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BUYING, SELLING, EXCHANGING???

By

Albert M. Cerone, IFAS, FELLOW, CTA

AN ADDITION TO THE NEWSLETTER– We are proud to announce that we now have the professional sage advice of a premier attorney, Michael K. W. Nolan, Esq. Our business brings us to varied scenarios and problems; and, while our group is very experienced we all must remain aware that no one has all the answers. Mike Nolan has agreed to provide his depth and range of legal experience as counsel to Amerival.

Mike Nolan has also agreed to provide a legal corner to our newsletter. He shall cover a variety of legal issues for you. As a prolific writer and experienced attorney, Mike has information that we are confident you will find helpful in your daily professional and personal lives. Please see ***Page 3*** of this issue for an understanding of *1031 Exchanges*. This and future articles are based on Mike Nolan's personal professional experiences. He is also likely the only Holistic Attorney in New Jersey. His primary goal is to help people. His secondary goal is to help people….no, not a redundancy, a re-enforcement of his strong ethics and exercise of his excellent legal ability.

EMPLOYMENT– REALLY THE ANSWER TO THE JOB PROBLEM?- Well, we've all heard that the job market is getting better and there is hiring. Well, there are jobs, but here's a statistic that has to make us wonder, just what "getting better" means. The jobs added in the past few months bear salaries between $8.92—$15 per hour, while the average national hourly rate is $22. To make this worse the new hires earning within this range comprise 76% of the all hires. So, there are jobs but not paying what is typical for the American worker. Quite a quandary, isn't it. On one hand there are jobs and on the other those available don't satisfy the financial needs of the working public.

HOME PRICES—UP or DOWN? - Overall in the U. S. Housing market for the last 3 months of 2010 the median house price rose merely 0.2 % higher than the same period in 2009. But these numbers are so misleading as has been stated before in this newsletter. The Northeast actually headed home price growth for 2010. Homes in the Northeast rose 2.3% year to year 2010 to 2009. This is substantially higher than the others.

However, New Jersey didn't head the list by any means. Elmira, NY did with a 16.47% rise. New Jersey does have a breakdown with the Atlantic City are heading the list with a 6.96% increase followed by Newark –Union with 6.74%, which doesn't qualify either for the top 25 areas.

Also, according to the chief economist, Lawrence Yun of the NAR believes the country needs to work through the enormous inventory of homes on the market via foreclosures and REO's. Also housing prices overall will not increase until the pressure sales are no longer a part of the marketplace.

He goes further and states that housing will not truly see real and continual upswings until the job market brings many new and higher paying jobs.

Courtesy of

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WHY CAN'T THE PUBLIC CATCH A BREAK?- It seems that in the grand scheme of things, the public takes it on the chin before things go bad, as things go bad and after things go bad. There is no relief for the public. Many people are finding that it is not possible to sell their homes for a price that will allow them to pay off existing debt, so they don't see they have alternatives. Some people who are looking to move because their family needs dictate their living needs. For instance, those families are increasing and more bedrooms are needed or those who have young adults who must move on with their lives and for those with young adults who must move back in with mom and dad. Once the opportunity of selling is removed for financial reasons the alternative is to refinance and possibly build on or renovate to satisfy those needs.

Now the public faces another dilemma. What's in store for those seeking new financing? Once again the news isn't good. Mortgage financing is expected to drop in 2011not for a lack of demand but for a lack of qualification. That's right! Federal lending requirements are exacerbated by further restrictions imposed by the individual lenders. Very rigid income and debt ratio requisites remove as many as half of the "wanna be" refinancers. In times when salaries have dropped dramatically, new jobs pay less than old jobs, layoffs and cutbacks provide increased woes for the working people of America. Many face the unwanted position of less hourly wage, removal of overtime, frozen pay increases, reduced benefit allowances, etc.. This now removes these hard working in need families from the option of refinancing to resolve their problem. For those left who still meet the requirements cited above, must now face the likelihood of a real estate appraisal that will reflect a property value that no longer permits those homeowners from meeting the loan to value ratio necessary for approval.

So, it's time to shoot the appraiser! Please, don't do that for all the right reasons. But anger is a reasonable response when American's are constantly confronted with "NO" answers when it comes to allowing them to provide for their families. Ironically, many appraisers are still being manipulated by Management Companies who are now in full control of the lending industry...another smart decision by our government! The same pressures that appraisers incurred from unscrupulous lenders in the early to mid 2000's are now being placed by these "middlemen" who were suppose to remove those pressures that fooled the borrowing public into loans they couldn't really afford, but you know that story. Appraisers today have a reduced appraisal load by as much as 65%, and are being paid about 35—50% less per appraisal. So, in order to maintain some work flow they are either intentionally or subconsciously meeting the needs of the loan. This pressure is common and is being put on the appraisers because it is still recognized by the Management Companies that appraisers have insurance. As a professional liability expert I can tell you that business is booming. The appraiser's insurance policy is the safety net for lending. Many Management Companies are now wisely not putting any of the details of the loan for which the appraisal is needed but the appraisers are told by the property owner upon the visit of the loan details. Why is it important for them to know this at this time? Because the Management Companies watch the percentage of appraisals making the loans for which they are responsible vs those that don't. If an appraiser falls beneath the sought after range, they will be cut out of the "acceptable" wheel. So, out of desperation for continued work what is one to expect from these downtrodden licensed appraisers who need to make a living because they have families too?

To make matters worse, a rate increase is anticipated which will remove even more American families from the list of potential refinance borrowers. Yes, it all can be resolved, but there isn't enough intestinal fortitude in Washington to bring it about. In fact the bailout of underwater homeowners has been a dismal failure. The hype was just that, hype and nothing more. Only a miniscule number of families were able to receive relief, while the others just bore another disappointment and continued frustration.

So, now these families are being singled out by attorneys and appraisers who either claim to be or really are tax appeal specialists. They are speaking to desperate people who need any form of relief. They are being told that property values are falling (the sky is falling, the sky is falling!). Some are but the amounts in the vast majority of the U. S. are minimal and definitely not across the board. But these vultures are sucking the last drops of green from these homeowners in an attempt to fill their own coffers. This is the new "ambulance chaser" of this decade.

1031 Exchange Basics

In the old days, you could sell property and "roll over" the proceeds without paying capital gains taxes. But, this is no longer true, at least for investment real estate. There are many different factors, but this synopsis covers the basics of the 1031 exchange.

When an asset is sold for more than its original cost, there is gain which the IRS will tax at the "capital gains tax rate". The amount of capital gain is calculated by taking the selling price of the asset minus its "adjusted basis" (i.e. the original cost of the property, plus any amounts expended for capital improvements minus depreciation) minus selling expenses.

A 1031 exchange, otherwise known as a tax deferred exchange is a simple strategy and method for selling one qualified property and then proceeding with the purchase or acquisition of another qualified property within a very important and specific time frame. A "1031 exchange" is unique because the entire transaction is treated as an exchange and not just as a simple sale and then a later buy. It is this difference between "exchanging" and not simply buying and selling which, in the end, allows you to avoid or defer paying capital gain taxes to the IRS.

There are two important time frames that must be remembered;

1. This is the crucial period during which the party selling a property must identify other replacement properties that they wish to buy. This period is 45 days from the day of selling your property. This 45 days time line must be followed under any and all circumstances, and is not extendable in any way, and is strictly enforced.

2. This is the period in which you must close title on the "exchanged" property. It is referred to as the Exchange Period under the . This period ends at exactly 180 days after the date on which you sell your property. This date can also be the due date for your tax return for that taxable year when you would have realized your capital gain on the property sold, whichever is earlier. So it is important to keep this deadline in mind and begin your search for a replacement qualified property early.

The actual mechanics of the exchange occur at closing. In essence, the money or net proceeds of your sale will not go to you, but to a 3rd party, this party is called the Qualified Intermediary (QI). This middle man holds your money until you close on the replacement property. As your proceeds money is never in your hands there will be no capital gain taxes due.

As the process has very important documents and time frame requirements, it is strongly suggested that you engage a professional with experience in this area. Also important is the party selected to act as the Exchange. Obviously you would want a reliable, insured third party to hold your money.

For additional information about 1031 exchange or other aspects of commercial transactions, please feel free to contact us at the Law Office of Michael K. W. Nolan, 732-202-9300. You are also welcome to visit our website at http://lawnolan.com.