

15 July 2010

INFORMATION PAPER

SUBJECT: New Tools for Dealing with Foreclosures and Short Sales

1. Purpose: To provide information on a new program designed to help homeowners facing foreclosures and other problems related to distressed properties.
2. When homeowners fail to make mortgage payments, banks can force occupants from the property and take possession through the foreclosure process. In Virginia, after removal from the home, the homeowner can be forced to pay the difference between the loan balance and the foreclosure sale price (commonly known as “deficiencies” or “recourse”). For example, SGT Doe purchases a house in Fairfax for \$600,000, and borrows the full purchase price from First National Bank of Quantico. After several months of struggling to meet his obligations, SGT Doe stops making mortgage payments, and is forced out of the property by the bank. At the foreclosure sale, the bank only receives \$250,000 for the property. Under these facts, SGT Doe could be sued by the bank for the remaining \$350,000 due on the mortgage.
3. The Federal government has recently created new incentives for banks to avoid foreclosures and give homeowners better treatment as they leave these properties. The program is called the Home Affordable Foreclosure Alternatives (HAFA) and although it does not stop the foreclosure process, it can make the process of getting out of an unaffordable home easier and a lot less damaging.
4. The HAFA program (which is not mandatory on banks) encourages banks to avoid foreclosures, and instead agree to short sales or deeds in lieu of foreclosures. Banks that agree to these measures can receive cash incentives of \$1500 per loan. Borrowers can receive up to \$3000 in relocation costs. Where HAFA incentives are accepted, banks may not pursue borrowers for any deficiencies following short sales or deeds in lieu of foreclosure.
5. To qualify for HAFA assistance, borrowers must show: a) the property in question was the principal residence of the borrower; b) the loan balance is less than \$729K; c) a financial hardship that interferes with the borrower’s ability to pay; and d) that the mortgage and associated payments are more than 31 percent of gross household income. More info is available at: <http://makinghomeaffordable.gov/hafa.html>
Please visit your Fort Belvoir legal assistance office with any questions regarding this important issue.

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