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# mortgagestraightTalk.com

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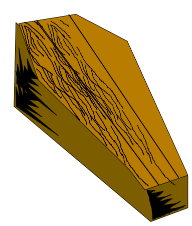
## THE MONTH IN REVIEW

**2/1-2/5**: President **Obama unveiled a $3.8 trillion budget for 2011** on Monday that looks to both support the still-fragile economy and temper the nation's growing deficit. **Stocks rose over 100 points** for the **second day in a row**, Tuesday. The **Dow plunged 268 points**, Thursday, over fears of sovereign **debt woes in Europe** and jitters ahead of the **January jobs report**. The **unemployment rate fell unexpectedly in January to 9.7%.**

**2/8-2/12**: The long overdue stock market correction that I alluded to two weeks ago appears to have occurred as **the market shed 103 points and closed below 10,000 for the first time in 3 months**. (Between the rally high on Jan. 19 and the low hit last week, the S&P 500 fell 9.2%, close to the 10% decline that is the technical definition of a correction). **Stocks rebounded** Tuesday, **adding 150 points**, after investors were reassured that European officials would rescue Greece from its debt problems. According to the National Association of Realtors, **the median price of U.S. single-family home fell 11.9% in 2009** to $173,200. But, in the **San Diego-Carlsbad-San Marcos market the median price rose 7.3% to $379,200.** The **White House Council of Economic Advisers**, predicted that the **unemployment rate will linger at 10%** during much of 2010.

**2/15-2/19:** The **Dow Jones industrial average rose 170 points,** for its biggest one-day point gain since Nov. 9. The rise was attributed to improved quarterly results, while a weaker dollar aided commodities. **Housing starts rose 2.8%** in January, more than expected, while the number of **building permits, a measure of builder confidence, fell 4.9%**–less than anticipated**,** according to a National Association of Home Builders report. **Economic reports released Thursday** included the **Producer Price index (PPI),** a measure of wholesale inflation and the index of leading economic indicators (LEI). **PPI rose a seasonally adjusted 1.4%** in January, versus forecasts for a rise of 0.8%. The so-called **core PPI, which strips out volatile food and energy costs, rose 0.3%** versus forecasts for a rise of 0.1%. **LEI rose 0.3%** in January after rising 1.2% in December. The **Fed raised its discount rate** by a quarter percentage point, to 0.75%. The move is largely symbolic, because banks do little borrowing at the discount window.

**2/22-2/26: Stocks retreated 100 points** after the **Consumer Confidence Index, a key measure of consumer confidence, plunged,** reflecting investors' growing pessimism about the strength of the economic recovery. After three straight months of improvement, the index dropped sharply to 46.0 in February from 56.5 in January. In view of the weak jobs market and the moderating economic recovery, Ben Bernanke said the **Fed is apt to leave the fed funds rate unchanged in the near term. New homes sales fell 11%,** the lowest level on record for a January. First American CoreLogic, a research firm that monitors housing equity, reported that 11.3 million homeowners -- **or 24% of all homes with mortgages – were underwater as of the end of 2009. Sales of existing homes fell 7.2 percent** in January. The Commerce Department reported that U.S. **economy grew at an annual rate of 5.9%** during Q4 of 2009.



**Three** more lending casualties were racked up this month. This brings the running total to **382** 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.

Rates **IMPROVED** overall, this past month.

The Conformings **SLIPPED** by an 1//8th; the 5/1 ARM was the most improved at 3.375%.

The Jumbos **FELL** in the range of .125%-.4%.

Governments (FHA & VA) were **CHEAPER** by .125%-.375%

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

# THIS ISSUE'S TOPIC: LIVING TRUSTS & POWERS OF ATTORNEY

**Disclaimer.** So that I am not embroiled in a law suit by some sue happy litigator, what follows is merely what some attorneys have stated to be the case. It should not be interpreted as legal advice or an attempt to practice law.

People often use the terms "living will" and "living trust," interchangeably, thinking they are one and the same, when in fact, they are very different documents. The confusion often arises because both are important pieces of a solid estate plan and both documents help you plan for an unfortunate event in the future, such as your death or incapacitation. Additionally, a living trust provides other significant benefits such as avoiding probate and providing tax savings.

### THE DIFFERENCE BETWEEN A LIVING WILL AND A LIVING TRUST

A **living will** is a legal document that instructs health care providers how to handle the scenario in which you become incapacitated. Many living wills, for example, instruct doctors to remove you from life support after, say, 14 days of coma or non-responsive brain activity. The living will can be a great blessing to family or loved ones who otherwise would have to make a difficult decision on your behalf.

A **living trust** is a legal relationship that you can create to hold some of your property. A trust is a three-party relationship involving a **trustor** (you, the person creating the trust), a **trustee** (the person or entity who manages the trust property, usually an attorney or bank), and one or more **beneficiaries** (the people you designate to benefit from the trust property). It is called a "living" trust because you create it while you are still alive, and it holds your property while you are alive. But, importantly, the trust continues to exist when you die.

### ADVANTAGES OF A LIVING TRUST

A living trust helps you **avoid probate**. Probate is the legal process where your will is submitted to a judge, the judge interprets the will and makes sure it is valid (meaning, makes sure it is actually your legal will), and then orders your personal representative to disburse your property according to the terms of your will. Probate is often a time-consuming and expensive process, especially if somebody challenges the will (like a family member, who under the terms of your will, thinks he/she didn't get enough from your estate). Any property held in your trust is technically not owned by you, which means it does not have to go through probate as part of your will. This can be a huge benefit to your surviving family members and loved ones.

A trust can provide significant **tax benefits**, too. For example, let's say you have a high income which places you in the 40 percent income tax bracket. You own some investment property that produces about $100,000 per year in rental income. At 40 percent, you would pay $40,000


in taxes. If, however, you instead place the property into an irrevocable living trust, the trust will probably fall into a lower income tax bracket, say 25 percent, so the trust would only pay $25,000 in taxes. You have saved $15,000 in taxes by placing the property in trust. It is important to name yourself as the beneficiary (or at least one of the beneficiaries) so as to benefit from the trust income.

Another significant benefit of the living trust is that it allows you to benefit from professional **property management.** When you appoint a trustee, you can appoint somebody who is experienced in handling whatever kind of property you place in the trust. If you put real estate in the trust, you can appoint a real estate attorney as trustee, and the attorney may be able to produce more income and provide more tax savings than you could have done on your own. Additionally, if you ever get into an accident and are left incapable of managing your property, then a trust comes in handy because the trustee handles the property, which means the property will be taken care of even though you couldn't do it yourself.

### JOINT TENANCY MYTHS EXPLODED

Some people think there are certain "end runs" that may be employed to avoid the expense of having a Living Trust drafted such as using a joint tenancy estate. As with most myths there exist partial truths, but there are almost always exceptions or details that can catch one out.

MYTH: Joint tenancy will avoid Probate
**REALITY: Joint tenancy does not avoid Probate. At best, it can delay it.**

- Probate is not avoided is one tenant is incapacitated.
- Probate is not avoided if there is a simultaneous death.
- Probate is not avoided on the death of the last survivor.

MYTH: Joint tenancy won't our impact taxes.
**REALITY: Joint tenancy can cost up to hundreds of thousand of dollars in capital gains.**

- When you are in a joint tenancy, with the first death, the survivor receives **only half** of the step up basis, and **only half** of the cost basis on the property.

MYTH: Making someone other than your spouse a joint tenant will protect your property.
**REALITY: To the contrary, doing so can cost you your property, along with your equity**.

- The entire property can be seized to satisfy a debt or judgment against the other tenant.
- You could lose all your equity.

## POWERS OF ATTORNEY

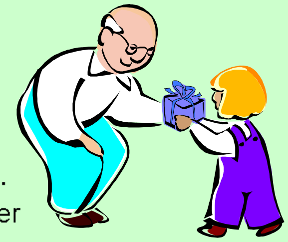
When one might need a power of attorney? Generally people find powers of attorney to be helpful in decisions regarding the following financial and personal concerns:

**Living Trusts.** As part of the process of creating a living trust, spouses commonly grant each other a special power of attorney for the express purpose of transferring their assets to the trust. In this way, the process of funding the trust can continue if one spouse becomes incapacitated. Even if both spouses maintain their capacity, a special power of attorney can effectively delegate the task of signing the transfer documents to just one spouse.

**Medical Care.** Perhaps the powers most commonly granted by individuals concerns their health care. Assume that a person (or couple, both the spouse or the partner) are in an accident and unable to make and communicate a decision about their medical treatment. Who would select, direct and, if need be, discharge their health care providers and institutions; approve or reject diagnostic tests, surgical procedures and medication programs; and, if needed, determine whether to provide, withhold or withdraw life support and all other care, including cardiopulmonary resuscitation?

By creating a durable power of attorney for health care, one can specify the person to make these decisions on his or her behalf, together with one or more successors in case his or her first choice is unavailable. This can relieve family members' anxiety because it provides answers to many difficult questions. Many clients grant a health care power of attorney as part of an Advance Health Care Directive, in which they also describe their wishes regarding heroic measures, life-sustaining treatment, organ donation and similar tissues.

**Residential and Personal Care.** A power of attorney can provide an agent with the authority to manage the principal's personal care, including the authority to decide where the principal will live, arrange for meals, hire household employees, provide transportation, handle mail and arrange recreation and entertainment. These matters are very personal. A person may be understandably hesitant to give someone else this authority. Nevertheless, many clients prefer to select the person who would have this power if they become unable to make the decisions for themselves rather than leave the decision to state law.



**Gifting and Medi-Cal.** Many individuals reduce their taxable estates by making gifts to their heirs annually, or more frequently. A springing durable power (a power of attorney that takes effect only upon the occurrence of a specified event) can allow a gifting program to continue or to commence on the principal's incapacity, without granting anyone authority to make gifts until that time. A similar power may be crafted with respect to charitable contributions. An agent also may be empowered to take certain steps to enhance an incapacitated principal's financial qualification for Medi-Cal and other benefit programs and to manage the subsequent exposure of the principal's estate to recoup for benefits received.

**Other Estate Planning.** To maximize the available estate-planning opportunities in the future, a principal may provide a spouse, heir or trusted friend with the power to modify or revoke trusts created by the principal—so long as this is also expressly allowed in the trust agreement. An agent may even create a living or other trust on the principal's behalf. There is a natural aversion to planning for incapacity—even though it can occur through accident or other mishap at any time. Perhaps it is human nature that many, particularly those who actively exercise control over the myriad details of daily life, have not yet taken the extra step to exert their influence over the way others would make decisions for them if the need were to arise.

This summary is based on the requirements of California law and is provided for your general information. The laws governing powers of attorney vary from state to state.

Although California law is fairly liberal in the powers that can be granted under a power of attorney, specific requirements must be satisfied in order for many of the powers to be valid. A power of attorney should be individually crafted and implemented to address the individual's particular situation and specific preferences.

## THE FED'S EXIT THIS MONTH PORTENDS HIGHER RATES AHEAD

The Fed has said repeatedly that their massive purchasing program of Mortgage Backed Securities is just about over—and this translates to home loan rates rising in the near future.

As you can see in the chart below, the amounts of Mortgage Backed Securities the Fed is purchasing are slowly dwindling, as the program is set to wrap up by March 31st, and are clearly trying to ration out the remaining portion. By mid-February, the Fed had purchased $11 Billion in Mortgage Backed Securities, which leaves them with $66 Billion to spend out of their original $1.25 Trillion allotment.

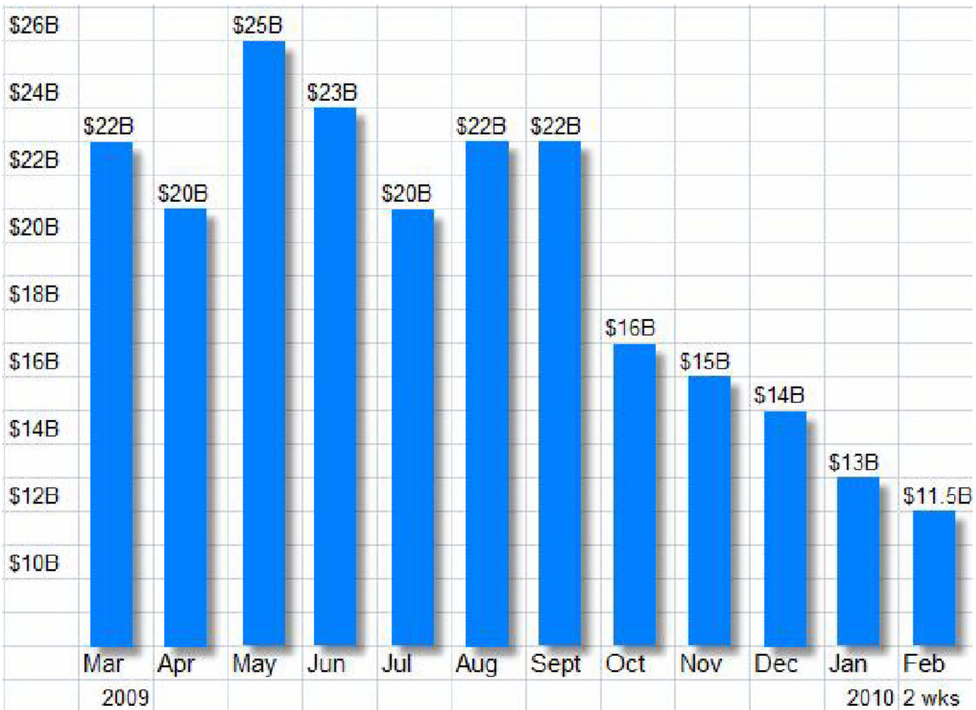


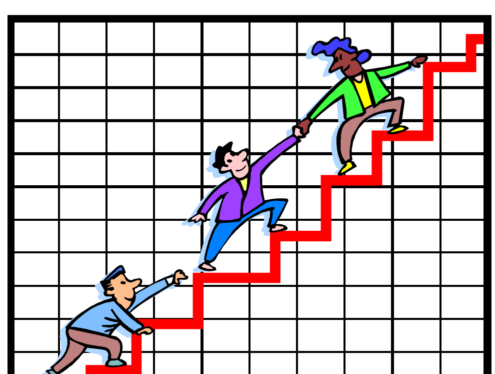

Chart: The Fed's Purchase of MBS (By Month)

So about 95% of the total has already been spent and has purchased about 3 out of every 4 home loans during the past year. When such a large buyer leaves the market, it is very likely that prices will worsen.

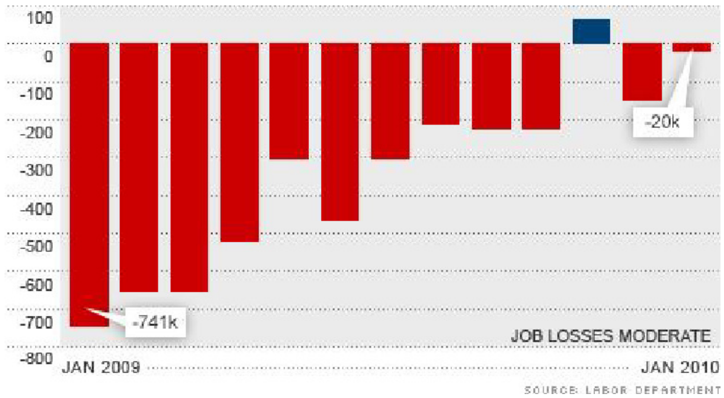
**This is very important because as the Fed has less money to last through the remaining months of the program, their ability to keep home loan rates low via their purchasing power will wane. And those who can take advantage of currently low home loan rates do not wait, as the clock on these historically low rates is ticking.**

## HOW MORE JOBS LOST EQUATES TO LOWER UNEMPLOYMENT

The Labor Department reported that there were 20,000 jobs lost in January, which was worse than the expected gain of 15,000 jobs. YET, the Unemployment Rate came in lower at 9.7%, down from last month's read of 10.0%. How can this be?



The numbers in the Jobs Report come from two separate surveys: First, the Business Survey—also called the Establishment Survey or Current Employment Statistics Survey—which surveys about 140,000 businesses and government agencies. It uses something called the "birth/death ratio" to provide an estimate of the number of jobs gained or lost each month. The Business Survey is used to report the headline number of jobs gained or lost. There is also the Household Survey, also known as the Current Population Survey, which uses actual phone calls to 50 - 60,000 households to gather its data. The Household Survey is used to report the head employment Rate.




November's job loss number was revised from a loss of 11,000 to a net gain of 4,000. While the overall trend is improving, November's numbers appeared to have been a premature blip as December's stats reversed the previous month's gains and 85,000 more Americans joined the ranks of the unemployed. More recently, the government's January jobs report showed that the disastrous labor situation plaguing the nation's economy is moderating. The unemployment rate fell unexpectedly in January to 9.7% from 10%. And businesses shed 20,000 jobs for the month, far fewer than the 150,000 jobs that were lost in December. But, at the same time, the Labor Department revised its previous estimates for the number of jobs that have been lost over the past 25 months. What they found wasn't pretty. Since the recession began in December 2007, the economy has lost 8.4 million jobs, 1.4 million more jobs than previously believed. The adjustments also showed losses for 2009 alone came to 4.8 million jobs, more than 600,000 additional lost jobs than previously estimated. The revision came about because the government had been dramatically underestimating the number of businesses that were closing due to the recession.

The labor market is a so-called lagging indicator, meaning that job growth won't truly pick up until a recovery is in full swing. The absence of job gains is an obvious hurdle for the housing market as job loss is the major cause of foreclosures and very few qualify to buy a home without being employed. While previous recessions were followed by strong job growth, the hole the economy fell into during this recession is so deep that such a recurrence is unlikely. And, though a recovery is under way, it's not the same as recovered. For that to have occurred, we would need to get back 8 million jobs. But unemployment isn't expected to return to pre-recession levels of under 5% anytime in the next six years. This could take as long as 10 years—assuming that there isn't another recession in the interim—another possibility.

While most economists certainly don't expect an explosive job recovery it doesn't mean that the stimulus plan was a failure. It was simply too meager. After all, the pace of job losses has slowed and most economists expect employers to start adding to U.S. payrolls early this year. Still, it is thought that unemployment will hover around 10% this year before gradually starting to decline—and that it will still be nearly 7% at the end of 2012.

The other part of the problem is that there is a large pool of 6 million out-of-work adults who have become discouraged and stopped looking for work and are therefore not counted as unemployed. As employers start hiring again, many of those will flood back into the labor force. That will drive up the unemployment rate. And while those jobs will be only temporary, some economists hope Congress passes additional stimulus measures early this year that will encourage private sector employers to pick up their hiring. January's report suggests that the worst of the labor decline is largely over, and many businesses are beginning to hire again. Perhaps the most encouraging sign from January's report was the addition of 52,000 temporary workers, whose hiring often signals that employers are starting to gear up again. Employers also brought many workers on reduced hours back to full-time work status in January, yet another precursor to hiring new workers. The number of workers who were seeking full-time employment but were working only part-time hours plunged by 9%, pushing the so-called under-employment rate down to 16.5% from 17.3% in December.

In previous expansions, consumer confidence was at a much higher level than it is now at this point in the cycle. Low consumer confidence and tight credit are apt to keep consumer spending in check, which in turn will curb employers from adding staff in significant numbers. When people don't have as much credit available it retards the demand for goods and services.

**SPECIAL OF THE MONTH:**
**30 YR. FIXED @ 4.75% FOR FORECLOSURE PURCHASES ONLY.**

**It allows:**

- **As little as 3% - Down for Owner Occ!**
- **As little as 10% Down for - Non Owner Occ!**
- **No MI!**
- **No Appraisal!**

## REAL ESTATE PRICES, WHITHER THEY GOEST (Part I)

As noted in The Month in Review, while the median price of U.S. single-family home fell 11.9% in 2009 to $173,200 the median price in the San Diego-Carlsbad-San Marcos market rose 7.3% to $379,200. Thus, when it comes to real estate, the afore-mentioned item serves to underscore the wisdom of two old real estate adages: ALL REAL ESTATE IS LOCAL and the three most important things about real estate are LOCATION, LOCATION, LOCATION. The overarching point here is that real estate markets differ from state-to-state and from city-to-city. In reality it's even more granular than that since real estate markets vary from block-to-block because of school district boundaries and public services. I proffer this as both a prologue and a disclaimer regarding where sales prices are headed over the next few years as evidenced by the disparate views of three economists familiar with the housing market.

Lawrence Yun, the chief economist of the National Association of Realtors (NAR), representing perhaps the most upbeat view, claims


"the [recent] surge in home sales was driven by buyers responding strongly to the tax credit combined with record low mortgage interest rates," and he believes that "with inventory levels trending down over the past 18 months, we [the NAR] expect broadly balanced housing market conditions in much of the country by late spring with more areas showing higher prices." [Unfortunately, in the past, he has been wrong more than any other national economist].


Michelle Meyer, Barclay Capital's economist for new home construction, takes a slightly different tack and foresees continuing price declines through early 2010 and an expected upturn by the end of the 2nd quarter. She thinks that as the homebuyer tax credit expires at the end of April, it will add volatility to the market during the second quarter. People will rush to get in under the wire, boosting volume and shoring up prices. After that, markets will moderate, with few showing any substantial increases.

A third position is espoused by David Crowe, chief economist with the National Association of Home Builders, who expects home prices "will moderate and stay where they are" for a long stretch. It seems to me that a synthesis of Ms. Meyer's position and Mr. Crowe's is the most likely outcome. The recent stabilization in the housing industry was primarily due to record low mortgage rates brought about by the Federal Reserve's $1.25 trillion purchase of mortgage-backed securities (which is winding down in Q1) and the homebuyer tax credit (expiring by mid year). While many real estate markets experienced a brief respite in declining home values during 2009, the entire market correction is likely far from over. As we've seen, though the jobs picture is improving, it has a ways to go. Defaults are up 15 percent from a year earlier and Standard & Poor's Financial Services LLC estimates that more than five million of the estimated 7.7 million households that are now delinquent that will go through foreclosure or related procedures over the next few years. If you total the number of newly built homes that are vacant, the number of existing homes that are occupied and for sale, and the number of homes that are vacant for sale that have been held off the market for unspecified reasons, that's over 7 million units in the homeownership sector that are either potential or actual inventory. This equates to a two-year supply of residential real estate. Difficult financing and the lack of demand for homes above the conforming limit ($417,000) will affect the group historically most responsible for pushing housing prices up—the move-up buyer. So, while different regional markets will see different rates of depreciation or appreciation, as will various price segments in the markets, we will likely reach a market bottom sometime after the middle of the year. And though we may see a modest improvement in prices in Q2, the excess supply will exert downward pressure on home prices in parts of the U.S. over the next several quarters. **(Next month, in Part II, I'll discuss the true driver in home prices).**

## MORTY'S MAILBAG

Again, there were no letters in the mailbag this month. 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

A cruise ship passes a small desert island. Everyone watches as a ratty-looking bearded man runs out on the beach and starts shouting and waving his hands. “Who’s that?” asks one of the passengers.
“I have no idea,” replies the captain. “But every year we sail past and he goes nuts.”

If you’d care to share one that you’ve heard, please email it to me at...
**Rod@mortgagestraightTalk.com**

**NEXT ISSUE’S TOPIC:**

# THE “RIGHT” REALTOR