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NATION'S HOUSING

Professor advises underwater homeowners to walk away from mortgages

Brent T. White, a University of Arizona law school professor, says that it's in the homeowners' best financial interest to stiff their lenders and that it's not immoral to do so.

By Kenneth R. Harney

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Reporting from Washington

Go ahead. Break the chains. Stop paying on your mortgage if you owe more than the house is worth. And most important: Don't feel guilty about it. Don't think you're doing something morally wrong.

That's the incendiary core message of a new academic paper by Brent T. White, a University of Arizona law school professor, titled "Underwater and Not Walking Away: Shame, Fear and the Social Management of the Housing Crisis."

White contends that far more of the estimated 15 million U.S. homeowners who are underwater on their mortgages should stiff their lenders and take a hike.

Doing so, he suggests, could save some of them hundreds of thousands of dollars that they "have no reasonable prospect of recouping" in the years ahead. Plus the penalties are nowhere near as painful or long-lasting as they might assume, he says.

"Homeowners should be walking away in droves," White said. "But they aren't. And it's not because the financial costs of foreclosure outweigh the benefits."

Sure, credit scores get whacked when you walk away, he acknowledges. But as long as you stay current with other creditors, "one can have a good credit rating again -- meaning above 660 -- within two years after a foreclosure."

Better yet, homeowners can default "strategically": Buy all the major items they'll need for the next couple of years -- a new car, even a new house -- just before they pull the plug on their current mortgage lender.

"Most individuals should be able to plan in advance for a few years of limited credit," White said, with



minimal disruptions to their lifestyles.

What kind of law school professorial advice is this? Aren't mortgages legal contracts? In so-called anti-deficiency states such as California and Arizona, mortgage lenders have limited or no legal rights to pursue defaulting homeowners' assets beyond the house itself, White said. In other states, lenders may decide that it is not worth the legal expense to pursue walkaways, or consumers may be able to find flaws in the mortgage documents, disclosures or underwriting to challenge the original contract.

The main point, he said, is that too often people's emotions get in the way of clear financial thinking about mortgages, turning them into what he calls "woodheads" -- "individuals who choose not to act in their own self-interest." Most owners are too worried about feelings of shame and embarrassment after a foreclosure, and ignore the powerful financial reasons for doing so.

Buttressing these emotions is a system that White labels "the social control of the housing crisis" -- pressures and messages continually sent to consumers by the "social control agents," namely banks, government and the media. The mantra that these agents -- all the way up to President Obama -- pound into owners' heads, White said, is that "voluntarily defaulting on a mortgage is immoral."

Yet there is an inherent imbalance in the borrower-lender relationship that makes this morality message unfair to consumers, White says: Banks set the rules during the housing boom, handing out home loans with no down payments, no income checks and inflated appraisals. Now that property values have dropped 20% to 50% in many areas, banks have been slow to modify troubled mortgages and reluctant to reduce principal debts.

Only when homeowners cut through the emotional fog and default strategically in large numbers, White argues, will this inequitable situation be seriously addressed.

How does White's 52-page manifesto go over with mortgage lenders? Predictably, not well. Officials at Fannie Mae and Freddie Mac -- investors who fund the bulk of all new mortgages in the country -- disputed White's characterization of how quickly after foreclosure a walkaway borrower can obtain a new loan. It's not three years, they said, it's a minimum of five years, absent extenuating circumstances such as medical or employment problems that caused the foreclosure.

"Borrowers who walk away from their mortgage obligations face serious consequences," including severely depressed credit scores for extended periods, said Brian Faith of Fannie Mae.

In addition, he said, "there's a moral dimension to this as homeowners who simply abandon their homes contribute to the destabilization of their neighborhood and community."

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