

DAILY BUSINESS REVIEW

MIAMI

LAW ■ REAL ESTATE ■ FINANCE

\$2.00

FRIDAY, JANUARY 23, 2008

DailyBusinessReview.com

VOL. 83, NO. 156

An incisivemedia publication

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DEALMAKING

Lending solutions

As banks hold their money tightly, more South Florida deals are getting done with seller financing

by Paola Iuspa-Abbott
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Eugene Howard opened the yellow folder on his desk and grabbed a document, a recently modified mortgage. He had decided to give a borrower another year to pay back a loan due this month. The real estate lawyer and investor won't get back the \$2.1 million he lent at 7 percent annual interest almost three years ago. Instead, he will get his money a year later at a 10 percent interest rate, a condition for the time extension.

In 2006, Howard sold a 20-unit apartment building in Miami Beach for \$2.6 million. The buyer gave him \$500,000 down, and financed the balance of \$2.1 million. Yet, Howard granted an extension.

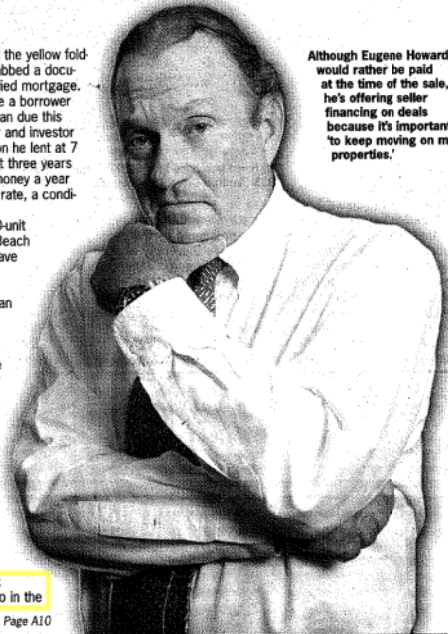
"I would rather have the cash," he said. "My wife worries about the world, and she would rather have the money under our bed. But what can I do?"

Seller or owner financing was rare two years ago, when banks were eager to lend. But as the credit markets began to dry up almost a year ago, seller financing has increasingly gained popularity in the commercial and residential markets, several real estate brokers said.

"It picked up in the last six months and certainly more so in the

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Although Eugene Howard would rather be paid at the time of the sale, he's offering seller financing on deals because it's important to keep moving on my properties.



AM. HOOT

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TROPICAL TRANSFER

Family finds 'dream house' after search

by Eric Kalis
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Planning for a chance to own a "dream home" in Miami Beach, Jason Rosenhaus, vice president of sports agency Rosenhaus Sports, purchased a high-end home in the city's Mid-Beach section at a discount price.

Rosenhaus, a 39-year-old certified contract advisor for professional football players, attorney and CPA, paid \$2.97 million, or \$665 per square foot, for a 4,466-square-foot home on nearly an acre at 4395 Pinetree Drive on Dec. 31. The seller, real estate investor and Miami Beach philanthropist Abraham Shaulson, spent \$3.8 million on the home in Dec. 2006. Built in 1952, the home sold for \$4.35

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ON THE WEB

• The deed
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FLORIDA BAR

7 South Florida lawyers disbarred

by Alana Roberts
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The Florida Supreme Court meted out particularly harsh punishment to South Florida lawyers in the final months of the year, disbarring seven attorneys for rule violations ranging from trust fund misdealings to drug offenses.

The state's high court permanently disbarred Miami attorney Joseph Weisenfeld after he pleaded guilty to a federal wire fraud count for taking

See Bar Discipline, Page A13



BROWARD COURTS

Chief Tobin urges action on funding

by Jordana Mishory
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In the face of a state budget crisis, Broward Chief Circuit Judge Victor Tobin warned attorneys Thursday of the need to push for justice system funding in Tallahassee.

"I assure you, apathy is going

to be our demise unless we speak up," he told a packed room in Fort Lauderdale during his annual State of the Circuit address.

Tobin believes the Legislature is starting to appreciate that funding a court system is "not a luxury."

"The Legislature has recognized that the courts might actually be a third branch of government," he

said to laughter.

In the special session this month, the Legislature cut the court system by 1.25 percent through June 30 at a cost of 21 employees statewide. Lawmakers also set up a fine-driven trust fund for court funding that should start to collect this spring.

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LENDING

From Page A1

last 30 days," Marcus & Millichap commercial broker Alex Zylbergalt said. "I would anecdotally say that approximately 5 percent of deals last year had some form of seller financing. At this time, about 15 percent of deals do, and I estimate later this year we'll see about 30 percent of deals with some form of seller financing."

The nation is weathering one of its worst economic crisis, fueled in part by the banks' reluctance to lend. The lack of credit has brought the real estate market almost to a halt. Buyers can't get mortgages, and sellers can't find buyers. Sellers who own properties free and clear are willing to become lenders — if that would generate buyers.

Sellers and brokers are eagerly waiting to see how this latest trend will play out. So far, only a few deals involving owner financing have closed in South Florida.

Howard is once again offering seller financing to sell a 350-space garage in downtown Miami. He is asking \$17.5 million, or about \$50,000 per parking space, and is willing to finance \$10 million for the garage at 35 SW First St., he said. "I don't need to sell," he said. "But it is important to keep buying and selling ... to keep moving on my properties."

Ronald Pimpao never thought he would be offering owner financing to sell an office building he and his brother, Edmund, own in Pompano Beach. On Tuesday, the brothers listed the 30,000-square-foot building at 2300 W. Sample Road, is nearly 45 percent vacant and has short leases in place, said Pimpao, who lives in New Jersey and commutes to Florida to manage the property.

The brothers want 25 percent down and will finance \$2.62 million over 10 years at 4 percent interest only. It would cost the buyer \$105,000 a year in annual debt service or \$3.5 per square foot, Pimpao said.

"We figured a new buyer would find [the terms of the financing] interesting," he said. "Our decision is the result of the current economic environment. I would obviously prefer to have all cash."

The Pimpaos' financing terms are competitive in today's market. For the most part, institutional lenders stopped offering interest-only loans — considered too risky — in early 2007, when the real estate market crashed.

Conventional lenders can charge more than 7 percent in interest on a 10-year loan and may require up to 50 percent cash down and significant cash reserves to service the debt, said mortgage broker Steven Wood, chief operating officer of Thomas D. Wood and Co. in Coral Gables.

This trend underscores the fact that some banks are not even lending, despite the billions in federal funding they are receiving. Banks are hoarding cash to boost their reserves as losses stemming from bad residential mortgages balloon.

The different forms of owner

financing include interest-only loans, amortized loans and second mortgages on properties that have a first mortgage in place, Zylbergalt said.

"We are seeing a lot of interest-only loans anywhere from three- to five-year terms and loan-to-values between 70 to 75 percent," he said, adding that most seller financed deals are below \$10 million. "In fact, most of the transactions taking place in the marketplace are under \$10 million. That's where you see the most liquidity."

One of Zylbergalt's clients is willing to hold a second mortgage for a buyer able to assume an existing \$1.7 million mortgage on a property in Miami Beach. The medical office building, at 960 W. 41st St., is listed for \$3.6 million. Between an assumable mortgage and the second mortgage — to range from \$820,000 to \$1.2 million — the buyer would need less cash up front, Zylbergalt said.

"The buyer would need between 20 to 30 percent equity," he said.

Pricing

Owner financing can save buyers money in expenses often associated with conventional lenders, including appraisal fees, points and lower interest rates. Sellers know that and often ask more for their properties because the buyer will have more money available to pay for it.

"It is generally true that by offering more aggressive forms of financing — like 6 percent interest only for 10 years — works into the overall return of the investment," Zylbergalt said. "The more favorable financing terms allow the seller to be more aggressive in the pricing of the property."

Allen Morris Co. broker Louis J. Gallo recently persuaded a client of his to take back financing to help boost the sale price of a 46,000-square-foot parcel he is marketing near downtown Miami. His client is asking \$16.5 million, or about \$350 per square foot, at a time when land in that area has recently sold for less than \$200 per square foot.

"I'm working hard at finding a niche in the market, and I think the niche now is just to work with seller-financed properties," Gallo said.

In November, a small parcel on Miami's Brickell Avenue sold for about \$840 per square foot, a remarkable high price at a time when land values have fallen drastically. The key to the high price was owner financing, area brokers and property appraisers said. The seller — an entity led by real estate broker Walter Defortuna — sold the 26,182-square-foot parcel at 1451 Brickell Avenue for \$22 million and financed the deal with a \$13.2 million loan, according to Miami-Dade County Property records.

Defortuna did not return phone messages and an e-mail seeking comment.

Besides being able to boost sale prices, sellers taking back debt have another benefit: They can defer paying the capital gains tax.

Sellers may choose to defer a

See Lending, Page A11

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LENDING From Page A10

capital gain over the life of the loan, said Miami accountant Carl Gadinsky of Kane & Co. On the campaign trail last year, newly elected President Barack Obama talked about increasing the capital gains tax from 15 percent to 20 percent. Some sellers may opt to pay capital gains before collecting all the loan payments to avoid paying higher taxes if they go up.

"It looks like [President Obama] may not be doing that sometime soon," Gadinsky said.

Yet, not all sellers offering financing qualify for capital gain taxes and may be required to pay ordinary income tax.

"Deferring capital gains tax could be a detriment because if there is a long-term capital gain, the capital gain rate is presently very low while ordinary income rates are much higher," Coral Gables attorney Neil Rollnick said.

Sellers should discuss their situations with a tax adviser, said Rollnick, a partner with the law firm of Adorno & Yoss and chairman of the firm's real estate practice group.

Rollnick said sellers may be trying to lure buyers with owner financing but often they don't qualify for offering financing.

"This mechanism depends, in a large part, upon the encumbrances on the property," he said. "If the property has a substantial mortgage on it and the mortgage is not pre-payable or precludes secondary financing, [owner financing] will be a little bit difficult."



Rollnick

He said properties with no debt on them qualify for seller financing as well as properties with a small mortgage on them and with mortgages that allow secondary financing, which few lenders do, he said.

"I wouldn't say we are seeing an increase [of owner financing] as much as I would say we are seeing an openness to seller financing, and we are seeing attempts at seller financing," he said. ■

Paola Iuspa-Abbott can be reached at (305) 347-6657.



Marcus & Millichap broker Alex Zylbergait predicts that later this year, about 30 percent of commercial deals will have some form of seller financing.



When Eugene Howard sold this 20-unit apartment building in Miami Beach for \$2.6 million, the buyer gave him \$500,000 down and financed the balance of \$2.1 million.



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