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# A Good Receiver Can Be Your New BFF

Potential exists for mutually beneficial relationships between brokers and court appointees

AT A TIME WHEN THE REAL ESTATE MARKET is struggling to get back on its feet, an unlikely but beneficial relationship between mortgage brokers and receivers is gaining importance.

Although some consider these professions to be on opposite ends of the real estate spectrum, brokers and receivers actually have much to gain from forging a bond. In fact, amid this economic downturn, a receiver — a court-appointed individual who is given custodial responsibility of a property — can be a mortgage broker’s best friend.

Once seen as a remedy of last resort, receivers provide a way for lenders and financial institutions to protect real estate assets and provide property management and maintenance. Receivers also can deal with lease renegotiations. Moreover, the use of receivers insulates lenders from liability.

Ultimately, many properties in receivership must be sold. With receivers often guiding the sales process for these properties, a mortgage broker who has a close relationship with a busy receiver could benefit. Here’s how.

## The receiver’s role

From unfinished residential projects to office, industrial, retail, multifamily and hospitality properties with owners who can’t pay their mortgages, receivers manage properties until they are sold or foreclosed upon, often doing much more than just keeping on the lights. Receivers can handle mundane tasks, such as collecting rent from an

apartment building’s tenants, and they also can juggle complex projects where construction is partially completed or the operating company has declared bankruptcy.

Essentially, a receiver’s role is to secure and maximize the asset’s value, to cure defects, and to maintain and operate the property in an efficient and business-like manner. This may include making capital improvements and leasing or repositioning the asset in preparation for sale — all through the court’s approval and guidance. A receiver may also be required to refinance the property.

In a nutshell, a receiver’s primary tasks are to:

- **Seize and control** the distressed property’s books, records and financial assets;
- **Protect and administer** the property’s finances;
- **Properly maintain** the site and deal with issues often created by deferred maintenance;
- **Ensure the property** is properly insured;
- **Operate the property** for creditors with a focus on maintaining and even increasing its value through time and/or investment;
- **Hire property-management firms**, contractors or other experts to rehabilitate and maintain the property properly;
- **Pay court-approved fees** and incur expenses necessary to maintain and/or increase the property’s value;
- **Provide regular reports** to the court and the property’s creditors; and

- **Ultimately, close out the receivership**, at which time the property will be sold by the receiver or through a trustee’s sale.

## Why receivership?

Lenders often consider receiverships to be a more advantageous alternative to direct foreclosure. This often is because it keeps the lender from taking on the title and being exposed to a variety of liabilities. Instead, a receiver can operate the property with judicial immunity and can deal with the complex issues often associated with a distressed property more effectively.

For example, in the case of a multifamily project that has not completed construction, a receiver can oversee the remaining construction without exposing the lender to potential construction-defect litigation. As long as receivers act properly, they are equally insulated because of judicial immunity. Further, a receiver ultimately can sell real estate assets, a position in which few lenders want to be.

Good receivers also keep at least one eye focused on the property’s users. After all, receivers are there to preserve value and enhance the property, which means they often choose to be invisible. Almost nothing slows retail sales, for example, quite as much as a big sign in front of a mall that reads, “under receivership.”

Rather, receivers often will work to keep existing management in place, enhance

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the property's marketing and make necessary physical improvements. Guests of a hotel in receivership, for example, should not notice a difference in their hotel experience if the receiver is doing a good job. Working behind the scenes, a receiver often can stabilize a property and make sure the asset has value when it comes time to sell. And at that time, the receiver-broker relationship can be critical to both parties.

### Broker benefits

Although the court guides receivers in terms of the sales process, receivers often are free to work with the mortgage broker of their choice to handle the transaction.

While the economy has floundered, it is clear that there is a tremendous amount of private capital sitting on the sidelines. For a receiver who has righted the ship of a distressed property, it is critical to find a mortgage broker who can tap into those investment dollars and provide financing to potential buyers so that the asset can be sold at a price acceptable to all parties.

Receivers typically look for brokers who have experience financing properties in receivership and who understand the nuances associated with such properties. A receiver typically sells a property free and clear of liens and on an as-is basis, and title is conveyed through a receiver's deed. Lenders often find these receivership-related aspects of the transaction to be confusing

and challenging. This is where an educated mortgage broker can be a problem-solver.

Building the right team of professionals simply makes the receiver's job easier and results in faster, smoother sales that benefit everyone from the lender, title officer, escrow agent and receiver to the broker and borrower.

The receiver's flexibility also benefits brokers and their clients. Prospective buyers can walk through and inspect a property sold by a receiver thoroughly. Also, a receiver has the benefit of considering open-market sales, listing the property on a multiple listing service, and devoting the time and attention necessary to prepare, repair and maintain a property. This means that these properties may be in better condition than those that a lender simply forecloses upon or that a developer sells in desperation when the cash flow to keep the property afloat runs out.

Mortgage brokers also can help receivers understand the lending community in a market where the receiver is not as well-versed. Brokers can use their expertise to analyze a property's fair-market value properly and secure attractive financing for the buyer of properties in receivership.

The receiver must market the property for sale and attract buyers. Once a qualified buyer is found, the mortgage broker can procure financing, if needed. In addition, with in-place financing available — subject to borrower qualification — escrow periods likely will be shorter, and the

process becomes less expensive and more efficient for all parties.

### How to find receivers

Perhaps the easiest way to connect with a receiver is to find one through a receivership or property-management organization. Another option is to seek law firms that specialize in insolvency and creditor-rights practice areas. These firms often have a list of qualified receivers with whom they work, as will various state bar associations.

As with any new business relationship, it is best to meet or speak with the receiver to see if your personalities and business types dovetail well. For example, if the receiver deals strictly with residential properties and you deal strictly with commercial properties, there probably won't be much professional benefit to the relationship. This might seem obvious, but it is important to ask the appropriate questions so that the new relationship provides benefits to each side.

The economic downturn has dismantled the real estate market's financial architecture, and the entire financial system has been releveraged. While the pain of pressing the reset button has hurt developers, lenders and brokers alike, a new opportunity has sprung out of this turmoil. By partnering together, receivers and mortgage brokers can develop symbiotic relationships that might seem at first unlikely but could ultimately profit both sides. ●