

Special Report

***How
Conservators and Guardians
can use untapped
real estate equity
to provide cash liquidity***

The Suburban Group

Mortgage Bankers ***Probate Specialists***

How Conservators and Guardians can use untapped real estate equity to provide cash liquidity

Ever more frequently, Attorneys and Professional Fiduciaries are seizing upon using mortgage financing as an alternative to selling. Clearly, the financing concept has taken root and become an acceptable practice.

Don't Sell... Finance

Faced with the very real prospect of being forced to sell their family home to a stranger, concerned relatives often prefer to find a way to keep estate realty. In other cases, there is insufficient liquidity in the estate to pay creditor claims and the cost of administration without selling what is the major asset: estate realty. Consequently, borrowing is a quicker, less expensive and more attractive solution compared to selling estate realty.

How Much Can I Borrow?

Lenders use the protective equity remaining in the property to be used as security as the major driving force in approving these loans. Conservators and Guardians can obtain equity-based mortgages for up to 50-65% of the current appraised property value. Lenders will require that the subject property be in insurable condition, since the mortgage is primarily qualified by the soundness of the security (the property's equity).

Banks and other conventional lenders will typically ***not*** make a loan to a fiduciary (professional or private) unless the borrower is qualified individually and personally liable for the debt. However, several specialty lenders offer an alternative whereby they will use the property's equity to qualify for the loan.

Another factor, which may influence a lender's decision to lend, is whether or not the borrower is a professional fiduciary. Also, the presence of a major adversarial situation or even litigation will dissuade most would-be lenders from granting a loan.

What Kind of Financing Terms are Available?

Borrowers who qualify based on all of the lending guideline criteria can expect to obtain financing without paying a premium. However, most Conservatees and all Ward (Minor child) borrowers fail to meet all of the conventional loan guidelines and consequently best fit the equity lender program guidelines.

Interest rate premiums for equity-based first mortgages are typically 2 - 5% above the equivalent 30 year fixed rate for a conventional loan for a fully qualified, "A" paper borrower. The payment on an average equity mortgage of \$100,000 is \$944.77 per

month. Mortgage terms available are usually shorter than for conventional loans: 10-15 years on average. Shorter terms are not uncommon.

So, what can you do with mortgage financing?

Here are just a few examples:

1. Pay ongoing debts and medical bills
2. Pay attorney fees
3. Provide quick funds for emergencies
4. Pay Medi-Cal and other creditors
5. Stop foreclosure
6. Pay delinquent taxes
7. Money for repairs
8. Get “Junior” and his family out of the house (also called a “get out” loan)

Attorney Actions specific to Conservator & Guardian loans:

- Requires Court Order to Borrow in all cases
- Gain flexibility by Petitioning/Noticing for more funds than needed
- Use flexible language (i.e, “approximate interest rate”) if possible
- Provide lender courtesy copy of drafts for their review prior to filing
- Advise lender if increased bond required or likely to be required

Due to their protective nature, all California courts require loans to Conservators and Guardians to obtain power to borrow on estate realty via a Court Order. This may take from as few as several days to several months to accomplish. It’s not unusual for the step alone to take 5-6 weeks in many court jurisdictions.

Special Note: Typically, banks and other non-specialist lenders’ borrower pre-qualification letter don’t specify the ownership title vesting of the borrower. Often the lender requires the property to be transferred and vested in the name of the borrower personally at the last minute. Always demand a written statement that clarifies the loan is to be made to a Conservator or Guardian, not an individual.

Learn how you can put real estate equity to work by calling Rick Harmon at:

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