Newsletter - Vol. 6 Issue 9

September 2009

mortgagestraightTalk.com

Tel: 760-726-4600 Cel: 760-717-8584

Fax: 760-639-0785

Rod@MortgageStraightTalk.com

THE MONTH IN REVIEW

8/3-8/7 Economic reports, auto sales and corporate earnings pushed the Dow up 115 point to a 9-month high. Tuesday, public records revealed that bankruptcy filings spiked 34% in July as more U.S. households succumbed to the burden of past debt and rising unemployment. The National Association of Realtors reported that homes sales for June increased for the fifth straight month, adding to the list of positive reports

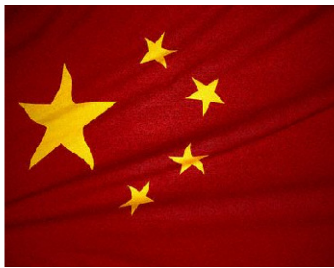
including a substantial rise in new home sales, a jump in existing home sales and the first home price increase in nearly three years. Automatic Data Processing, a payroll-processing firm, said private-sector employers cut 371,000 jobs in July, the smallest monthly total since last October. Wages and salaries, which drive recoveries in spending, fell 4.7 percent in the 12 months through June, the biggest drop since records began in 1960, according to Commerce Department. An unexpected drop of 1/10th of 1% to 9.4% in the unemployment rate triggered a triple digit gain on Wall St.

8/10-8/14 Stocks dipped Monday as investors pulled back ahead of a two-day Federal Reserve meeting and following a big rally that pushed the Dow and to its highest levels in 9 months. Stocks tumbled, again, as a worse-than-expected reading on wholesale inventories added to jitters about the ongoing Federal Reserve meeting and three-day Treasury auction. As expected, the Federal Reserve elected to keep the Fed Funds Rate near zero and said the economy has begun to level out. The announcement sparked a 120-point market rally. The number of Americans filing claims for first-time unemployment benefits rose last week, while the total number of people filing ongoing claims fell, the government said Thursday. The Labor Department reported that its Consumer Price Index fell 2.1% in the past 12 months. It was the sharpest annual drop in nearly 60 years and was attributed to lower gasoline prices.

8/17-8/21 After a run-up of 50% in five months, concerns about consumer spending and the global economy sent Wall Street into a 186-point slide, Monday. Housing starts dipped 1% and building permits fell 1.8% for July. The Producer Price Index (PPI) fell 0.9%, in July, a record annual decline. Falling oil prices were cited as contributing heavily to the drop. Wednesday, oil rose $3.23/bbl to close at $72.19. The Mortgage Bankers Association (MBA) reported that according to the National Delinquency Report 9.24% of all home loans are delinquent. The rate does not include some 4.3% of foreclosures. Mortgage lenders say the flood of foreclosures has not yet crested; the high-water mark is expected to come this fall. Both oil and stocks surged to 10-month highs Friday, after Fed chief Ben Bernanke said the economy is near a recovery and a report showed the biggest jump in existing home sales in two years.

8/24-8/28 It was an UP day for the economy on Tuesday: stocks touched new highs for '09, the August Consumer Confidence Index soared to 54 (from July's 47.4), and home prices increased 2.9% in the three months ended June 30, according to the latest S&P/Case-Shiller report. New home sales for July hit their highest level since last September. Personal income was essentially flat in July; personal spending rose 0.2% after falling 1.1% in June. The rise was in line with estimates. The stock market retreated Friday, after setting new 2009 highs, Thursday.

8/31 Stocks fell sharply Monday as investors focused on a sharp sell off in China, which raised concerns that the U.S.

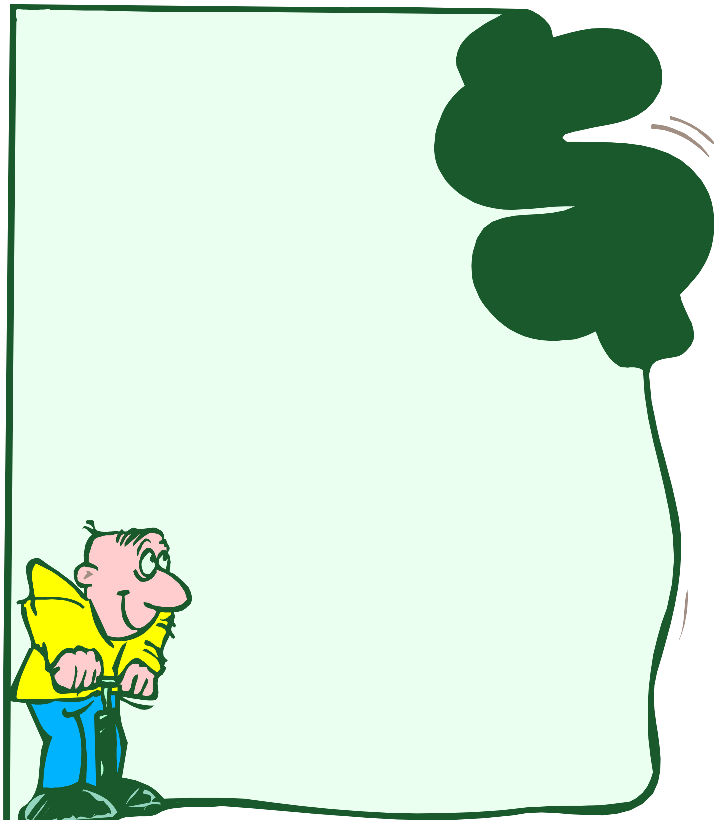


market may have risen too far too fast. September is historically a bad month for stocks and market participants are bracing for a possible pullback following a surprisingly strong summer advance.

RATE SUMMARY: In general, over the past month, conforming rates have crept up by an 1/8th and jumbo rates have dropped by ¼ %. The three programs that have remained unchanged are the conforming 30 yr. fixed @ 4.875% and the FHA/VA conforming @ 5.0%.

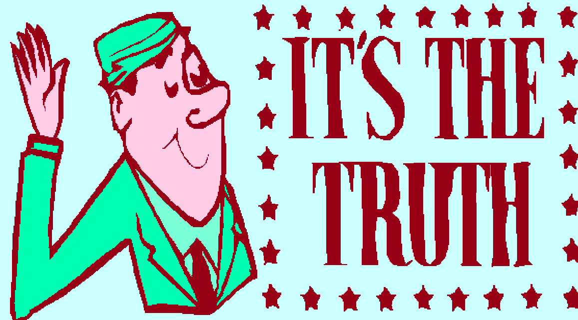
FOR CURRENT INTEREST RATES FOR 16 OF THE MOST POPULAR PROGRAMS GO TO: www.mortgagestraighttalk.com Then, click on the menu tab labeled "RATES". The rate sheets are updated every Friday.

Six more lending casualties were (racked up this month. This brings the running total to 358 mortgage lenders that have "imploded" since the beginning of 2007, meaning that they have halted major operations, filed for bankruptcy or become a "fire sale" acquisition of another lender.



THIS ISSUE'S TOPIC: THE TRUTH-IN-LENDING ACT

The purpose of the Truth-In-Lending Act (TILA) is to ensure that credit terms are disclosed in a meaningful way so borrowers can compare credit terms both more readily and knowledgeably. Before its enactment, borrowers were faced with a bewildering array of credit



terms and rates. It was difficult to compare loans because they were seldom presented in the same format. Now, all creditors must use the same credit terminology and expressions of rates so that consumers can shop for their loans. The problem was akin to one that grocery shoppers often faced in the past: which is the better buy—11.5 oz of coffee @ $5.39 or 1 lb. at $7.50? Nowadays, grocery stores are required to display the cost per oz. so that consumers can make an informed decision. (Incidentally, the answer to the above question is the former (46.869 cents per oz. vs. 46.875 cents per oz.). Similarly, the lender must disclose to the borrower the annual percentage rate (APR). The APR reflects the cost of credit to the consumer. In addition to the interest rate it contains other items such as origination fees and discount points.

The APR Is Not the Same as the Interest Rate

Despite its avowed purpose, the TIL is, nevertheless, a document that borrowers routinely have questions about. Federal regulations require that lenders provide this disclosure to the borrower with in 3 business days of receiving a loan application. Once borrowers receive it, a loan officer typically receives a phone call that goes something like this: "You told me that my rate was 5% and this TIL thing here says it's 5.22%. What gives?"

The problem is that borrowers typically confuse the actual note rate (interest rate) with the **APR.** THE APR IS NOT A BORROWER'S INTEREST RATE. INSTEAD, IT **IS A MEASURE OF THE TOTAL COST OF A LOAN TRANSACTION EXPRESSED AS A YEARLY INTEREST RATE**.

APR = Interest Rate + Lender Fees

When a mortgagor applies for a loan, it is for a specified amount, say "X" dollars, at a particular interest rate of say "Y%" for a term of "Z" years. The lender computes the monthly principal & interest (P & I) based on the loan, rate and term. But the government says this is not enough information for a borrower to make an informed decision. So, if the lender makes a loan in the amount of, say, $100,000 at 5% for 30 years, the lender must remind borrowers that they are also paying certain fees to the lender to obtain the loan which is reducing the actual amount financed and raising the cost of obtaining the loan above the actual note rate. Again, using the $100,000 example, if this is the loan amount, but the lender charges fees in the amount of $2,500 at closing, then the actual amount financed is $97,500. Thus, the loan amount less the fees equals the amount financed and the true cost of obtaining the loan would be displayed in the percentage rate on an annualized basis or APR.

Example

An example with actual lender fees may better illustrate the concept. Let's say a borrower wishes to obtain a loan, once more, in the amount of a $100,000 at an interest rate of 5%. Naturally, as every borrower has experienced, there are costs associated with obtaining a home loan. Principally among them are underwriting fees, a loan processing fee, a doc prep fee, perhaps a loan origination fee, and possibly PMI, as well. Now, allow me to assign some real world numbers for these different fees: underwriting, $750; loan processing, $500; doc prep fee $250; an origination fee of 1% or $1000; and to simplify matters let's say there is no need for PMI because the Loan to Value (LTV) is 80%. After plugging in the numbers one finds that the payment would be $536.82 per month to borrow a $100,000 at a 5% fixed rate for 30 years. With an origination fee of 1% or $1000 plus $1500 = ($750 + 500 + 250) in loan costs, this would give us the same $2500 in lender fees in the previous paragraph and yield an APR of 5.22%, not the 5% that borrowers often mistakenly believe. (You'll have to take my word on this because one needs a mortgage calculator to do the math). It only stands to reason, though, that if there are additional costs involved, that the true cost of borrowing is going to be higher than the actual note (interest) rate.

Although it has obvious value, looking solely at the APR is a flawed way to comparison shop for a mortgage and can cause borrowers to make costly wrong decisions because of certain implicit assumptions. To see why and for a more in depth explanation of APR see the Feb. '08 issue of my newsletter on my website at www.mortgagestraightTalk.com

Newly Enacted TILA Revision

I had scheduled a piece about the TIL disclosure for the December newsletter but because of the **Mortgage Disclosure Information Act (MDIA),** a newly enacted revision to the TIL this past month, (it went into effect on July 30, 2009) I decided to move up its publication date. The purpose of the amendment is to provide consumers with loan disclosures BEFORE they pay any fees for an application, order an appraisal, inspections, etc. The reason that the authorities felt the need to enact new regulations was because many mortgage brokers and lenders often collected fees covering appraisal, credit and various other charges at the time of application—sometimes amounting to hundreds of dollars and thereby tethering them to the lender

Critical Changes

Unfortunately, as with so many governmental regulations, the unintended consequence of full disclosure is further obfuscation and almost always more paperwork and delays. The net effect of these changes is that, in some cases, the various waiting and delivery requirements may extend or delay closing. Among the changes are receipt of loan disclosures, ordering appraisals, collecting fees and various required waiting periods.

Lender Disclosures and Delivery Requirements

As previously mentioned, BEFORE an appraisal can be ordered and fees collected the borrower must receive loan disclosures from the lender. **There are three means of transmission for loan disclosures: 1) in person delivery, 2) postal mail, 3) electronic (either fax or email).** If the disclosures are mailed (postal), it is presumed that the borrower is in receipt of them 3 days after the date they are sent at which time fees can be collected for additional services. If the lender delivers disclosures to the borrower in person, an appraisal can be ordered and fees for these services can be collected at that time.

In the event that they are delivered electronically (via fax or email) the lender may consider the borrower to have received the TIL upon evidence of actual delivery in the form of an email response from the borrower confirming receipt. Despite requests to the contrary, most lenders, at present, are postal mailing lending disclosures, thereby adding three days to the close of

escrows. These disclosures affect all mortgage loans secured by any primary, secondary, or non-owner occupied dwelling. As a consequence, the changes may delay the appraisal, affect the lock expiration or other necessary services which may impact the closing date of a purchase or refinance.

Changes in Fees

If there are any changes to the loan (such as changes in loan parameters, changes in loan fees, or interest rate) that change the APR at loan docs by more than .125% from the previously disclosed APR, a new TIL must be re-disclosed and delivered to the borrower which would entail another 3-day waiting period must elapse before the signing/closing date.

What might cause the APR to increase following the initial disclosure? Lots of things. If the interest rate is not locked, but allowed to float, and the rate were to increase would be one example. Or, perhaps, the lender got inaccurate estimates of costs from third-party participants in the transaction, such as the escrow company. Or say that unexpected, 11th-hour junk fees materialize. All these events, which have been frequent sources of consumer complaints, could force the lender to re-disclose loan costs and set back timing for the close of escrow.

Multiple waiting periods

The rules require that new mandatory waiting periods must elapse before loan documents can be signed or a loan closed. **A loan cannot close until 7 days after the lender mails the initial disclosures to a borrower regardless of how the TIL was delivered**. The 7 day waiting period occurs only once. Saturday is included in the 7 day waiting period. **Should a re-disclosure be necessary the signing would need to be postponed 3-6 days:** If a lender mails the disclosures, receipt would be presumed after 3 days via postal delivery at which time the 3 day waiting period would begin, resulting in a total of 6 business days). If the disclosures were faxed, emailed or delivered in person and the borrower signs, dates, and faxes or emails them back to the lender the same day, the total time would be limited to the 3 day wait/review period. **There may be multiple 3-day waiting periods.** Preliminary HUD-1s (estimated settlement costs) are due three business days before closing. Also, **the new Fed rules require lenders to deliver a copy of the real estate appraisal to the borrower 3 days before the scheduled closing on the loan.** Now the timing of the loan closing itself is dependent upon the borrower's receipt of the appraisal in advance. The exception here is that **the 3 day rule can be waived if the borrower doesn't think receiving the appraisal is necessary.**

As has been shown, per the revisions to the TILA, there are a variety of changes that may critically affect a transaction's closing date.

5 STEPS TO A QUICK HOME SALE

I know it's a little late in the selling season to present this, but sometimes—better late than never.

1. You have to seriously undercut the competition

Selling a home in a down market almost inevitably means settling for a disappointing price. But to unload your home fast, you're going to have to dip 10% to 15% below what comparable homes in your neighborhood recently sold for. You still may not be able to compete with foreclosures and short sales, but at least you stand a chance of getting buyers to notice your listing.

To prevent yourself from becoming overly attached to your asking price, try to determine the lowest possible offer you'd accept before your listing hits the market. That will help remove your emotions from the negotiating process later on.

2. Outside fixes have the biggest impact

Since your house won't be cheaper than the distressed property down the block, it has to look far better. But you may not have the time or money to redo the kitchen, so focus on cosmetic improvements that will bring the most buyers to your door.

Spending a grand can go a long way toward improving your home's exterior. Get the outside of your house power-washed, paint the door, replace the knocker, and hire a gardener to give your yard some TLC.

3. First-timers are your friend

The most efficient way to market your home is to target the most likely buyers. First-timers bought over half the homes purchased so far this year, thanks to a new federal tax credit and the flexibility to buy without the burden of selling another property (low mortgage rates don't hurt either).

The average age of the first-time buyer: 30. To boost your chances of reaching the Gen-Y crowd, get yourself a snazzy online presence (see No. 4) and spread the word about your next open house through social networks like Facebook and Twitter.

4. Online tricks will make your home pop

Buyers are faced with thousands of listings. Help them find yours by peppering your description with amenity keywords like "deck," "pool," and "granite counters". Then make sure they like what they see by using a wide-angle lens to make your rooms look bigger in pictures. And set your home at the lowest end of its price range; a $299,000 home will seem expensive to a buyer in the $250,000 to $300,000 range, but a $301,000 home is a deal to someone looking between $300,000 and $350,000.

5. Your secret weapon is a speedy deal

It can take months for banks to approve a deal for a short sale or a foreclosed property. Make sure your agent lets potential buyers know that you can close the deal within a few weeks.

Another advantage you hold over distressed sellers: the ability to be creative in negotiations. If a potential buyer is wavering, offer to pay part or all of the closing costs or cover a year's worth of association fees. At the very least, consider throwing in some new appliances or a paint job. After all, in this market no one is going to want a home that doesn't seem like a bargain.

FORECLOSURES—SELLING LIKE HOTCAKES!

In many markets, if you want to buy a repossessed property, you better come with your best offer first—and fast. REOs, the industry term for homes repossessed by lenders and put back on the market, are often selling in a day—or two. "For every listing that comes out, we have 10 buyers," said one agent. San Diego buyers face the same trend. Agents have one or two REO listings now, compared with 15 or 20 a year ago. And there's almost no negotiating, no back-and-forth, after the initial bid. Many realtors observed, "We don't get a counteroffer. The sellers just ask for your highest and best bid. If you're not prepared to send in your best bid the first day, you may as well stop looking."

This kind of cut-rate pricing is very common. Instead of holding onto REOs for the best prices—and paying the property taxes and maintenance and heating costs—banks are selling the homes as quickly as possible. In this market, if they can liquidate them fast, it makes more sense to get them off the books.

The hot spots for this fast-paced foreclosure activity are in the former bubble markets where foreclosures soared—California cities like Sacramento, Riverside and San Bernardino. On average, inventories of California homes under $300,000, the most popular price point for foreclosure buyers, have shrunk drastically, from a nearly 10-month supply a year ago to less than three and a half-month supply today, according to the California Association of Realtors. Between June 2008 and June 2009, the number of bank-owned properties diminished by 26%, nationally.

The industry attributes the drop in inventories to foreclosure prevention efforts by the current administration and various state governments. In particular, they cite moratorium programs that, at the very least, postponed foreclosures. The bad news is that as the moratoriums lapse, more REOs will likely hit the market. That's because these efforts tend to delay foreclosure rather than stop it. With Option ARM loans recasting between now and 2011, there's every indication that a tsunami of new properties will be coming to the market later this fall.

Another source of foreclosures are re-defaults on previously modified home loans, especially if the economy doesn't perk up

soon. In fact, last year the U.S. Comptroller of the Currency found that 53% of loans that were modified in the first half of 2008 fell back into arrears.

BUT, THERE'S A FRESH BATCH EVERY MONTH

In July, there were more than 360,000 properties with foreclosure filings—including default notices, scheduled auctions and bank repossessions—an increase of 7% from June and 32% from July 2008, according to RealtyTrac, an online marketer of foreclosed homes. The jump occurred as several foreclosure moratoriums phased out. They were initiated by many states to give the administration's foreclosure-prevention efforts time to work. But for many help did not come: The modification and refinancing programs have met with less success than hoped.

RealtyTrac cited the two primary reasons as being due to option ARM resets, triggering defaults and more prime loans, which are failing due to job losses. The worst hit areas continue to be in the "sand states", with California posting the highest number of total filings—108,104, and Nevada—posting the highest rate of foreclosure at one for every 56 homes. The other hardest hit states are Arizona, at one filing for every 135 homes, and Florida, at one for every 154. Las Vegas, with one for every 47 homes, had the highest rate among metro areas. That's Sin City's 31st consecutive month topping the list. These were bubble states, where home prices soared and banks financed mortgages for anyone who could fog a mirror. The firm stated the highest levels of foreclosures were in the markets that had the highest appreciation [during the boom] and the worst lending practices.

HURRY, ONLY 45-60 SHOPPING DAYS LEFT

The **$8,000 TAX CREDIT FOR FIRST-TIME HOME BUYERS** ends on November 30th, 2009. With the newly implemented Home Value Code of Conduct that adds an extra step or two by requiring mortgage brokers to go through Appraisal Management Companies (AMCs) and the various waiting periods under the Mortgage Disclosure Information Act transactions are requiring more time to close. So, it is advisable to initiate one's purchase no later than October 15th in order to close by the end of November and qualify for the first-time home buyer tax credit.

MORTY'S MAILBAG

Q. In your last newsletter you seemed kind of pessimistic about the economic outlook even though we've seen a 50% rise in the stock market since March. Why?

A. The reason that the stock market is up is due to firm's cutting costs or selling off assets which temporarily enhance the bottom line, not because of increased sales or a resurgence of consumer demand. The stock market is ordinarily a leading indicator of where the economy is headed, usually by about 9-12 months. But, my sense is that U.S. consumers are nowhere near as ebullient as Wall Street has been. Consumers haven't returned to the market place and consumers are responsible for 70% of Gross Domestic Product (GDP). (The one exception was the auto industry's Cash for Clunkers program, but even that was fore-shortened and was not truly consumer driven; it was a government subsidized program). GDP fell by 3.9% last year and while it is improving, the rebound isn't very strong. Though the stock market is up, consumers are also up to their necks in debt and U.S. consumer credit shows the steepest contraction in over 5 decades. What this suggests is that a new paradigm of savings, asset liquidation and debt repayment is being ushered in, one that will put a firm ceiling on overall demand growth for some time to come.

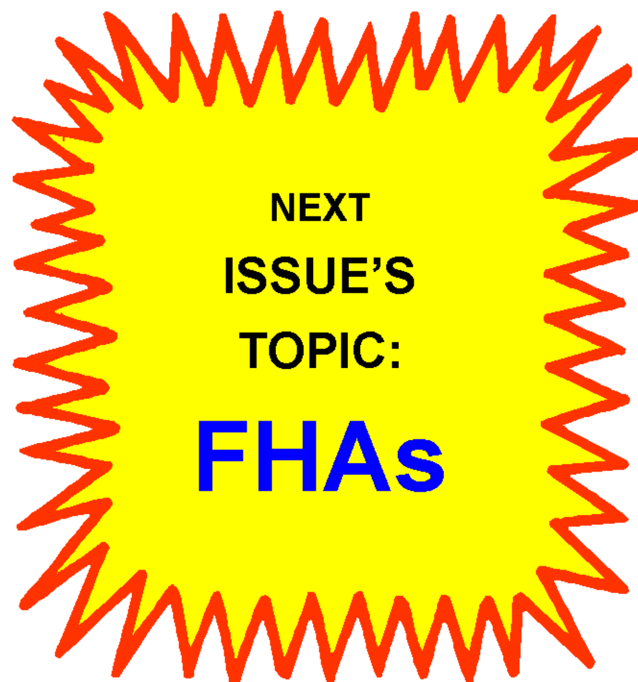
Commercial bank lending in July showed a record contraction of $64 billion, which is the equivalent of a 12%

annualized decline. This was the third month in a row of declining bank credit to households and businesses and totaling some $149 billion. I'm not sure a recovery can be sustained without credit creation.

U.S. wholesalers stocks plummeted 1.7% in June, the 10th straight month of decline and twice as much as expected. What this suggests is that businesses were cutting inventories sharply because they remain skeptical about a return in demand.

With the real estate and financial markets having been in the dumps the past few years and my being in real

estate, I grant you I may have a more jaundiced view of the recovery but, I firmly believe that Wall Street does not appreciate the magnitude of how much overhang in the form of troubled and toxic assets that remains on banks balance sheets which is why I view the recent stock rally as premature.



As for home building and manufacturing, two other possible growth engines, I do not expect a traditional rebound in these sectors, largely because of the overhang of unused capacity remains enormous. As for commercial real estate, it isn't expected to hit bottom for three more years. Delinquency rates on commercial loans have doubled in the past year to 7% as more companies downsize and retailers close their doors, according to the Federal Reserve. The commercial real estate market's fortunes are tied closely to the economy, especially unemployment, which registered 9.4 percent last month. As people lose their jobs, or have their hours reduced, they cut back on spending, which hurts retailers, they take fewer trips, affecting the hospitality industry, and so on down the road.

So, despite an up-tick in consumer saving, debt levels have only barely begun to come down. Even after the recession ends, economists expect the gradual reduction of the nation's massive consumer debt to take years.

Finally, unemployment is not expected to crest until sometime next year or possibly 2011. Consequently, I foresee a limping economic recovery with a demand curve weakened by rising unemployment and underutilized capacity.

Recipients of the newsletter are invited to Ask Morty any real estate or financing questions. The answer to the question will be answered either by phone or email and posted in the next issue for the benefit of all. Questions may be forwarded via mail phone or fax. Due to the high incidence of spam, if you email me a question it needs to identified as "real estate question" on the subject line of the email. (See front of issue for phone and fax numbers). Morty's email address is **Morty@mortgagestraightTalk.com**

MORTGAGE MIRTH

Arguing with a lawyer is like mud wrestling with a pig: after a while you realize that the actually enjoys it.

If you'd care to share one that you've heard, please email it to me at....

Rod@mortgagestraightTalk.com