10 years: the Mountain states of Arizona, Nevada, Utah, Colorado, New Mexico and Idaho, and North Carolina and Tennessee. Also among last year's 10 fastest housing turnover states, but ranking slightly beyond the 10-year mark, were the Pacific Northwest states of Washington (10.1) and Oregon (10.5).

Of the 28 states with improved turnover rates in 1994, New Hampshire (14.9) and Maine (20.1) experienced the largest decreases: 2.5 years and 2.2 years, respectively. While their turnover rates still exceed the national average, their rates have decreased each year since 1991, as have the other New England states of Massachusetts, Rhode Island and Connecticut. Vermont was the only New England state that slowed from 1993 (12.4) to 1994 (12.7).

California remained unchanged at a rate of 12.5 years for 1992 and 1993 and the state finally started moving in the right direction last year, dropping one full year to a rate of 11.5 years. The state still has a long way to go to reach its 1990 rate of 8.6 years.

California, Florida and Texas led all states in total home sales with sales of 564,000, 341,600 and 330,200 respectively.

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IMPORTANT NOTICE

The New York Association of Mortgage Brokers (NYAMB), The Mortgage Institute, Ltd., Joel Berman and the Leader-Observer, Inc., are pleased to announce that they have reached an amicable settlement of the legal actions previously pending between or among them in the U.S. District Court for the Eastern District of New York. In accordance with their agreement, effective June 1, 1995, the newspaper published by the New York Association of Mortgage Brokers shall be called "The New York Mortgage Journal" and the newspaper published by the Leader-Observer, Inc. shall be called "Mortgage Report."

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