Ku'ikahi Mediation Center
Finding Solutions, Growing Peace

FORECLOSURE TERMS GLOSSARY

ADJUSTABLE RATE MORTGAGE (ARM): a type of sub-prime loan which adjusts periodically. Usually these mortgages begin at a low interest rate, and then increase to a high rate over time.

ARREARAGE: the total amount of overdue debt.

BALLOON PAYMENT: the result of deferring payments; at some set point in time or at the end of the loan term, a large payment to satisfy these deferred payments will have to be paid.

BORROWER: a person who owns an interest in the residential property and would be encumbered by the mortgage being foreclosed.

CAPITALIZATION AND RE-AMORTIZATION: the delinquent interest, tax, and insurance escrows and fees are folded back into the loan, the unpaid principle balance (UPB) is recalculated, and the loan is configured over the remaining loan period or a new negotiated period.

CASH FOR KEYS/RELOCATION ASSISTANCE: the loan servicer offers the borrower financial assistance to move out of the home, in exchange for the keys to the home and an agreement from the borrower that the borrower will not vandalize the home, take out fixtures, or leave the property in disrepair.

COMPARATIVE MARKET ANALYSIS (CMA): a report from a real estate professional that helps sellers to estimate the value of their property in relation to other similar properties. This report usually includes the values of nearby properties that have been listed or sold.

DEED IN LIEU: borrower deeds the property to the loan servicer in exchange for being released from the mortgage debt.

DODD-FRANK ACT CERTIFICATION: a document signed by the borrower certifying that he or she has not, in the last 10 years, been convicted of any one of the following: (A) felony, larceny, theft, fraud, or forgery, (B) money laundering, or (C) tax evasion.

EXTENDED AMORTIZATION: adding years to the period over which the loan must be repaid. The most common extension is from a 30-year mortgage to a 40-year mortgage in the context of HAMP®.

FORBEARANCE: allows the borrower to halt payments for a set period of time, for all or part of the loan.

FORECLOSURE: Legal process by which a lender cancels (forecloses) a borrower's right of redemption of the mortgaged property through a court order (called foreclosure order). The court sets a date up to which the borrower can redeem the property by paying off the entire loan balance (including foreclosing expenses). Thereafter, the lender is free to sell the property and, upon the sale, applies the sale proceeds first to the due amount and pays the remainder (if any) to the borrower. The borrower remains liable for the due amount if the property remains unsold, and for the shortfall if the sale proceeds are insufficient to pay off the entire debt.

HOME AFFORDABLE MODIFICATION PROGRAM (HAMP®): an official program of the Departments of the Treasury & Housing and Urban Development; however, it is not mandatory and not all banks participate. Fannie Mae and Freddie Mac are required to participate. Your loan payment must be more than 30% of your income to qualify.

HOUSING AND URBAN DEVELOPMENT (HUD): department of the federal government; one of its functions is to certify housing counselors who provide financial counseling services.

IN-HOUSE LOAN MODIFICATON: many loan servicers now offer their own in-house modifications outside of HAMP®, and in some cases borrowers might be eligible for them after they have been denied a HAMP® modification.

INTEREST RATE REDUCTION: a permanent or temporary reduction of the interest rate. This is often seen in the first step of the HAMP® waterfall analysis. If the reduction is temporary, the interest rate usually increases gradually over the period of the loan.

IRS FORM 4506T: a document the borrower signs that authorizes the release of his or her IRS records to the loan servicer for the purpose of reviewing them for a loan modification.

LENDER: the entity through which the borrower received the mortgage for the home, but not necessarily the entity foreclosing on the home.

LIEN HOLDERS: any individual or entity that has pursued a court judgment against the borrower and, in lieu of immediate payment, has placed a lien on the house for the amount owed to them.

LOAN REINSTATEMENT: when a borrower can fully catch up on the payments and arrearage at once and continue the present monthly payments, bringing the loan current.

LOAN SERVICER: entity hired by the mortgage owner to manage the loan, usually the entity foreclosing on the home.

MOD-IN-A-BOX: Federal Deposit Insurance Corporation (FDIC) loan modification program that outlines how IndyMac Federal Bank conducts loan modifications. The Hawai'i statute requires the dispute resolution process to use calculations, assumptions, and forms from this program unless another is agreed upon by all parties.

NPV (NET PRESENT VALUE) TEST: a test using data the borrower provides that analyzes the profitability of certain decisions, like whether a modification or a foreclosure is more profitable for the loan servicer. The test involves estimating how many months it make take the borrower to re-default, how likely the borrower is to catch up on the mortgage, and how much value the house has at the present.

P&L (PROFIT AND LOSS) STATEMENT: a financial statement that summarizes income/revenue and costs/expenses over a specific period of time.

PARTIAL LOAN FOREGIVENESS: a permanent reduction of the entire loan.

PARTIAL WRITE-DOWN: a permanent reduction of the principal loan amount only.

PITIA (PRINCIPAL, INTEREST, TAXES, INSURANCE, ASSOCIATION FEES): The total amount of the loan's principal, interest, taxes, insurance, and association fees. Payments of principal and interest go directly toward repaying the loan while the part that covers taxes and insurance goes into an escrow account to covers these fees when they are due.

PRINCIPAL WRITE-DOWN: a permanent reduction of the principal amount only.

REPAYMENT PLAN: a negotiated agreement that can involve many adjustments to come up with a modified monthly payment, laid out over a certain period in time, to bring the loan current. This is usually possible under a plan in conjunction with an entity or government program.

REQUEST FOR MODIFICATION AND AFFIDAVIT (RMA): the request form used in a HAMP® application.

RIGHT TO RENT: upon completion of foreclosure, the loan servicer may rent the property to the former borrower to maintain occupancy and income from the property.

SHORT SALE: a process by which the borrower and loan servicer agree that the borrower will put the home on the market for sale for a set period of time, usually 90 days, at a rate lower (usually significantly lower) than the market value of the property. If the sale goes through, the money from the sale goes to the loan servicer in exchange from being released from the mortgage debt. The loan servicer agrees to accept the amount as full payment of the debt and releases the borrower from the mortgage obligation.

STIPULATION TO MODIFY: a rarely used option in which the loan servicer stipulates that it will enter a temporary or permanent modification once the borrower completes certain requirements, such as making a good faith payment of a certain (often significant) amount.

UNDERWATER: a term used to describe a home with a current market value less than the original mortgage.

WATERFALL ANALYSIS: a calculation conducted under HAMP® to determine what the monthly payments of a temporary mortgage will be using a multi-step process, which includes lowering the interest rate as low as 2%, stretching the loan over 40 years, and principal deferment. The loan servicer attempts to render a mortgage payment that is 31% of the borrower's gross income.