

Surviving through the Real Estate and Mortgage Crisis

There are plenty of people in America struggling to make ends meet with the high mortgage payments. As this is a strong buyer's market, people are having a tough time selling their homes. Additionally, the combination of greed by real estate developers and mortgage brokers plus property values that have taken a tailspin have resulted in homeowners being underwater on their mortgage - in other words, owe more than it's worth like a car.

Unfortunately, the news media capitalizes on this major fear all the time. The good news: You may not be underwater like you think you may be, your mind being programmed by the fear mongering news media such as the *St. Petersburg Times*.

Let's discuss survival through the real estate and mortgage crisis in depth. Now before I go on further, I need to add this disclaimer: Although I hold an Associate in Science degree in Legal Assisting, *none of what you are about to read should be construed as legal advice*. If you happen to have any legal issue involving mortgages, real estate and property values, it is best to discuss these with an attorney that is licensed by the [Florida Bar](#) (or your state's bar outside Florida) and who specializes in real estate issues.

Your Property Value

This is one of the major areas in the real estate market that the news media likes to report on frequently. Unfortunately, the *St. Petersburg Times* does nothing more than report fear and worry to the public about your home's value.

The first thing about your property value is your county's property appraiser office, and each county in Florida has one. (Out of state residents: The name of your governmental office that deals with property values may sound different). The job of the county property appraiser is to determine the just value of each and every property within the county for the purpose of computing your annual property tax bill which arrives in November of each year.

However, the value that the property appraiser says is for your house is *not* - repeat **not** - your property's value. The county property appraiser hires a staff of staff appraisers who go out and appraise properties *en masse*. Then sales from the previous years - including qualified and unqualified sales - are factored into your appraisal to arrive at what's called a just value.

If you happen to have a homestead exemption - a benefit courtesy of the State of Florida for living in your principal residence - the just value is deducted by the amount of homestead exemption you have. (There's also the Save Our Homes cap which helps lower your assessed value, but we won't get into that here). The end result is your assessed value, which the county tax collector uses to figure your property tax bill. On the other hand, if you do not have a homestead exemption on your property then your taxes are calculated on the just value.

Earlier in the next to previous paragraph I mentioned what is a qualified sale and an unqualified sale. A qualified sale is your typical person to person real estate transaction that takes place at the office of a title insurance agent, which is known as the closing. There papers are signed by you, the seller, and your mortgage lender but the mortgage lender will have done their

paperwork before the closing. At the end of the closing process the seller hands you the keys to your new home and you're all done. On the other hand, an unqualified sale is a real estate sale that occurs mainly as the result of a mortgage foreclosure sale, but there can be other factors such as a short sale (where a mortgage lender takes less than what is owed) and a foreclosure as a result of action taken by a condominium association such as failure to pay the monthly maintenance fees or special assessments. Unqualified sales tend to sell for much less than property appraiser just value.

Even though your county's property appraiser shows a value for your home, it is used only for the computation of your property tax bill. Even in the buyer's market we are currently in as of 2011, homes sell for much more than what the property appraiser says.

The Internet has enabled private companies to offer home values, and a well known company is called [Zillow](#). While Zillow is a handy tool that can be used to gauge what house values are throughout the United States, it like your county's property appraiser should not be believed in what your home is worth. Zillow from what I understand has two methods in determining your home's value: First, Zillow gets its data from publicly available sources including – where else – your county's property appraiser. Second, Zillow applies a formula which is kept secret from you and I and then taking these two elements together, Zillow comes up with what they call a "Zestimate".

OK. Whatever you see on your county's property appraiser web site or on Zillow, *neither your county property appraiser nor Zillow is the Gospel of your property value*. To appraise a property in Florida you have to be licensed and receive extensive training. Which leads us to the next paragraph.

If you decide to move forward and sell your home in this buyer's market, you should budget this expense when you go to sell your home and this should be on your to-do list: Hire a qualified appraiser and have him or her do an all-purpose appraisal of your home. What an appraiser does (as opposed to what the staff appraisers do in the county property appraiser's office) is researches the property appraiser records of all qualified sales over a certain time period in the vicinity surrounding where you live. Additionally, the appraiser will come to your home and take a look at what you got; if you have made any substantial improvements to the interior of your home tell the appraiser too. In the end, you will receive - in your hand - an appraisal that will be yours.

The major benefit of having an all-purpose appraisal is that you have an appraisal in your hand which you have ordered, not one that the banks order as part of the mortgage underwriting process as bank ordered appraisals are often times biased. Besides, when you have an all-purpose appraisal in your hand you can show this to prospective buyers showing what your home's value is really worth. For those of you considering refinancing, you can take this all-purpose appraisal with you to the bank to prove what your home is worth. Appraisals usually cost in the ballpark of around \$300, but it is money well worth spent.

Before you hire a qualified appraiser, be sure to check out the reputation of the business. In Florida, check to make sure that the appraiser you select is licensed, as it is [Florida law](#). In other states, be sure to check your state's laws.

Your Mortgage

OK. Now that you have an appraisal in your hand, you can tell if you are underwater in your mortgage for real. If you find that you are not underwater, congratulations! On the other hand, if you find that you are indeed underwater, there is still hope for you.

If you intend to stay in your home but are struggling due to the mortgage payments, by all means **DO NOT STOP PAYING ON YOUR MORTGAGE!!!** Instead, contact your mortgage lender (it's on your mortgage loan paperwork such as your monthly mortgage loan statement) and ask for the person responsible for loss mitigation or a similar department. In this day and age of home foreclosures, a reputable mortgage lender would more than likely work with you rather than commence a foreclosure action. Besides, a foreclosure costs the bank or mortgage lender in the ballpark of \$50,000 (such as filing fees, attorney's fees, etc.).

On the other hand, if you are struggling on your mortgage payments to the point where you can't take it anymore and you want to sell but you are underwater, there is what is called a short sale. A short sale is where the mortgage lender accepts for less than what is owed on a mortgage. Short sales are complicated and may have financial and legal implications; therefore, consultation with an attorney is highly recommended before you pursue this route.

There is also deed-in-lieu-of-foreclosure, but this is for homeowners who have had foreclosure proceedings already begun or about to begin. Again, consultation with an attorney is highly recommended. If you have other debts that you are struggling with in addition to your mortgage, there is also bankruptcy in United States Bankruptcy Court but beware: **Bankruptcy will shatter your credit report and it will remain there for 10 years.** If you decide to go the bankruptcy route talk to an attorney that specializes in bankruptcy law - the federal court rules and procedures as far as bankruptcy is concerned are very complex and you will want an attorney to represent you.

The main idea is for you to stay in your home. *Should you be served with court papers by a deputy sheriff or process server indicating that foreclosure proceedings have been initiated against you, **get an attorney fast!***

I have also heard of mortgage lenders resorting to extreme activities such as changing the locks without permission, making visits to your home without your permission and other intimidating and harassing behavior. You should know that what these mortgage lenders are doing are violating your private property rights - after all, you are the owner of your home even though your mortgage lender has an interest.

If your mortgage lender (or their agents, such as private investigators hired for nothing more than harassment) show up at your home for no reason, you have the right as a private property owner to ask them to leave your property and if they refuse, immediately call 911. What your mortgage lender is doing is illegal and it entails criminal penalties (such as trespassing on your property, as this is residential private property with no right of access unless you are expressly invited by the owner) and civil sanctions including violations of the federal Fair Debt Collection Practices Act (FDCPA), and if you are the victim of mortgage lender harassment you need to speak with an attorney immediately.

The only way you can lose your home in Florida (or in a [judicial foreclosure state](#)) is in a foreclosure proceeding which takes months to work through the judicial system. If the foreclosure proceeding is in favor of your lender, the judge will sign a order called a Writ of Possession that will be given to the sheriff that authorizes the eviction of the owner after a certain period of time. The Writ of Possession is the document that transfers title from you to your mortgage lender if you lose in a foreclosure case.

Again, foreclosure is a serious legal matter which can have serious ramifications for you, especially as far as your credit is concerned. If you are served with foreclosure papers - **get an attorney fast!** Additionally, if you live in a [non-judicial foreclosure state](#) (such as Georgia or Alabama) and you are served with foreclosure papers – **get an attorney very fast!**

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