Dodd, Frank, Jim and Betty
January 12, 2014

Jim & Betty want to buy a new home in 2014, but Dodd and Frank will make it tougher than last year.

The new Federal regulations of the Dodd-Frank Wall Street Reform and Consumer Protection Act have changed mortgage lending rules effective 10th January 2014.

The purpose of these new laws is to prevent Jim & Betty "getting in over their heads" when borrowing money. For example, where previously a Fannie Mae loan allowed 45% of your income to go to your house payment and other monthly debts (like your car), that ratio is now reduced to 43%. This 'Debt to Income' ratio will lower the price of the house you can afford.

Lenders are required to be much more fussy about your income too. Where, previously, overtime and bonuses could be 'thrown in' to determine your monthly income, this is no longer the case. Ability to repay the loan is the key. Other audits of your financial status are also more intrusive, though I have it on good authority that your telephone records will not be hacked.

The bottom line is that Jim and Betty will need more patience with the loan originator. If she keeps asking for more information, more documentation, more explanation, do not freak out. It is just a part of big government trying to protect you from - - - - - - well, yourself actually!

The opposing philosophies of personal responsibility versus government control will be at the heart of your electoral decisions later this year. Who are you going to vote for – Dodd, Frank, Jim or Betty?

Dear Dave: My parents made a fortune on buying and selling Real Estate, including their own home. I can't seem to match their success and I'm not sure why. Is there a trick to Real Estate speculation?

Answer: Your mom and dad lived in a different place and time. When you live in a country where inflation has been kept at, or under, 3% per annum for the last ten years, you can't expect to reap huge profits in Real Estate.

If everyone was gaining 10% appreciation on Real Estate each year, inflation would be at least 10% also – probably much more. Inflation is like a tornado, and the Federal Reserve Board seeks to contain it because, uncontained, it spirals up and ultimately devours your real income. Your parents lived in a less controlled economic environment and enjoyed the part of the tornado that dropped the devoured wealth of others into their backyard.

There are still people who have the skills and knowledge to predict areas of a Real Estate boom, even within a moderately growing economy, and these folks reap large profits. However, for the most part, it is not a reasonable expectation for the average person to make tons of money on Real Estate when national inflation is responsibly controlled.

Dear Dave: I was recently chatting with a Realtor about selling my home, and was disturbed to see him advertise it in the newspaper before we actually agreed on a listing. He said it didn't do any harm for him to see if he could find me a buyer. Is this right?

Answer: No – It is an offense against State Real Estate Regulations for a licensee to advertise a property for sale, lease, or rent without first obtaining the written authority of the owner to do so. In fact, the agent could lose his real estate license for such an offense.

Even advertising out front with a "Coming Soon" sign must be authorized by the Seller. If the licensee is a member of the Multiple Listing Service (MLS) they must also have the seller sign a "Non-MLS Listing Notice". All real estate licensees have an obligation to act legally and ethically, and should advise you accordingly.

Dear Dave: I thought $1,000 was the Earnest Money for a Real Estate deal. We were a bit upset recently when the Seller insisted on $2,000. What is the rule here?

Answer: There is no rule. Earnest Money is a gesture of good faith showing that you, the buyer, are serious about your offer. Indeed, that money is refundable to you under many circumstances, and Sellers are significantly risk-exposed when they remove a property from the market because they "think" you are going to buy it.

The amount of earnest money, and its conditions of refund, are matters for contractual negotiation. A good rule of thumb, and a tradition in real estate, is 1% of the purchase price. In fact, a contract can still be legal without any earnest money whatsoever, but sellers should not accept such an offer.

From a seller's point of view the logic is, "How much money down is necessary to guarantee that the buyer will not simply walk away from the deal?" Although there are legal remedies for sellers if a buyer reneges on the purchase, they are costly and time consuming. In my opinion, even 1% is at the low end of appropriate earnest money, given the seller's risk of losing 45 to 60 days marketing time if the buyer doesn't perform. Furthermore, most traditional real estate contracts favor the buyer as far as refund conditions are concerned.

Always remember that real estate contracts are negotiable in all their terms. Know what you are signing, and why. If in doubt, you may always obtain legal advice before entering into the contract.