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The Making Home Affordable Plan 9 Months Later

Statistics

- 7.5 Million households in the US are behind on their mortgage. Source WSJ
- Nationally, only 10% of short sale listings closed in 2009.
- Less than 8% of eligible borrowers received any relief from a loan modification.
- Is your attorney AV rated? Ours are, www.martindale.com

Despite the promise that the Making Home Affordable program would keep 3 to 4 million borrowers from losing their homes, it has had little effect on foreclosure rates. This was the fourth attempt by government officials to fix the housing crisis. We have recently seen an uptick in the number of calls from people who had been trying on their own to get help through this program and either gave up, were turned down, or received a modification that did not improve their situation. According to government reports on the Making Home Affordable Program, of the more than 3.3 million borrowers that may have qualified for this program in 2009, just 902,620 borrowers have received trial modifications, while only 66,465

final mods have been accepted. So this invokes the next question;

Why don't the lenders do more to keep the homeowner's in their homes?

Recent reports from economists at the Boston Federal Reserve show that about 40% of borrowers who do receive a modification (that does not include a principal reduction) are in default again within six months. This report also shows that of the borrowers who are rejected for loan modifications, about 30% bring their loan current before foreclosure. Combined, that is over 70% of borrowers in distress will either go into foreclosure or become current. Based on these numbers, there is not much of an incentive, statistically speaking, for a



lender to modify a loan.

Another impediment to loan modification is with the note holder (investor). Although you make payments to a lender, that lender is usually only the servicer of your loan. This loan servicer contracted with the investor that owns your note to

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Computer Tips — Computer Security for Home Users

This is the first in a series of articles on computer security. With new threats appearing daily and identity theft on the rise, consumers need to better understand how to protect themselves.

In this issue we will focus on how to clean up any malware on your computer.

It used to be our major concern was getting a virus that would

wipe out all our data, but today the hackers are not just nerds gone bad trying to cause chaos for computer users, they are sophisticated international cyber criminals trying to steal your data, your money and your identity. They keep inventing new methods to get in to your computer so they can monitor your activities, steal your data and capture your

logins and passwords. Your best line of defense is a good anti-virus program and regular maintenance. Although using anti-virus and anti-malware software is a must, there is no guarantee that they will prevent all types of attacks. There are many ways to compromise a computer that even the best anti-virus or anti-malware cannot detect or pre-

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Home Affordable 9 Months Later (continued)



collect your payments. The MSAs (Master Servicing Agreements) and PSAs (Pooling and Servicing Agreements) between the investor and servicer determine what the servicer can do as far as modifications. Most of these agreements specify that the servicer may use "normal and customary" procedures to mitigate losses when a loan is in default. Currently, principal reductions are not considered "normal and customary". The administration has been attempting to set a precedence for principal reductions

to make them "normal and customary". Most loans have been placed in pools with other loans and sold in a bundle. These securitized. Additionally, a portion of pools are sold to a number of investors who purchase portions or tranches of the pool. In the case of a loan modification the reduction of monthly payment would be spread according to ownership between the senior and junior investors. So all investors share in the loss according to their percentage of ownership. However, in the

case of a foreclosure, the senior investor would receive all the cash proceeds until they were made whole. The junior investor would receive no cash proceeds until the senior investor has been paid in full. Since the senior investor makes any decisions on these loans they have no financial incentive to work with borrowers. Until principal reductions are considered "normal and customary", principal reductions will be the exception. •

Computer Tips (continued)

"You will never find out how good your AV is, you will only find out how bad it is-too late."

vent. SQL Injectors and 0 day attacks are a couple of examples. Most experts say that these products are only between 30 and 70 percent effective in detecting today's threats.

To block or not to block? Although most computer users enable the pop-up blocking in their internet browser or have another program that blocks pop-ups, this may not be your best option. Blocking

pop-ups could be hiding an important symptom of unwanted software on your computer.

Besides having a good anti-virus program on your computer, having a good malware/spyware detector is also important. For anti-virus (AV) protection my personal favorite is McAfee, since they are consistently the first to announce new variant releases. When it comes to AV products you will

need to invest some money (usually \$20 to \$30 per year). There are free products available but this is too important to take that chance. You will never find out how good your AV is, you will only find out how bad it is-too late. What I mean by that is that if your AV program is doing its job you will never know how many times it saves your computer, but when it fails its too late to do anything about it and

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Levels of Legal Protection



Real estate transactions and the governing laws are handled in state courts. Although bankruptcy is a federal issue, real estate laws differ from state-to-state and only a licensed AZ attorney can appear in court on a related filing.

The financial risks to the

homeowner in a short sale are far too great to take a chance with the wrong attorney or no attorney. Another consideration when making this selection is the attorney's area of expertise. Many personal injury, criminal defense and bankruptcy attorneys have thrown their hats in to

this loss mitigation arena, but if they do not have a background in real estate and contract law then they may not have the expertise to provide sound advice for their clients. This applies not just to loan modifications and short sale work, but also forensic audits or deficiency liability reviews.

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Levels of Legal Protection (continued)

What good does it do a homeowner to pay for a forensic audit or deficiency review if the attorney providing the service has to refer them to another attorney if something is found?

There are several questions that a homeowner should ask before retaining an attorney;

- Is he/she licensed in Arizona? Regardless of the answer received this should always be confirmed at <http://www.azbar.org/LegalResources/>

findlawyer.cfm.

- What is his/her specialty and how many years has the attorney been practicing in this area?
- Have he/she ever received a TRO to stop a foreclosure or successfully unwound a foreclosure?
- Does the attorney have any pending Bar complaints or settlements?

There are a lot of misconceptions relating to real estate law. Much of what consum-

ers get from the media may apply in other states but not Arizona. A small investment with an knowledgeable, Arizona-based, experienced real estate attorney early in the process could save major expenses and headaches for the homeowner. •



Computer Tips (continued)

that's when you realize you bought the wrong program. Cleaning up your computer; The following steps should be done on at least a monthly basis.

- First you should clear your internet temporary files and cookies. This is done through the Tools/Delete Browsing History menu in Internet Explorer. This should be done on a regular basis (weekly depending on how much you use the internet). This first step could substantially improve your computer's performance. This will also speedup AV and Malware scans as there will be fewer files to scan.
- The second step is to confirm your AV is up to date. Then run a scan with your AV program to ensure there are no infections. Most AV programs do this on an automated basis, so if you are sure this is already being done you can skip this step.
- Next you should scan using an anti-malware application. Although most AV products will detect some malware they are usually less discerning about what constitutes malware than the products designed specifically for this purpose. There are many free-ware products available. My personal favorites are Ad-Aware by Lavasoft and Spybot Search & Destroy. You may want to run both. I have found Ad-Aware to be good at finding most malware but on the rare occasion it misses something, Spybot makes a good alternate choice. I have had issues with Spybot being a little too aggressive, removing programs that I wanted to keep, so I usually only use it if I am still having issues after running Ad-Aware.
- Run a registry cleaner to remove unwanted entries in the system's registry. Although there are not any good free products for this (although many will allow free install and

scanning, they will not fix problems until payment is received), there are many fairly inexpensive products available. Registry Defense, RegServ Pro, RegCure, and Registry Easy are a few of the available and highly reviewed products.

- Make sure Automatic Updates under the Control Panel is set to automatically install updates. Keeping your computer up to date will help to protect your computer and data. Other common programs such as Java and Adobe can also make your computer vulnerable to attack if not kept up to date. You can check for Windows Updates by clicking on Tools/Windows Updates in Internet Explorer.
- Finally, make sure that the windows firewall is turned on. You may use another firewall program although some of these programs are so restrictive they're almost worse than the malware they are designed to block.

Performing these steps on a regular basis will keep your computer running at peak performance and help to protect you from spyware that could compromise your sensitive information. Although there is still no guarantee that your system has not already compromised or that these steps will protect against all computer attacks.

In future articles we will explain some additional steps you can take to secure your computer. •

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Saving the American Dream, One Home at a Time.

The Mortgage Mediation Group is a practice group of the law firm of Thomson Conant, comprised of some of the most highly credentialed, experienced mortgage and legal professionals in the State of Arizona with more than a century of combined experience. Our mission is to help families preserve their dreams one home at a time. Our professional legal services assist clients in mitigating their losses in this current market and, more importantly, helping restore stability to our residential home market and banking industry. With our professional staff of attorneys, paralegals, mortgage professionals and affiliated real estate originators and realtors, we have the knowledge and experience necessary to achieve the most dynamic resolutions available and to help homeowners

New Services and Pricing Schedule

Short Sale Review	\$1500	Review and assessment of short sale contract(s), loan agreements and lender approval letters and issuance of legal opinion letter concerning legal ramifications of short sale, including deficiency liability risks.
Forensic Audit w/QWR	\$750	Review of loan documents from client and perform forensic audit to determine potential violations of RESPA, TILA, HOEPA, ECOA, STATE and Investor guidelines. Includes sending QWR (Qualified Written Request) to lender demanding loan documents.
Forensic Audit without QWR	\$500	Review of loan documents from client and perform forensic audit to determine potential violations of RESPA, TILA, HOEPA, ECOA, STATE and Investor guidelines. Client must supply minimum documents to perform.
Short Sale/Modification Package	\$999	Preparation of loss mitigation package for submission by client to lender(s), all documents and information to be provided by client. All negotiations with lender(s) to be conducted by client or other third party negotiator.
Short Sale Package and Review	\$2000	Preparation of loss mitigation package for submission by client to lender (s), all documents and information to be provided by client. All negotiations with lender (s) to be conducted by client or other third party negotiator. Review and assessment of short sale contract, loan agreements and lender approval letters and issuance of legal opinion letter concerning legal ramifications of short sale , including deficiency liability risks.
Deficiency Consultation	\$1500	Legal consultation to review potential defenses to deficiency lawsuit or demands for payment from a lender .