



O.C. agents talk foreclosures

They packed the house.

Nearly 300 real estate agents filled a conference hall on Tuesday at the Orange County Association of Realtors' office in Laguna Hills. Several of the agents are independent smaller shops making up a subunit of OCAR. They all came to learn the devilish details of buying and selling foreclosed homes as well as homes facing foreclosure.

Such meetings normally draw crowds of 50 to 75 people. On Tuesday, they filled every available seat and stood along the walls, volleying questions at speakers from all corners of the room. (An aside: before saying the pledge of allegiance one speaker said they salute the flag even in a down market.)

Harry Solomon, one of the speakers and owner of NOVA Real Estate Services in Laguna Hills, invited me. He's been in the REO (real estate owned) biz since 1982. He was really hopping in the 1990s and then retired in 1999 when the market picked up and REOs practically vanished.

Now he's back.

"It's my turn now, sorry," Solomon joked with the audience.

Homes become REO when bids at a foreclosure auction fail to cover the money owed a lender, so the lender buys the property. The bank then turns around and hires an agent like Solomon to market the property and sell it.

Solomon said buying REO can be a lengthy and complicated process. Banks hire asset managers and the larger the loan the more people that have to sign off on the process.

He said lenders will push hard for the current market value, partly because they may own other loans nearby. They want to avoid dragging down property values.

Still, Solomon said he updates banks or their asset managers at least once a month on what properties are worth based on recent sales in an area. That means banks are well aware if home prices are trending down.

Two other speakers at the conference were Howard Fallman, an attorney with the California Association of Realtors, and Debbie Tognetti of Fidelity National Title.

Tognetti spoke at length about short sales, when a lender allows a distressed homeowner to sell his property for less than the outstanding mortgage. A short sale can be less costly to a lender than foreclosure.

Short sales are not as damaging to a homeowner's credit as foreclosure or bankruptcy, but any debt forgiven by a lender could be taxed by the IRS, according to Tognetti and Fallman.

However, lenders only approve one in five short sales, Tognetti said. On average it takes 30 to 45 days to get approval, she said.

She said lenders and loan servicers don't have enough experienced staff to handle the growing demand for short sales. This downturn is different from the 1990s, which was driven by job losses, she said.

"People have jobs. People have money," Tognetti said. "They don't want to spend it on a mortgage that is skyrocketing up."

But a lender won't approve a short sale if the borrower can pay, she said. The bank must see all the borrower's financial statements, she said.

Fallman outlined some of the legal hurdles of short sales. For one thing, the contract is between buyer and seller and the lender is under no obligation to agree. That means a buyer could think he's got a lock on a short sale, only to have the lender reject it, possibly for a better offer at the last minute, Fallman said. There are any number of reasons why a lender may reject a short sale, he said.

"Lenders can be capricious," he said.

He also discussed potential pitfalls of buying a property when a notice of default has been filed. For example, if the owner is on the do-not-call registry, then agents should avoid calling.

If an investor wants to buy a property with an NOD on it, then an agent can't represent the buyer without posting a bond for twice the purchase price. I doubt that happens often.

And how do such legal obstacles apply to a normal sale when an NOD is filed during escrow? Fallman said the courts are split on the issue, with at least one judge saying the deal is null and must go back to square one. In Orange County, where NODs are rising fast, that could be a sticky issue we'll be hearing more about. Stay tuned.