CAREPA NEWS

華裔房地產專業協會新聞

2012 年 二月號 February 2012

President's Message ~會長的話

One of CAREPA's major projects is our 2012 Real Estate Conference and Expo on April 28 at the San Gabriel Hilton. Many vendors and service providers will hold exhibit booths and speakers will offer talks that deal with changes in the real estate industry, short-sales, foreclosures, loan modifications… etc. It is my hope that CAREPA can help to educate the real estate communities on the various options available when dealing with distressed properties. At the same time, we would like to help those who need assistance in modifying their loans in this event. If you are interested in participating as an exhibitor, sponsor or speaker, please contact Lucia Tam. If you know of anyone who can benefit from this event, please invite them to come. It is open to the public and there is no admission fee. Spread the word . . .

CAREPA is honored to have our February speaker, Master Long Xiao Tian, especially during this busy New Year time. Master Long will talk about the relationship between feng shui and architecture by letting us see his perspective of the real estate structures we sell. Things good to know!

I would like to invite each of you to invite at least one friend to attend the monthly Mixer Meetings to let them see what CAREPA provides. Hopefully, through our collective efforts, we can double our membership size this year. Our membership drive will start from now through April 30, 2012. If you bring in 3 new members, your membership will be extended for 6 months. If you bring 5 members, your membership will be extended for one year. To qualify as a new member, he/she must not have been a CAREPA member for at least one year. Let's invite our friends and colleagues to join.

I look forward to a better and brighter future. Let's help each other have a very successful Year of the Dragon. 2012 is the year of the Dragon . . . water dragon.

And let's not forget to have a happy Valentine's Day.

Very truly yours,

Brian H. Chen, CRS, GRI, SRES
2012 CAREPA President

US New Homes Sales Drop 2.2%, Prices Fall

Published January 26, 2012 - Dow Jones Newswires

WASHINGTON -- Sales of new homes unexpectedly fell during December, a sign that the housing sector is still struggling to climb out of a deep rut despite some positive momentum in the overall economy.

Sales decreased by 2.2% to a seasonally adjusted annual rate of 307,000 from November, the Commerce Department said Thursday. Economists surveyed by Dow Jones Newswires had forecast sales last month would increase by 1.9% to an annual rate of 321,000.

The drop comes after three straight monthly increases. Sales were up 2.3% in November and up 1.7% October, according to revised figures.

The report also showed the median price of a new home was $210,300 last month, a 12.8% drop from December 2010. On Wednesday, the Federal Housing Finance Agency reported its monthly home-price index rose in November but remained down compared to a year earlier. Uncertainty in prices discourages buying and selling, and declining home values make people feel less wealthy -- both bad for an economy trying to grow faster.

For the housing sector to recover, the economy needs to create more jobs and housing prices must stabilize. But economists think prices will keep falling because the foreclosure pipeline is long. Falling prices pull more homes "underwater," which means the owners owe more on their mortgages than the property is worth. That leads to more foreclosures and lower prices.

Unemployment in the U.S. is high, which isn't good for demand. New-home sales amount to about a quarter of their peak before the bubble began deflating around five years ago. Sales are way below healthy levels, considered to be an annual rate of around 750,000. Buyers tend to favor previously owned homes, which are generally cheaper than new ones.

Sales of existing home sales rose 5.0% in December from the prior month, according to a report last week from the National Association of Realtors. However, like new homes, prices for existing houses are falling -- declining 2.5% from a year earlier.

Year over year, new-home sales were down 7.3% last month from the 331,000 level seen in December 2010, according to the date released Thursday.

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With builders pessimistic, the number of new homes listed for sale at the end of December was a record-low 157,000. The supply would take 6.1 months to deplete at the current sales pace and is around a healthy level. The supply of unsold homes in November was 6.0 months.

The Commerce report showed December new-home sales were mixed across the country.

December sales fell 10.1% in the South and were down 3.7% in the Midwest, but rose 46.7% in the Northeast and 9.0% in the West, from the prior month.

Rising home insurance rates point to climate change

Katlyn Wilkins flies the flag from the remains of a tree amid her flattened neighborhood after a massive tornado passed through the town of Joplin, Mo., killing at least 139 people on May 29, 2011. NPR reports the record number of disasters last year is pushing insurance rates higher all over the country. (Joe Raedle / Getty Images)

By Dean Kuipers /January 17, 2012

Insurance companies don't care if you believe in climate change or not: Your premiums are going up anyhow.

NPR reported Monday that home insurance premiums are going up across the board in response to the record number of tornadoes, floods, fires, blizzards and other heavy weather that hit the country in 2011.

The piece features insurance executives at major firms such as Allstate and State Farm saying they are raising rates as much as 10%.

The president of the Insurance Information Institute, a New York-based industry association, says the weather caused about $35 billion of insured damages last year in the U.S. in events that caused a total of $70 billion in economic losses.

Climate change is not mentioned in the piece, but scientists who have been studying the climate and atmospheric conditions for decades say global warming may be contributing to more severe drought, bigger storms and increased precipitation.

The insurance execs interviewed allude to this by noting that in the past certain areas of the U.S. were targeted for higher rates because of earthquakes or frequent hurricanes or flooding. Now? There are so many disasters year upon year that the whole country is being reassessed for risk.

Foreclosures Take Twice As Long To Process Now As They Did In 2007: Study

The Huffington Post Alexander Eichler First Posted: 12/28/11

If the American housing market is ever to recover -- and provide some momentum to a broader economic turnaround -- it needs to work its way through the millions of foreclosed properties that have yet to be processed and auctioned off. But those cases are taking longer and longer to get through.

AFP/Getty Images

In 2007, the average foreclosure process in America, from beginning to end, took 253 days, or about eight months. Today, according to LPS Applied Analytics as reported by CNN, the average foreclosure takes 674 days. That's a year and ten months, almost triple what it was four years ago.

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FEBRUARY GENERAL MEETING

FEBRUARY 11, 2012

6:30PM

SPEAKER

Master Long Xiao Tian ~ 龍笑天師傅

Grace Liou as his disciple

TOPIC

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contact LUCIA TAM@ 626-221-2888

CAREPA 2012 BUSINESS CONFERENCE AND EXPO

APRIL 28, 2012

9am ~ 5pm

San Gabriel Hilton

225 W. Valley Blvd., San Gabriel, CA 91776

Exhibition Booth and Speaking Sessions available
Open to the Public ~ No Admission Fee

Luncheon 11:30am ~ 1:30pm
Tentative Speakers
LeFrancis Arnold, 2012 CAR President
Honorable John Chiang, California State Controller

FOR INFORMATION AND RESERVATION,
call Lucia Tam at 626-221-2888, e-mail to luciatam@yahoo.com
or log into www.carepa.org for updates

information subject to change

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The foreclosure epidemic is one of the main factors inflicting damage on the housing market, which has still not made up for the losses it suffered a few years ago when the real estate bubble burst. In neighborhoods across the country, foreclosed or vacant properties are distorting their local markets, dragging down the values of the surrounding houses and wiping out vast sums in homeowner wealth.

The ubiquity of foreclosures, and their depressing effect on housing prices, has been cited as both a symptom and a cause of the country's persistent unemployment problem. Many homeowners enter default after losing their jobs -- and on the flip side, as the *Wall Street Journal* recently noted, plummeting home values tend to trap people where they are, making it harder for them to move to other towns where employment opportunities might be more plentiful.

The conundrum is expected to get worse in 2012. New foreclosures climbed by about 21 percent in the third quarter of 2011, with a total of almost 1.33 million foreclosures underway by the end of September. Analysts believe the volume of foreclosures will grow much greater next year as banks begin re-submitting documents that had to be discounted in the wake of the robo-signing scandal, when some of the country's biggest lenders were found to have approved reams of mortgage paperwork without reading it first.

Thanks to a government effort to screen out and correct instances of robo-signing, more than four million homeowners will eventually get the chance to submit their foreclosure cases for review -- an ambitious damage-control program that is nevertheless likely to prolong the real estate market's lifeless condition.

Experts have offered a range of predictions for when the market might touch bottom and housing prices will begin to rise again. Even the most optimistic forecasts don't see a recovery happening until late 2012 or early 2013.

United States: 2012 California Construction Law Update

January 5, 2012

With the new year comes a host of changes to laws impacting the construction industry in California. Addressed below are some of the most important new laws to be aware of. Unless otherwise noted, all of these laws take effect on January 1, 2012.

Changes to Mechanics Lien Laws

A. **SB 189 (Passed in 2010) & SB 190 (Passed in 2011)**

SB 189 and SB 190 were passed as part of an effort to modernize and simplify California's mechanics lien laws spearheaded by the California Law Revision Commission. The majority of the changes brought by SB 189 and 190 are minor and are intended to be non-substantive, but a few key changes warrant discussion. These changes take effect on July 1, 2012.

Much of the terminology regarding mechanics liens has changed. For example, under the new laws, "direct contractor" is used in place of the somewhat ambiguous "original contractor," and is defined as "a contractor that has a direct contractual relationship with an owner." Civ. Code § 8016. Similarly, "materialman" has been replaced with "material supplier."

Under the new laws, all notice requirements have been standardized and relocated to a new subdivision. Civ. Code §§ 8100 – 8118. These sections govern the contents of notice, the manner of serving the notice, when notice is deemed complete, and proof of service.

The new laws create new waiver and release forms, which must be used. Civ. Code §§ 8120 – 8138.

The new laws make several changes with respect to completion. Under the new laws, "acceptance by the owner" is no longer included as a means of achieving completion. Civ. Code § 8180. Also owners will now have 15 days to record the Notice of Completion instead of the previous 10-day period. Civ. Code § 8182. Lastly, when there are multiple direct contractors, owners are now permitted to file separate Notices of Completion for each portion of the work. Civ. Code § 8186.

The new laws generally do not change the requirements of preliminary notice. However, under the new laws, direct contractors are required to give preliminary notice only to construction lenders. Civ. Code § 8200(e)(2).

Under Civil Code section 8424, mechanics lien release bonds are only required to be equal to 125% of the claim, rather than 150%, as they previously were.

The new laws provide a new procedure for judicially releasing liens, which was not previously included. Civ. Code § 8480. Included in these new procedures is a requirement that at least 10 days before petitioning for a release of lien the owner gives the claimant notice and demands a release of lien. Civ. Code § 8482. Additional new provisions include formal burden of proof requirements and the elimination of a cap on the recovery of attorney's fees for petition for a release of lien. Civ. Code § 8488.

B. **AB 456 (Passed in 2011)**

AB 456 clarifies the requirements of the proof of service affidavit regarding service of the notice of mechanics lien. This law clarifies that the affidavit is required to show the name of the owner or reputed owner of the property, and the title or capacity in which the person or entity was served. Civ. Code §§ 3084, 8416.

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C. **SB 424 (Passed in 2011)**

SB 424 provides a means for converting a recorded design professional lien to a mechanics lien. The new law provides that "[a] design professional may convert a recorded design professional lien" provided certain enumerated requirements are met. This law takes effect on July 1, 2012. Civ. Code. § 8319.

Contractor's Licenses for Limited Liability Companies (LLCs)

A. **SB 392 (Passed in 2010)**

Passed in 2010, SB 392 requires that the Contractors State License Board ("CSLB") begin processing applications by LLCs for contractor's licenses before January 1, 2012. Although the CSLB is not currently accepting applications for LLC licenses, we expect that it will do so shortly.

SB 392 also sets out several additional requirements for LLCs wishing to obtain contractor's licenses. Included in these additional requirements is a $100,000 surety bond in addition to the $12,500 contractor bond, and liability insurance with the minimum aggregate limit of $1 million and an aggregate limit as high as $5 million, depending on the number of personnel of record. Bus. & Prof. Code §§ 7071.6.5, 7071.19. Also, every person who is an officer, member, responsible manager, or director must be listed as personnel of record on LLC applications. Bus. & Prof. Code §§ 7065.

An LLC may be a part of a licensed joint venture. Bus. & Prof. Code §§ 7029.

Prompt Payment, Payment Bonds, Public Contract Retention

A. **SB 293 (Passed in 2011)**

SB 293 mandates a number of important changes. First SB 293 reduces from 10 to 7 the number of days by which a prime contractor or upper tier subcontractor must pay a subcontractor after receiving a progress payment, unless otherwise agreed in writing. Bus. & Prof. Code §§ 7108.5. This rule applies to public and private contracts.

SB 293 also requires that preliminary notice be given before making claims on payments bonds. Civ. Code §§ 3252, 8612, 9560. This law also provides that if notice was required to be given, but was not, "a claimant may enforce a claim by giving written notice to the surety and the bond principal within 15 days after recordation of a notice of completion. If no notice of completion has been recorded, the time for giving written notice to the surety and the bond principal is extended to 75 days after completion of the work of improvement." If the preliminary notice was required to be given by a person who has no direct contractual relationship with the contractor, and who did not give the required notice, that person may enforce a claim by giving notice to the surety and bond principal within 15 days after recording a notice of completion. If no notice of completion was recorded, the time for giving written notice is extended to 75 days after completion of the work. This provision does not apply if either: 1) all progress payments, except for those disputed in good faith, have been made to a subcontractor who has a direct contractual relationship with the general contractor to whom the claimant has provided materials or services; or 2) the subcontractor who has a direct contractual relationship with the general contractor to whom the claimant has provided materials or services has been terminated from the project pursuant to the contract, and all progress payments, except those disputed in good faith, have been made as of the termination date. These sections do not apply to laborers.

SB 293 also impacts public contracting by capping retention at five percent. SB 293 applies to all contracts entered into after January 1, 2012 between a public entity and an original contractor, between an original contractor and a subcontractor, and all subcontracts thereunder, relating to the construction of any public work of improvement. Pub. Contract § 7201. SB 293 provides that the retention proceeds withheld from any payment by a public entity from the original contractor, by the original contractor from any subcontractor, and by a subcontractor from any subcontractor thereunder shall not exceed five percent of the payment, and in no event shall the total retention proceeds withheld exceed five percent of the contract price. Pub. Contract § 7201(b)(1). Under limited circumstances retention may exceed five percent, if certain requirements are met, including a finding by the department director that the project is "substantially complex." Pub. Contract § 7201(b)(3)-(4). This provision sunsets on January 1, 2016 unless it is extended.

Public Works

A. **SB 136 (Passed in 2011)**

SB 136 expands the definition of "public works" and the resulting prevailing wage requirements to certain private works related to renewable energy. Specifically, any construction, alteration, demolition, installation, or repair work done under private contract that satisfies the following conditions will be subject to prevailing wage rates: (a) The work is performed in connection with the construction or maintenance of renewable energy generating capacity or energy efficiency improvements; (b) The work is performed on the property of the state or a political subdivision of the state; and (c) either (1) more than 50 percent of the energy generated is purchased or will be purchased by the state or a political subdivision of the state; or (2) the energy efficiency improvements are primarily intended to reduce energy costs that would otherwise be incurred by the state or a political subdivision of the state.

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華裔房地產專業協會

Chinese American Real Estate Professionals Association

P.O. Box 1435 • San Gabriel • California • 91776

2012 REAL ESTATE CONFERENCE AND EXPO

Saturday, APRIL 28, 2012

OPEN TO THE PUBLIC ~ NO ADMISSION FEE

San Gabriel Hilton

225 W. Valley Blvd., San Gabriel, CA 91776

9:00 AM – 5:00 PM

WORKSHOPS/SEMINARS

該 項 活 動 其 他 議 程 包 括

Real Estate Home Loans
(loan modification, refinance)

Short Sales/REO
Energy Conservation
(solar, gas and electrical)

Real Estate Laws
Remodeling
(kitchen, bathroom, additions)

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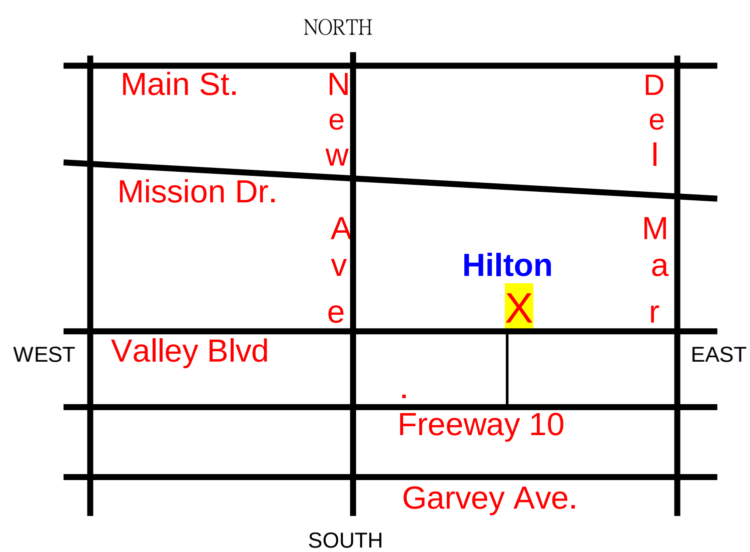
“A WORLD OF SOLUTIONS”



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for event information, speaker schedule and booth reservations.

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2012 REAL ESTATE CONFERENCE AND EXPO

Saturday, APRIL 28, 2012

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"A WORLD OF SOLUTIONS"

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☐ **$5 ,000 - Diamond Sponsorship ~ $5,000 白金贊助**
10' deep x 20' wide booth w/6 table, trash can & chairs
10 呎' x 20 呎 攤位與 6 呎桌子、椅子及垃圾桶。
Full page advertisement in program book (inside cover)
參展手冊全頁廣告版面。

☐ **$ 3,000 - Gold Sponsorship ~ $3,000 黃金贊助**
10'deep x 15' wide booth w/6 table, trash can & chairs
10 呎 x 15 呎 攤位與 6 呎桌子、椅子及垃圾桶。
Full page advertisement in program book
參展手冊全頁廣告版面。

☐ **$ 1,500 – Silver Sponsorship ~ $1,500 白銀贊助**
10'deep x 10 wide booth w/6 table, trash can & chairs
10 呎 x 10 呎 攤位與 6 呎桌子、椅子及垃圾桶。
Half page advertisement in program book
參展手冊½頁廣告版面。

Exhibition Booth ~ 參展攤位價目

☐ **$ 400 –** 10' wide x 10' deep w/6' table, trash can & chairs
一個 10 呎' X 10 呎攤位與 6 呎桌子、椅子及垃圾桶。

☐ **$ 300 –** for CAREPA members

☐ **$ 350 –** additional exhibition booth ~ 每附加一攤位

☐ **$ 250 –** additional exhibition booth for members

☐ **$ 400 –** BALLROOM FOYER 8'x 5'with 6 table & chairs)
一個 8 呎 X 5 呎 BALLROOM FOYER 攤位與 6 呎桌子, 椅子

Advertisement ~ 廣告

☐ Full page advertisement in program book $ 500
參展手冊全頁廣告版面

☐ Half page advertisement in program book $ 300
參展手冊½頁廣告版面

☐ **Package A ~ Booth + full page ad $800**

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- No refunds for "no show" and no refunds after 3/31/12.
- Registration is on a first pay, first serve. Booth availability is limited. Reserve your space early!
- Display banners can only be a maximum of 8 feet in width.
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LUNCHEON $50/person (ticketed event)
Number of seats ______ Total $ _______

REGISTRATION INFORMATION

Submit one registration form per person or company. Contact information listed below will be listed on program handouts.

First Name: ______________________ Last Name: ____________________ Title ___________________________

Group or Company Name: ____

Address: ____ City: ____________________ State: _______

Zip Code: ___________ Work Phone: (_____) ___________________ Cell Phone: (_____) ____________________

E-mail Address: ____________________________________website _______________________________________

Signature: ______________________________________ Date: ____________Received__________ Amount $_______
Check # _______
FOR OFFICE USE ONLY

B. **SB 835 (Passed in 2011)**

SB 835 extends and expands the Best Value Construction Contract Pilot Program to all University of California campus construction projects over $1,000,000. Previously only the University of California at San Francisco was authorized to use a best value determination in awarding construction contracts. This law sunsets on January 1, 2017, unless it is extended.

Type I Indemnity Agreements

A. **SB 474 (Passed in 2011)**

SB 474, does not take effect until January 1, 2013, but because it is an important change to California construction law, it warrants discussion. SB 474 prohibits "Type I" indemnity agreements that purport to require indemnification by subcontractors of general contractors for the latter's active negligence or willful misconduct. Specifically, SB 474 provides that construction contracts "that purport to insure or indemnify, including the cost to defend, a general contractor, construction manager, or other subcontractor, by a subcontractor against liability for . . . loss, damage, or expense are void and unenforceable to the extent the claims arise out of, pertain to, or relate to the active negligence or willful misconduct of that general contractor, construction manager, or other subcontractor, or their other agents, . . . or for defects in design furnished by those persons, or to the extent the claims do not arise out of the scope of work of the subcontractor pursuant to the construction contract." Civ. Code § 2782.05. This section does not apply to, among other things, wrap-up insurance programs, additional insured endorsements; or contracts with design professionals. Civ. Code § 2782.05(b).

SB 474 also provides that construction contracts entered into on and after January 1, 2013, with a public agency, that purport to impose on any contractor, subcontractor, or supplier of goods or services, or relieve the public agency from, liability for the active negligence of the public agency are void and unenforceable. Civ. Code § 2782.(b)(2). Likewise, SB 474 provides that construction contracts entered into with the owner of privately owned real properly that purport to impose on any contractor, subcontractor, or supplier of goods or services, or relieve the owner from, liability are unenforceable to the extent of the active negligence of the owner, including that of its employees. Civ. Code § 2782.(c)(1). However this provision does not apply to a homeowner performing a home improvement project on his or her own single family dwelling. Civ. Code § 2782.(c)(3).

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

As home prices fall, more borrowers walk away

John Brecher / msnbc.com

David Martin, 68, in his home in north Seattle, Washington. He and his wife are facing retirement within five years, but their retirement income won't cover their mortgage.

By John W. Schoen, Senior Producer

When David Martin and his wife bought their north Seattle condo five years ago, they figured they had plenty of time to downsize if they needed to before they retired.

Now, with the property worth roughly $60,000 less than the balance of their mortgage, Martin, 68, has been giving serious thought to just walking away, a process lenders call "strategic default."

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"Guilt and morality are one side, and objective financial analysis are on the other side," Martin said. "They're coming to two opposite conclusions. I wonder how many other people are struggling with the same question."

Strategic defaults like the one contemplated by Martin are on the rise. A survey last year by two Chicago-area finance professors, Paola Sapienza at Northwestern University and Luigi Zingales at the University of Chicago, found that roughly three out of 10 mortgage defaults in 2010 were by homeowners who could afford to make their payments, up from 22 percent in 2009.

"It's a looming problem that's in the shadows," said Jason Kopcak, a mortgage trader at Cantor Fitzgerald who advises lenders on how to value the loans on their books. "It's very worrisome to mortgage lenders."

Researchers point to a number of forces that are driving borrowers to walk away from their mortgages. At the top of the list is the estimated 12 million homes that are underwater, meaning the owners owe more than they are worth.

Until recently, borrowers like Martin and many industry analysts held out hope that a housing recovery would reverse the rising tide of "negative equity." But after stabilizing this summer, home prices began falling again, dropping 7.5 percent in the third quarter alone and leaving more homeowners underwater.

Even if prices stabilize this year, millions of underwater borrowers face a long wait before they can sell their homes without having to write a big check to their lender to cover the shortfall. Economists at Goldman Sachs recently forecast that after bottoming in 2013 house prices won't recover their 2006 peak until 2023. (No, that's not a typo.)

Many homeowners simply can't wait that long.

In the early stages of the housing bust, the main causes of defaults included unemployment or other financial setbacks and adjustable mortgages that reset to unaffordable levels, according to researchers. Now, five years into the housing recession, strategic defaults are growing as financially healthy borrowers learn of friends or family who have decided to walk away.

A recent study commissioned by the Mortgage Bankers Association likens the rise in the rate of strategic defaults to the spread of a disease. The longer the crisis drags on, the more homeowners will be exposed to someone who has successfully walked away, making the decision easier, the study suggested. "As fundamentally social animals, humans consciously (and subconsciously) look to their peers when forming opinions, habits and behaviors," the report said.

"Most people who own a home know of someone -- a friend, a colleague a family member -- who has defaulted, especially in housing markets that have taken a big hit," said Jon Maddux, CEO and co-founder of youwalkaway.com, a service that advises homeowners on walking away from their mortgage. "They realize these are not bad people. They're not deadbeats. They're just like them."

Researchers say strategic default is also more common among borrowers who feel no personal connection to the party on the other end of the transaction. Gone are the days when you walked into a bank and met with a lender who shepherded your application and congratulated you when the loan was approved, said Michael Seiler, a finance professor at Old Dominion University and a co-author of the MBA study.

"If you defaulted, it was like you were defaulting on your friend," he said. "Your kids might go to the same school. You all might go to the same church. And you're constantly reminded of who you're defaulting on."

That scenario is a far cry from the modern system of mortgage finance, where loans are sold over the phone or online, chopped up into pieces and then sold to multiple, anonymous investors. Many underwater homeowners who try to negotiate with their lender can't even find out who owns their loan.

"We're finding that people are much more willing to walk away when the other party is unknown or what you might call a 'bad bank,'" said Seiler. "Those are the ones that received a lot of bailout funds or were active in the subprime market, giving loans to people who couldn't afford them and they knew that."

The mortgage lending industry's widespread reluctance to modify loan terms has also changed homeowner attitudes about walking away, according to Maddux.

"They feel much better about doing it if they've tried to contact the lender and the lender won't budge," he said. "They feel justified about it because they've tried to do their best to work it out."

Shifting attitudes about the causes of the housing bust are also playing a role, say researchers. In their surveys, Sapienza and Zingales found that 48 percent of Americans said they would be more likely to default if their bank was accused of predatory lending, even if they are morally opposed to strategic default. Some 11 percent said they'd be less likely to pay their mortgage, and more likely to walk away from their loan, if their lender was cited for using false foreclosure documentation.

The government's ineffective response to the housing crisis, even as it went to extraordinary lengths to backstop banks, has also propelled walkaways, say researchers. Since the housing bubble burst in 2006, some $7 trillion in home equity has evaporated, according to Federal Reserve data. Now, as home prices resume their fall, some homeowners believe lenders should bear at least a portion of the losses inflicted by a housing bust the industry helped create.

"The money didn't disappear," said Martin. "We still owe

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REAL ESTATE: Fewer loan mods granted

Loan servicers help homeowners modify their mortgages at the Neighborhood Assistance Corp. of America's (NACA) "Save-the-Dream Tour" at the Los Angeles Sports Arena in Los Angeles last January.

LESLIE BERKMANSTAFF WRITER
BLOOMBERG NEWS Published: 14 January 2012

Even as experts brace for a surge in foreclosures this year, the portion of borrowers eligible for modification of their mortgages to help them keep their homes is shrinking, according to the federal agency that regulates national banks.

Most applicants that meet the income and other qualifications for loan modifications that would make their homes more affordable already have received assistance. The result is that a wave of homes whose owners do not qualify for a loan modification or any other alternative are headed to foreclosure, said the office of the U.S. Comptroller of the Currency.

The rejected include those who don't have enough income to afford their homes even if their loans are modified, housing counselors said. Others turned away are those who can afford their existing mortgage but want a reduction in their loan balance simply because they owe more on a house than it is worth.

The number of financially troubled homeowners who had their monthly mortgage payment lowered by such ways as lowering the interest rate or extending the length of the loan declined significantly last year. That was, ironically, at the same time that housing counselors report the once nightmarish application process became easier, friendlier and more streamlined for applicants and major loan servicers, such as Bank of America and Chase, have reached out to assist struggling borrowers.

Banks have opened mortgage help centers nationwide and assigned case managers to work with individual borrowers one-on-one throughout the loan modification process. At the centers and at weekend fairs homeowners can meet face to face with bank representatives

The number of loans modified annually more than doubled from 421,322 in 2008 to 939,226 in 2010, then dropped to 310,018 through the third quarter of last year, according to the U.S. Comptroller of the Currency. Even with a quarter of data yet to be collected, it is obvious that the volume of approved modifications will be far lower than for the previous year.

"Numbers of modifications are shrinking because servicers are exhausting the pool of eligible people," said Comptroller of the Currency spokesman Bryan Hubbard. Meanwhile, foreclosures are expected to increase because servicers have run out of alternatives to prevent many people from foreclosure, he said.

At Neighborhood Housing Services of the Inland Empire, a San Bernardino foreclosure counseling center, about 60 percent of the people who come to the counseling office in need of a loan modification are getting one, said David Reyna, business development manager.

Most who are denied, he said, don't have enough income because they lost a job or have health problems or didn't make enough money in the first place to afford the house they bought.

Over 2.2 million homeowners nationwide have received loan modifications, including both modifications offered through the Obama Administration's Home Affordable Modification Program (HAMP) program and through proprietary modification programs implemented by mortgage servicers.

Critics complain that the number of modifications seems paltry and that many of the borrowers who get the loans later default again. According to a Comptroller of the Currency report, 70 percent of homeowners with HAMP modifications and 55 percent of those with other types of modifications remain current on their monthly mortgage payments.

"Modifications have just been a huge waste of time," said Greg McBride, a financial analyst at Bankrate.com. He complained that one of the major tools in loan modifications will push down the interest rate as low as 2 percent but then let it rebound to market rate over the next few years, which he warned is likely to produce future defaults.

"The measure of success isn't how many people whose payments you reduce now but how many of those borrowers can still afford their homes five years later when the payment starts to go back up," McBride said.

Even with the reforms, not enough people have been able to get modifications, said Kevin Stein, associate director of the California Reinvestment Coalition, a consumer advocacy group.

"There is too much hype," said Stein. "There have been a lot of (hot line) phone numbers and fairs and advertising and that is generally good because it encourages contact with borrowers about options, but the results continue to

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be poor." The biggest flaw, he said, is that the modification programs rely largely on the voluntary participation of servicers.

The number of HAMP loan modifications is far fewer than the volume of bank proprietary modifications. But the HAMP guidelines set a new standard for the mortgage industry by emphasizing the importance of making a modified loan affordable so the borrower spends no more than 31 percent of his monthly income on housing. This was HAMP's biggest accomplishment, said Stein.

HAMP rules also have been tightened to prevent homesfrom being sent to foreclosure while their owners are negotiating with their banks for a mortgage modification, said Risotto.

But Paul Leonard, California director of the Center for Responsible Lending, said the practice hasn't ended.
"We still have reports of people who are foreclosed on when they are in consideration for a loan modification," Leonard said.

Assigning each borrower a bank representative to assist with the modification application is a big improvement over having a borrower shuttled from person to person in the bank's telephone system. But when a borrower is surprised with a foreclosure notice, he has trouble reaching a superior with authority to intervene, Leonard added.

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it to the bank, so the bank will end up getting all of its money back on a loan that no longer has its original value. They're taking no part in the loss."

Widespread reports of lenders' bad behavior, from filing defective paperwork to selling investors bad loans, have begun to erode one of the strongest deterrents to walking away: the sense that skipping out on a debt is morally wrong. University of Arizona finance professor Brent White interviewed hundreds of homeowners for his research on strategic default. He found that, in the eyes of many homeowners, mortgage bankers have lost the moral high ground.

"The reality is: for the bank it is simply an economic transaction," he said. "They have no moral qualm about taking your house, and they feel no moral obligation to modify your mortgage even if you're in a difficult financial situation."

Still, there are much more serious consequences to strategic default than pangs of guilt. Any loan default will damage a borrower's credit score. But some strategic defaulters are finding that the impact isn't as long-lasting as widely believed, according to Maddux.

"You don't destroy your credit, you wound your credit," he said. "Just like a wound, it heals over time."

Maddux said surveys of the roughly 8,000 customers who have signed up for his service in the last four years found that some strategic defaulters are able to restore their credit in as little as a year and a half.

The bigger risk for walkaway borrowers is that their lender will pursue them in court and win a so-called "deficiency judgment," a court-ordered, full repayment of the mortgage balance. That process is governed by state laws; some so-called "non-recourse" states bar lenders from pursuing such judgments.

But the force of that deterrent is also weakening, according to Sapienza.

"(There's an) increasing perception that lenders are not going after borrowers who walk away," he said.

That perception may be dangerously misplaced, as many lenders continue to aggressively pursue judgments against homeowners who strategically default. That's why there's widespread agreement that homeowners considering it need to get solid legal advice from an experienced real estate attorney in their state.

"There's a process to strategic default and a lot of people don't know how to do it," said Kopcak. "They don't really know what their options are. People really need to talk to a lawyer who knows the process."

For now, Martin is electing to stay in his home and continue paying the mortgage.

"We intend to continue as we are on the basis that we gain nothing from acting at this point," he said in a note. "We think that the real estate market in Seattle will rise by 2013 enough to offer better alternatives. There is a small chance that the federal government will act to offer more rational choices. The real possibility is that the debt might be refinanced in 2013 at a level that might offer enough reduction in payments to allow us to hang on long enough to shore up our financial position."

In short, giving up at this point may be worst of all alternatives. Giving up seems to run counter to our value system, no matter how financially wise experts seem to believe it may be."

Mortgage Rates Look Set to Climb

by *Mark Johnston January 30, 2012*

With the euro zone crisis and concerns that the UK could face a second credit crunch it is looking all the more likely that mortgage lenders will look to raise their rates.

Although it seems that many lenders have been more competitive in recent months the amount of lending in the market has not increased and could therefore fall back further depending on how the euro zone pans out.

Therefore the trend for ever cheaper mortgage rates is on the

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turn, which points to rate changes.

Some analysts state that mortgage rates have been moving to and fro consistently over the last 12 months and therefore these are hardly revelations. It is also worth remembering however that there is still no movement in the Bank of England's base rate.

Andrew Montlake, of mortgage brokers Coreco, has stated that "the potential upside of rates getting lower is a small one, while the downside of rates getting more expensive once more is much larger".

The Bank of England's financial stability report revealed that mortgage lending has seen a profitability drop since 2009 as mortgage rates have not reflected the rising wholesale costs. With this in mind the report suggests that it may be during 2012 that a significant increase in banks lending rates occurs.

However, the Bank of England's report also added that many banks have significantly reduced their reliance on wholesale markets and as a result may adopt a wait and see approach before introducing any significant hikes in mortgage rates.

Even in light of this report many experts still believe that it seems we have now passed the lowest point in the current interest rate cycle and that it now seems a sensible option to look at locking in to a rate at the moment.

These experts are urging home owners looking for a new mortgage to consider longer term deals as 2 year deals, for instance, may mean that the borrower will have to re-mortgage just as interest rates rise.

Simon Collins, a technical manager at mortgage brokers John Charcol, thinks lifetime trackers and 5 year fixed rates now offer many borrowers good value.

The Co-op bank offers a 5 year fixed rate deal at 3.59% for those with a 25% deposit, with no arrangement fee and the Coventry building society also offers a 5 year fixed rate deal at 3.58% for those with a 35% deposit, but it does come with a fee of £800.

Tracker deals are initially cheaper and the HSBC offers a lifetime tracker with a rate of 1.89% above the base rate, giving a current rate of 2.39% and has no arrangement or exit fees meaning when the rate raises it will be easier to switch to another deal.

David Hollingworth, of mortgage brokers London and Country, states "the bottom line for borrowers at the moment is that they could see rates continue to rise, so if they are considering a switch it would make sense to make a move sooner rather than later. As funding becomes scarce and costs rise, it is inevitable that the current upward trend in mortgage rates will continue".

EDITOR MESSAGE:

. . . Happy New Year . . . Year of the Dragon . . .

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