In the Loop Realty Newsletter

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HERE COME THE HOLIDAYS

BY: Albert M. Cerone, IFAS, FELLOW

HOLIDAY REVELRY? The term dates to the 15th century, but the anticipation may have ended a year or so ago. What will this holiday season bring the American public? Well, it's not doom and gloom. As long as there is family and friends, it'll be another good season. There is some good news with the economy; and, then there is the getting accustomed to the present financial conditions. It's like a new pain you have. After awhile, as it stays, it becomes less noticeable. We're all learning to live in a different concept of affordability and expectations. I also strongly believe that the American public is becoming increasingly aware that the president and congress really have no impact on our future. They got us into these times and *We, the people* shall get us out of it. Hopefully, we have learned a lesson… term limits and self-preservation are the keywords to the future of the United States.

HOME SALES- The initial results of home sales in the United States reflected a very positive impact. Existing home sales jumped in September 9.4% which is the most in 26 months. This is a positive indication that the $8,000 home buyer credit may have had a good impact despite some of the pundits concerns. It also indicates growing consumer spending as homebuyers "always" spend on improvements and décor within months of a new purchase. However, this increase in spending may steal from holiday spending. It's *kinda* like the Russian Zig Zag method of the '60's. They simply expended all available resources to bolster farm production or the space race, etc. until that time at which they recognized financial need in another direction. So, may go the American consumer buying homes now.

NEW HIRINGS- Just over 24% of surveyed corporation executives said they are looking at substantial new hirings in 2010. That's a plus for the unemployed. For many new employment will be at lesser salaries and / or fewer benefits, but there will be work. The US economy needs a kick start to get back on track. I'm receiving requests for help in finding someone a job each week. And I reach out to those I know to pass the availability of a worker for whom I am comfortable in referring. If we all pitch in we'll get the American public back to work. Most four letter words are a "no, no" but here's one that we should use more often and to which we should pay close attention… **HELP.**

HVCC– Home Value Code of Conduct which was put in place due to the ineptitudes and ignorance of the NY Attorney General, Andrew Cuomo who in addition is more concerned with becoming governor than in the best interest of the public, he allegedly serves.

The HVCC for appraisers is like having a sixth finger on one hand. It's an added appendage that serves no purpose. It's a *smoke and mirrors* bill that was put in place to make it appear that NY State and now federal government is concerned about the welfare of the mortgage borrowing American public. Nothing could be further from the truth. Once again, the politicians scammed the public and got away with it. The appraisal profession is easily attacked and defeated because it is a very loosely organized group of individual practitioners rather than of formidable corporations. It is also, unfortunately, riddled with less than professionally adept individuals who have gone through the "government" developed licensing illusion predisposed by political harangue.

Well, finally there has been some retaliation by

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the appraisers and now the National Association of REALTORS and National Association of Mortgage Brokers. The REALTORS recognized that there deals were falling through in record numbers and much was due to the inexperience and geographically *mis-located* appraisers. As for the NAMB, they realized that their reputations were being impugned and their success in satisfying their clients was being curtailed dramatically. In short, this means that appraisers were being sent by appraisal management companies far outside their areas geographical competence to perform appraisals in unfamiliar locales. Why, you ask? Simply because these less than accomplished appraisers with likely the least experience and competency would work for less money than the experienced and competent appraisers in the area in which an appraisal was needed. Right back to square one. Greed!! on the part of the appraisal management companies, which were given that open "dollar" door by HVCC and the NY Attorney General, Cuomo and FNMA & FREDDIE MAC and our self serving Washington leadership. Now with the assistance of some conscientious House members, there is an amendment to HR 3126 which has been passed by the House Financial Services Committee will be sent to the House this week for vote for approval and then the Senate. This new bill 3126 will put the proverbial wooden stake in the dark heart of HVCC die… and not soon enough. It will again permit mortgage lenders and loan officers to order appraisals directly without appraisal management companies. This will likely reduce costs to the public if not impact the cost, but will speed up the lending process and assure more realistic appraisals. It's a win-win situation. Put in place it will help economic recovery.

BANK FAILURES- The latest report shows that thus far in 2009 there have been 106 bank failures, which is astronomical for the United States. In 2008 there were 26, in 2007 there were 3 and in 2006 there were none. What does this mean to the public? Well, from the safety of its deposits, nothing. The FDIC covers $250,000. The ATM cards, credit cards, existing loans, not a thing to worry about. The depositors can continue using the cards and the loans are not in jeopardy. So, some pundits say, no harm—no foul. Well, that's not totally true. These banks and their branches made consumer loans and mortgages; but are now no longer in the marketplace. In other words, they are no longer in competition. The logical and typical progression of this scenario is the lesser the competition, the greater the control the remaining banks have over rates and lending practices. It also means that there are employees and support personnel that are now out of jobs which just adds to the 7 million lost jobs in about a year. This compounds the problem because there will be lesser money spent this holiday season and less part time jobs that so many families depend on at this time of year, and the story goes on.

CIT- Hot off the wire. CIT is filing for Chapter 11 Bankruptcy. Icahn's $1 billion wasn't enough to convince bondholders to accept a debt-exchange offer. Although there leasing assets and finance incomes reflect $71 billion, the total debt is $64.9 billion. CIT lends to hundreds of stores for payroll and merchandise purchases for the holiday seasons. There present financial position will not allow them to accomplish this and create further economic strife for middle to large sized borrowers they typically serve. Their bankruptcy ranks as one of the largest in U.S. corporate history, following, Lehman Bros., WAMU, WorldCom and GM. This prepackaged move will wipe out current holders of its common and preferred stock of which the U.S. government is one with now lost investment of $2.3 billion; but it is alleged that this is small compared to what it would have lost if they didn't undergo this structured bankruptcy.

NEW HOME APPLICATIONS- Preliminary results indicate that the September building permit applications have fallen which means you won't see new housing starts this Fall & Winter. Good or bad? Good is the answer. New construction is more desirable than the existing homes for the obvious reasons. The inventory for housing is still high and until it is depleted to absorption levels of about 1 month supply versus demand, we will not likely experience housing appreciation and a return to at least a level economy… whatever that will become. Revised statistics from the Commerce Department indicate a drop of 3.6 % to a 440,000 new single unit home sales in August.

JSCLG- On the following page is an article written by the Jersey Shore Collaborative Law Group which well explains the Collaborative Law Process which is finding greater favor each week throughout the United States, Canada, Austria, Ireland and the United Kingdom.

Article by The Jersey Shore Collaborative Group

Divorce is never easy. It prompts a change in circumstances and forces you to make decisions about your family home, healthcare coverage, child care, and education costs. As if these issues aren't overwhelming enough, when paired with lawyers, court proceedings, custody hearings, and legal jargon, it can almost seem like too much. But, maybe it doesn't have to be. Rather than choosing a traditional, litigious divorce, some couples choose a collaborative divorce.

The collaborative divorce starts with a couple making the decision to divorce with a process that minimizes conflict. The couple retains attorneys who have been specially trained in collaborative practice. The two attorneys then schedule the first "4-way" meeting, where the couple and counsels sit down and outline the various issues that this particular divorce presents. The most common issues include custody, alimony, child support, the marital residence and the equitable distribution of assets. The interests and goals of each party are the main focus of the meeting. A collaborative four-way is a problem-solving exercise in which the spouses and attorneys engage together in creating resolutions that meet the family's goals.

For divorcing couples, the collaborative process offers a number of benefits. Their children are treated as a priority, and everyone on the team works to maintain and support the couple's ability to co-parent their children. The children are not put "in the middle" but are the focus of the process. The couple retains control of the timing of the process. They can move more quickly or more slowly than a court would require, and can reach informal temporary agreements quickly and efficiently when necessary. The process is confidential so sensitive financial and personal information doesn't enter the public domain. Keeping the process out of the court until an agreement is reached eliminates hours spent in court for case management and other court-required events, saving legal costs and the couple's time away from work or their children. In actuality, the process is often quicker, about three to six months compared to between 18 months and several years — and therefore, less costly than a traditional divorce. The couple and their children are less likely to come away emotionally damaged because they are not pitting themselves against one another in all-out warfare. They can be spared the greater level of stress experienced in a litigated divorce where blaming and accusations are the norm.

In the collaborative practice, lawyers, mental health professionals and financial advisors join together to create a "team" that helps resolve all marital issues by making the well-being of all family members the top priority. When appropriate, the couple may seek advice from professionals in addition to their attorneys. Forensic accountants and financial planners can help determine the value of property and businesses and assist in evaluating options for alimony and child support. Financial professionals are playing an increasingly important role on the collaborative team during this economic downturn. The marital home is typically the family's greatest financial asset and splitting it up in a tenuous mortgage market along with lower home prices has resulted in the need for creative solutions. By using collaboration, the couple avoids a judgment by the court to sell the house during a downturn in the real estate market giving the couple an opportunity to find other solutions. Mental health professionals may be called upon to help the couple deal with emotions that keep them from focusing on financial issues or leave them unprepared to make decisions. Mental health professionals may also help the couple create a parenting plan mindful of the children's needs. These professionals may be engaged as neutrals that assist both spouses, or for the sole benefit of one spouse. The agreement to retain other professionals is reached by the attorneys and spouses together, so each family can assemble the professional team that will best help them resolve their conflict.

Collaborative law is a relatively new form of dispute resolution, pioneered in the late 1980s by Minneapolis family lawyer Stuart G. Webb. California attorney Pauline Tesler, together with mental health colleagues, helped formulate the multidisciplinary collaborative team model. Since the early 1990s, collaborative law has been spreading throughout the United States and abroad. Legal, mental health and financial professionals in almost every state has adopted the collaborative practice model.

In fact, today there are more than 170 practice groups across the United States, Canada, Austria, Ireland and the United Kingdom. Many practitioners are participants in the International Academy of Collaborative Professionals (IACP), which presently has more than 3600 members. The IACP estimates that there are more than 10,000 professionals in North America who have gone through training for collaborative practice. IACP'S members are lawyers, mental health counselors, financial professionals and other trained advisors that a couple need in reaching satisfactory outcomes without litigation. You can learn more about Collaborative Divorce or find a Collaborative Professional in your area by visiting their website at www.collaborativepractice.com.

Divorce will always remain a significant life event. There are choices that a couple can make to protect themselves, their children and their financial future from the ruin of a litigated divorce. Collaborative law practitioners believe this new process can guide families to a compassionate ending and a healthy new beginning.

About the Jersey Shore Collaborative Law Group (JSCLG)
Founded in 2005, JSCLG is a business created to provide a platform for the implementation, development and promotion of the use of the collaborative legal process to resolve divorces and other family law related disputes. The group brings together matrimonial attorneys, financial professionals and mental health professionals to foster the growth of the collaborative divorce process in the state of New Jersey. For more information, visit www.jerseyshorecollaborativelawgroup.com.