

'Coming Up Short' Course

by Ann Gutkin, NVAR Public Affairs Coordinator

A crowd of more than 80 REALTORS® gathered in the early summer at the Northern Virginia Association of REALTORS® (NVAR) Herndon Service Center to learn how to assist clients who are “upside down” in their property. This first of three sold-out NVAR offerings sought to provide REALTORS® with valuable tools to assist clients facing foreclosure or simply trying to sell a house worth less than the outstanding loan balance – in other words, sellers coming up short at closing.

“Clients may think they have to

sell their property in this situation,” said Jay Eskovitz, of Eskovitz, Lazarus & Pitrelli, P.L.L.C., “but there are other workout provisions that may be a better option. If you can counsel homeowners to consider them, it may be the best option for you in the long run, because when they really are ready to sell, they’ll [remember your advice and] come back to you for the sale.”

Two years ago, the idea of a class on short sales might have seemed farfetched, but with foreclosure rates at an historic high, according to the

Washington Post, it’s a topic on every REALTORS® mind.

Christine M. Todd, CEO of NVAR, reminded the group that Northern Virginia is now experiencing a self-correcting market. “The boom lasted for four years and the National Association of REALTORS® predicted a two-year correction period,” Todd explained. She noted that the two-year period is almost over. “At this point, buyers need confidence,” she added.

“The earlier you get involved, the more options you’ll have,” counseled Beau Brincefield, real estate litigation

Teaches Realistic Alternatives for The Upside Down Seller

specialist with Brincefield, Hartnett & Kahn, P.C. He cautioned that, “The worst case to be in is if the Notice of Foreclosure has already been issued.”

Brincefield presented a number of alternatives to foreclosure to explore with the lender, including: negotiated repayment plan; modification of loan terms; short sale; or deed in lieu of foreclosure, to name a few.

According to Brincefield, “It costs lenders \$75,000 on average to foreclose on a loan. They don’t want to foreclose.”

Eskovitz, whose firm represents clients facing these alternatives, agreed. “A short sale is generally the preferable option for a lender, as opposed to foreclosure, because under a short sale, the lender does not have to carry the property.” He added that in theory, the lender should be willing to entertain a short sale in which they agree to accept less than the total amount due on the loan.

Both Eskovitz and Brincefield stressed the importance of having a realistic plan that matches

your client’s resources to present to the lender when seeking a short sale. Eskovitz’s firm has assembled a Short Sale Package that includes all the documentation necessary to expedite the process. A REALTOR® representing a client in this situation should prepare a standard Comparative Market Analysis, including three active listings, three “solds” and three “pendings.” Once a listing agreement is signed, the property should be listed in the MRIS as soon

as possible and must include remarks that it is contingent upon third-party approval of short sale.

This can be a confusing area of practice for REALTORS®, most of whom have not previously encountered potential foreclosures in the Northern Virginia market. With proper resources, educated REALTORS® can be great assets to those clients who find themselves in this delicate predicament.