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REAL ESTATE RESCUE

Your Guide to Buying and Selling Distressed Properties

DOMINIQUE GRUBISA

* Results may vary depending on market fluctuation and the individual circumstances of each deal.

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by
Dominique Grubisa

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Your journey starts here

Welcome to *Real Estate Rescue*. It's my great pleasure to share my story with you and, hopefully, to join your personal team as you strive for growth and success.

In the following pages, you'll not only find a course of action for acquiring wealth though successful investment in distressed property and in property development, but also a solid strategy for protecting your wealth. The information you will read is usually only available for those with extensive financial and legal backgrounds or those wealthy enough to be able to pay experts in these fields. Use it wisely.

To help you understand why I decided to put this book together, let me tell you a little about myself. Today, I am a businesswoman and mother and, to be honest, I have always been ambitious. After finishing school, I studied law and began work in the highly challenging area of debt collection. Through a lot of positive action I eventually achieved my dream of becoming a barrister.

But my story really only began there.

I was interested in property investment at a relatively early age. Unfortunately, owning multiple properties without enough protection for those assets became my downfall. But it was also the basis of my redemption and the reason I am able to present this material to you with confidence.

They say there is no substitute for experience and when it comes to understanding debt and asset protection I can confirm this is the stone-cold truth.

I lost *everything* I had worked tirelessly to build up after a project I had invested in went bust and lawyers targeted me because I had wealth they could access. My wealth was not protected and I lost a court case I will never forget.

My low point came when I had no choice but to live in my mother-in-law's lounge room. I spent many days there crying in my pyjamas trying to make sense of it all; that experience motivated me profoundly.

I have used those memories and the knowledge I accumulated in sifting through the ashes to understand what happened to me and my family to form the career that I am known for now. I have gone on to become an educator, author and speaker and one of Australia's leading experts on debt. I have even appeared on television as "Sydney's bankruptcy-busting Barrister"!

It has become my passion to make the legal system fairer and more accessible for everyone and empowering people by sharing knowledge.

But I have gone further than that, I have used my understanding of debt to re-engineer an aspect of wealth accumulation: asset protection.

In this book, I introduce you to the secrets of the top two per cent wealthiest people on the planet. Then I take you through a process that I call 'real estate rescue', a strategy helps

you learn there is money to be made from distressed properties in a way that actually helps an overcommitted investor or owner. Then we comprehensively run through property development with a step-by-step guide for people with even greater property ambitions.

Finally, I explain how to protect all of your investments by making yourself, your wealth and your legacy bullet-proof from ruthless litigators. One famous phrase sums it up: “own nothing but control everything”. I will explain exactly what that means and how to do it.

It’s important to say something briefly too about what this book is not: it’s *not* how to ‘play the market’, it’s *not* ‘how to get rich quick’ and it’s certainly *not* how to manipulate others for your own financial gain. There are no shortcuts in this book, but hopefully you can turn some hard-won wisdom into wealth, self-sufficiency and true peace of mind.

It’s about understanding the well-established systems at play around you so that you can avoid losing out to them (like I did) and even make the most of it. Part of that is empathising with people and understanding how they, and we behave.

When Steve Jobs said: “the broader one’s understanding of the human experience, the better design we will have,” he was talking about computers, but it applies equally well to all of our behaviour around money. We act out of fear a lot of the time and we think we ‘need’ quick solutions. We also often confuse ‘wants’ and ‘needs’.

You don’t need shortcuts – that is false wisdom. Chasing capital growth, for instance, is often false wisdom: no market will rise forever. None. As you read this, a number of bubbles continue to over-inflate: property, the stock market, public and private debt are among them.

You can manufacture growth and certainty out of street smarts and your own hard work, and I’m not talking about following conclusions based solely on statistical research. Much of that is a great foundation of knowledge but it cannot usually tell you what is happening now. That comes from being so interested in whatever market you are invested in that you are engaging with buyers, sellers, agents and watching it so you learn to read it and act out of wisdom not on hunches.

As Thomas Jefferson said: “I’m a great believer in luck, and I find the harder I work the more I have of it.”

- Dominique Grubisa

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1. Lessons from the top two percent

There's a reason most of the wealth in Australia and the rest of the world tends to stay in the same hands. The wealthiest individuals stay that way thanks to their broad networks, their smart investments and their expert knowledge of successful financial strategies. For them knowledge truly is power.

The ancient Greek philosopher Heraclitus was credited with the curious saying 'the only thing that is constant is change'. It's never been truer: look at how technology has sped up, look at world politics, in sport there is always a new champion.

The same is true of markets and economies: they go up, they go down and people make and lose fortunes. Overall, the sense is that across markets in the Western world, people, households and nations are in far too much debt and there will be a kind of financial reckoning, a bursting of several debt bubbles. It's a matter of 'when' and not 'if' fortunes will again be lost, so great changes are coming to the financial systems we rely on, and they *will* affect you.

Exactly how they affect you depends on your ability to not just respond to, but predict and prepare for change.

Recently, Canada's Minister of Foreign Affairs, Chrystia Freeland, said all of us are living in an "era of economic transformation comparable in scale to the industrial revolution". How can we hope to not only protect ourselves and survive during this transformation, but to thrive? To embrace change, to even lead your own changes and to see opportunity in change – by harnessing *knowledge*.

The purpose of this book is to empower you to improve your own financial situation by sharing with you some of the wealth protection and property secrets of society's most wealthy individuals. The top two percent of the population in developed nations like Australia own the vast bulk of the wealth. They generally wield significant social and political power, remain wealthy throughout their entire lives, and pass on their wealth to their children. By improving your knowledge of the way the wealthiest people invest, develop and protect their wealth, you maximise your chances of joining them.

But just for a moment, stop and think about how moving into that group – the wealthiest two per cent - might change your life each day. It's not easy to do, because it seems abstract and to some extent *it is* – I am asking you to imagine yourself living a different life.

Many of you probably spend eight or nine hours a day chipping away at a job which you know is really making someone else rich, just so you can get ahead a few thousand dollars. You are good at your job, maybe even great. But office politics and forever being controlled by external forces can be draining, so a lot of the time you'd rather not be there. Come 6pm you probably go home to collapse and 'switch off' – making you unable to properly connect with your loved ones - until it's time to do it all over again the next day. Your relief comes at the weekend, on holidays once or twice a year and in your ability to buy 'nice things' – upgrading to a new car and some cool tech gadgets that impress your friends and the neighbours.

That is how many, many people live. When you are on that holiday, or when you feel the keys to that shiny new car, it seems like the hard work is worth it. That seems like the pinnacle because you don't have the *knowledge* to see another way, a much smarter way that will secure not only your future but your family's future too.

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If you were part of the wealthiest two per cent your day would look very, *very* different.

You would probably start early, with an exercise routine, before splitting your morning between important calls, interpreting the markets and managing your investments (and watching some of them blossom). You would probably drive an even nicer car to meet someone for a fancy lunch, to hear a pitch about an investment that has caught your attention, or just to network with similarly-minded people. You would spend a lot of that meeting *listening* – for ideas and opportunities – because these days it's among your best skills. Perhaps you'd drive back to the office with a diversion through a suburb whose development, or 'For Sale' signs you've been keeping an eye on. Your afternoons would be laser-focused, *completing* a key task or two and perhaps a small but powerful action to protect and grow your wealth. In the evenings you find the time to listen to loved ones before some reading and positive reflections before you sleep.

If the second scenario sounds unattainable, like the fantasy from someone else's life, then you are underestimating yourself already. Is it any wonder you are probably closer to the first picture than the second?

Successful people didn't arrive out of their mother's womb that way: they learned how to be methodical and deliberate, often overcoming difficulties and doubts. More than likely they pushed through trial and error to realise the *must* find balance: a way to finish the tasks that grow and protect their wealth.

Furthermore many, many people have moved *out* of a demographic that they seemed 'stuck' in, moving ever upwards as they adapt to a more focused, reliable routine - once they truly understood what effect their daily choices could have. Only the most focused, committed and – crucially – the best informed, moved into that top two per cent wealth bracket.

Aside from having the ability to develop discipline, successful people have something else, a special ability to overcome their fears, to see an opportunity and take advantage. As Winston Churchill said, "A pessimist sees the difficulty in every opportunity; an optimist sees the opportunity in every difficulty."

In this book I show you how to recognise opportunity, and then what to do about it.

But before we look more closely at what underpins success in that goal of growing your wealth, let's look at some basic facts - and some hard realities.

First up, wealth is not distributed evenly.

'Wealth inequality' is the term used to measure the gap between the rich and the less well off. Wealth inequality is different from income inequality because it is not about how much we earn (incidentally, the top two per cent of Australians earn a taxable annual income of *at least* A$180,000), but how much we own. Wealth comparisons measures the gap between high net worth individuals and low net worth people. In other words, those with stocks, investments and assets vs. people who don't own things of value.

The official statistics say wealth inequality is on the rise again, after falling in the wake of the GFC. The top 10 per cent in Australia now own well over 50 per cent of Australia's total household wealth, while 40 per cent of households effectively own nothing, given so many people are deep in debt.

The top 1 per cent of Australians own between 15 and 20 per cent of all wealth, with the top two per cent holding considerably more. In the United States the top 1 per cent hold a massive 38 per cent of privately-held wealth.

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In real dollar terms, Australian households in the top two per cent were worth at least A$4 million and a net worth of more than A$10 million put you in the top 0.2 per cent (based on 2011 data). Bear in mind these are likely to be very conservative figures, given we are six years on and a lot of wealth would not be declared in official figures anyway.

Worldwide, the divide between the haves and have-nots is even greater. Half the world's wealth is in the hands of 1 per cent of the world's population.

It is safe to say that to qualify for the top two per cent in Australia you must be a multi-millionaire.

It's also safe to say that once you are in that wealth bracket it is easier to stay there and continue to grow your wealth. It is widely accepted today that being wealthy affords increased opportunities to increase wealth – by a continual process of strategically reinvesting excess funds into assets that can generate profit. People in severe debt, with little left over after repayments are made, tend to spend money on items that don't produce wealth or depreciate over time – in other words they spend money on liabilities not assets.

This is how generational poverty and generational wealth both tend to grow.

It's important we do not see these numbers as defining our future though, if you have income to spare you and access to resources are in a good position to move up and if you continue investing wisely you can continue to climb the wealth ladder. Neither did you contribute to wealth inequality, although you can benefit from the system.

We are not destined to remain in the bottom half, or the top half, the bottom two per cent, or the top two per cent for that matter. Being a fixture in any demographic is *not* solely about bank balances.

For instance, it is well known that lottery winners often do not stay wealthy. In the US, they are more likely to declare bankruptcy within three to five years than the average American. Why? The sad truth is, if lottery winners don't learn how to live differently, then every purchase will inevitably be a loss. Without *the knowledge* of how to live as part of the top two per cent those lottery winners had little chance of remaining in the top two per cent. It's just a matter of time until they spend the lot and end up worse off than they were beforehand.

If only lottery wins came with a compulsory education in investment and wealth protection, if only people knew they don't know enough.

The educator and businessman Stephen Covey famously wrote that true financial independence is not about having wealth, it's about "having the power to produce wealth". We all know what knowledge is: power.

So what *knowledge* am I talking about?

First, there is the knowledge that comes with having great networks: the 'it's not what you know, it's who you know' type of knowledge. This kind of knowledge opens the door to the right lawyer and accountant, influential people who will help you to realise your dreams. This means everything from people who will help finance your plans to exclusive meetings to hear the right investment opportunities, and also people who will help you filter the gold from the rocks.

Then there's access to proven investment strategies and systems; basically access to a very high level of financial education – the kind you will find in this book.

In the coming pages will teach you how to identify bargains in the property market and capitalise on them, how to develop your properties for maximum benefit and how to protect your assets ahead of the looming debt-driven crises.

I will also help you to go far beyond that basic idea of ownership as a measure of wealth; and that in truth, one of the secrets of the top two percent: that protecting wealth comes from control of assets not from owning them.

I should make it clear that no amount of excellent and powerful knowledge will help you if you do not exercise discipline with your investment systems and strategies. If you buy shares on a random tip, without doing your due diligence, or worse, on a 'feeling' you might as well pick the winner of the Melbourne Cup based on the jockey's colours. In fact you'd have more success doing that.

You must strive to understand systems, accumulate and build knowledge and then painstakingly execute what you have learned, being agile enough to act when true opportunities present themselves. If you want to build wealth and protect it as you go, you must start now.

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2. Real Estate Rescue

With 50,000 Australians now at risk of defaulting on their mortgages, the opportunities for smart investors have rarely been better. By buying distressed properties early in the foreclosure process, you can save the owners the indignity and reputation loss of a mortgagee-in-possession sale and potentially generate truly handsome profits.

2.1 Introduction

I bought my first distressed property at the age of 26 – and I stumbled onto it more less by accident. I had no idea what I was doing and absolutely no training in property investment. At the time, there was no such thing. I just happened to be in the right place at the right time and the deal of the decade fell into my lap.

When I went to buy my next property, I, of course, wanted the same deal again: a distressed vendor with the bank breathing down their neck who was eager to sell. But to my dismay, no one advertised this kind of proposition, and each time a 'deceased estate' or 'mortgagee sale' was advertised, the property was quickly overrun by every Tom, Dick and Harry in town, pushing the price up beyond my reach.

But necessity is the mother of invention. I was determined to find a way to identify the best deals before they hit the market and to have 'inside' information that other investors simply weren't privy to. In the end, I succeeded in doing this, and now for the first time ever I am sharing it with those entrepreneurs who are ready, as the famous investor Warren Buffet put it, to be:

"…fearful when others are greedy and
greedy when others are fearful."

Just as there are very few course to teach kids about managing their finances, no one has ever set up a curriculum to teach others how everything there is to know about evaluating, purchasing, and managing distressed real estate. I don't promise to teach you everything – after all, you only really learn by doing. However, my goal is to significantly shorten your learning curve. Right now, the world of foreclosures, mortgagee repossessions and bankruptcy might seem quite foreign – and perhaps even secretive – but by the time you've worked through this course, it should seem simple.

There are many reasons people who buy homes and then need to sell them. When this happens, they put their house on the market looking for a quick sale. If they don't succeed, the lender or trustee in bankruptcy takes the home off their hands and sells it themselves. It's that simple. The trick for you is to learn how to make money from this process. In this next section, I'll take you through a crash course on the recovery of distressed asset process to help you start to identify where the real opportunities lie.

2.2 WHAT ARE FORECLOSURES AND MORTGAGEE REPOSSESSIONS?

The first thing you need is a clear understanding of what the terms 'foreclosure' and 'mortgagee repossession' mean and how they come about. Most people think these situations come about as the results of unfortunate people getting in over their heads and losing their property to the bank. While there's an element of truth here, there are actually many other reasons why properties go through foreclosure. The process can be broken down into three basic phases: pre-foreclosure; short sale; and mortgagee sale.

2.3 WHAT ARE PRE-FORECLOSURES?

The pre-foreclosure phase is where the real money is made. I have purchased properties in each of the different stages of foreclosure, but this is where your efforts will yield the greatest reward. Put simply, pre-foreclosure is the period between where a homeowner misses his or her first mortgage payment and the date when the bank commences legal proceedings to repossess the property.

You'll notice that throughout this course I use the expressions 'foreclosure' and 'mortgagee repossession'. The terms are often used interchangeably, but there are actually clear legal distinctions. With a foreclosure, the lender goes through the legal process of getting the owner off the title to the property and putting themselves on the deeds as the owner of the property. With a mortgagee repossession, on the other hand, the lender gets a court order to take over the property and sell it, although the original owner remains on the title deeds. In reality, lenders don't tend to go to the trouble of getting themselves on the title and foreclosing. They take the property as a 'mortgagee in possession' and sell it as expediently as possible whilst still achieving the highest possible market price. By law, they cannot undersell the property or even advertise it as a mortgagee or fire sale.

2.4 WHAT ARE SHORT SALES?

The foreclosure or repossession process always leads to the lender losing money – often a great deal of it. In many locations in Australia, particularly outside of the East Coast capitals, the rise of creative mortgages and soft property markets have led to a situation where home owners have become 'upside down' with their loan. They owe their lenders more than their properties are worth. Also known as 'negative equity', the situation means that by the time a homeowner pays a real estate agent's sales commission, all the costs and fees, as well as the debts associated with the property, they actually end up owing the lender money in order to sell their home. Recent research has shown hundreds of thousands of Australians have little or no real equity in their homes, while close to a million were under mortgage stress. And all this with interest rates at record lows! Just a one-percent rise in interest rates would tip a further 200,000 households into the red zone.

When home owners find themselves upside down, they have to choose between the lesser of two evils. Do they hold on and risk disaster, or should they sell up now and cut their losses?

A 'short sale' is where the lender agrees to accept full payment for the mortgage debt in an amount that is less than the homeowner actually owes. Most homeowners don't know that this is even possible, and or how to structure a short sale transaction. However, when the circumstances are right, you'll be in a position to help.

2.5 STEPS IN THE FORECLOSURE OR MORTGAGEE REPOSSESSION PROCESS

Most people believe that the foreclosure process starts when the lender sues the borrower in a court of law. In reality, it starts way before that – from the moment a homeowner misses a payment.

In a typical foreclosure process, there are actually 12 steps. Let's take a quick look at each one.

1) **The missed payment:** For a variety of reasons, a home owner misses a payment. Once a borrower gets behind, it can difficult for them to catch up.

2) **The payment reminder:** Hoping that it's just an oversight, the lender will send a gentle reminder to the borrower within 10 to 25 days.

3) **No response:** If the payment still hasn't found its way to the lender, there will be a series of more strongly worded letters, followed by a few phone calls to the homeowner to find out what's wrong.

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4) Collection: If the lender and homeowner have not come to an agreement to catch up the overdue payments by about the 60th day, the lender will turn the matter over to its internal collection department or its loss mitigation department.

5) Work out: If the lender can talk to the homeowner (the homeowner is probably getting really skilled at dodging phone calls), they will try and agree on a "work out", or loan modification to get the borrower back on track. This can include partial payments for a short period, payments added to the end of the loan, or any other of several scenarios based on the borrower's situation. This is a mandatory step for most loans and can work very well if the borrower can demonstrate that his/her circumstances are only temporary.

6) Outside collection: The homeowner has now missed three payments, the lender knows that the problem is serious, and the likelihood of the homeowner catching up is slim. The repayment is now 90 days past due and the matter is usually referred to outside lawyers to begin legal proceedings against the homeowner. They aren't typically as nice as the lender's own employees.

7) The Notice of Default: If the borrower has still not brought arrears up to date on the loan or made an arrangement with the lender to do so, a notice of default will be sent via ordinary mail to the borrower (this is a legal requirement, that a formal notice required under statute to be sent in each state).

8) Statement of Claim: If the amount owing is still outstanding the lender will file court proceedings against the borrower seeking orders for judgment on the full amount owing on the loan, repossession of the property, interest and legal costs.

9) Judgment for Possession: A judge will order the homeowner to hand over possession of the property to the lender.

10) Sheriff's Order: The sheriff gives the borrower notice that officers will be attending to change the locks – the notice will nominate a time and a day and the homeowner will need to leave the property vacant by this time.

11) Auction day: If the homeowner has not somehow gotten his/her act together, the property is auctioned off to the highest bidder; all is liquidated to pay off the lender. This is usually an anticlimactic event, except for the homeowner. This is the day he or she really starts to lose the property. If the property is passed in at auction, the lender keeps trying to sell it.

12) The new owner moves in: Once the property has been secured, the new owner or investor can fully take over and they settle on the purchase, paying out the lender.

2.6 THE BEST MARKET IS NOW

After years of declining home loan interest rates in Australia, most analysts agree the only way is up. It's likely in the very near future that we will see interest rates creeping up, putting pressure on home buyers, many of whom have overextended themselves. Even now, with interest rates at a record low, there are signs people are under pressure. The number of residential mortgages more than 30 days in arrears has been on the rise Australia-wide for the past three years and is currently at record highs in several states. The inevitable end of the road for many of these home owners will be foreclosure.

While we'll look at some of the many reasons for this worsening trend shortly, but think of this: there are currently an estimated 52,000 Australian householders are at risk of defaulting on their mortgages. As a result, the opportunities for investors have never been better.

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Real estate in general works in cycles. There are good years, and some not so good years, but overall, values will eventually increase. This has been the case for well over 100 years. But foreclosure cycles operate differently. Although some cycles are driven by real estate values, there are other factors that drive foreclosures, such as a major industry closing down, increases in the cost of living, a generally flat economy or major tax increases. Widely anticipated interest rate spikes are predicted to cause big increases in mortgage defaults in the next two years.

But for the investor, the best market and the best time to get started is now. Foreclosures happen every day, and regardless of your level of experience, or the present market conditions, I can teach you how to effectively evaluate each opportunity and pick the right one. They exist in every city, in every state, in every market condition. But to fully appreciate how the markets play into your hands, let's look at the reasons why the number of foreclosures has increased all of a sudden.

2.7 REASONS FORECLOSURES ARE INCREASING
One of the main reason foreclosures are increasing is that Australians can't seem to live on what they earn. They keep borrowing money for toys (boats, cars, resort holidays etc) that they can't afford, don't need, and can't pay for. Credit card debt keeps spiralling upward every year, and the homes people purchase (thanks to creative mortgage products that they don't understand) often leave them one pay cheque away from disaster.

1) **No and Low Doc Loans:** So-called 'creative' schemes where people are able to get a loan with little or no down-payment, with interest only payments, and without a clearly stated income (what I call 'liar loans') have led many people down a path of destruction. Many of these loans are predicated on the fact that property values will continue to rise and when they fall (as has happened in Western Australia), the walls came crashing down. After dipping following the GFC, the number of low doc loans on offer to borrowers is again surging ahead.

2) **Weak economic conditions:** A shift of many jobs off-shore to Asia coupled with a rising Australian dollar, has seen employment loss cripple entire Australian communities. Cities that were reliant on the success of just one or two main industries have had a hard time competing with the new job sectors, and the result has been an increase in mortgages in default. The mining industry has been through a major decline, bad news on top of long-term declines in the manufacturing and building sectors. Retail is also soft.

3) **Predatory lending practices:** Creditors often sell their products by advertising low rates and easy payment terms. Some are content to steal the equity of elderly and unsophisticated borrowers, with programs that are so onerous there is no way a homeowner could ever make the payments. It may be for home repairs or a refinance transaction that promises a lot of cash in hand. Sadly, the offer is too tempting for many people to pass up. This kind of loan basically amounts to theft of their equity, as the lender treats the home loan as a big ATM. With the loan recipient having inadequate income to service the debt, the lender draws out the money to meet loan repayments from a line of credit secured against the home. In the end, interest rates go up, payments become higher than the homeowner's entire monthly income, and the inevitable result is foreclosure.

4) **Teaser interest rates:** This has been a big one over the past few years: low 'teaser' rates that sound attractive – until you find out how high and how quickly they can adjust. Low market rates made access to credit easy in the aftermath of the Global Financial Crisis (GFC). Years of complacency mean even a slight bump in interest rates or one hiccup in their income results in hard times for the family.

5) **Higher Loan-to-Value and Debt-to-Income Ratios:** Twenty years ago, it was common for a homeowner to need at least 20 per cent initial deposit to buy a home. Lenders also required that

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borrowers not spend more than 28 per cent of their monthly income when their monthly debts were added in. While there was a little purse tightening after the GFC, loan-to-value percentages are again shooting up among the major banks, not to mentioned smaller less scrupulous lenders. In addition, automated underwriting practices have allowed income ratios to fly up to close to 40 percent in some markets such as NSW. There just isn't enough income at the end of the month for homeowners to make mortgage repayments. Even seasoned analysts now admit overcommitted Australian householders are extremely vulnerable to defaulting.

6) **Artificial values:** As the economy hummed along, and real estate became increasingly easier to obtain, the natural evolution was for values to go up. It's a simple case of supply and demand. As the number of 'qualified borrowers' increased, demand went up and prices grew. They grew so fast in some areas of the country, that double-digit appreciation was considered the norm.

Homeowners treated their homes as automatic teller machines, and as values continued to increase, eventually the incomes of would-be homeowners could not support the payments, and the bubble exploded.

Property speculation and artificial values were most prevalent in Queensland and Western Australia – so prices in these areas have been hardest hit. It is in these areas that lenders engaged in the riskiest lending practices and borrowers in the most rampant speculation. There is a reason why these are also the areas with the highest foreclosure rates.

Some states were hurt worse than others, but we are all feeling it in one way or another. This has left unsuspecting homeowners with artificially inflated property prices in a position whereby they can't refinance and can't sell. Their only choice left is to go down with the ship – the foreclosure route. Well that is until now – you guys will have another solution for these people.

2.8 FORECLOSURES AND SHORT SALES – NEITHER ILLEGAL NOR UNETHICAL

Yes, you will meet people in dire situations. You will be tested emotionally, and hear heartbreaking stories. You did not cause it, nor can you necessarily fix it. And you don't need to take advantage of it to make a profit. When you are negotiating free foreclosure transactions, you should never feel guilty about what you are doing. If you don't help out the homeowner, someone else will and that someone else may try and take advantage of the situation. Worse still, if no one intervenes the bank will cause untold damage and heartache for them for many months to come. You are their knight in shining armour.

Many investors will become drawn into a situation and will be tempted to take advantage of sellers. These are small-minded people with a scarcity mentality who like to create a win/lose deal. Don't do it; it will end your career quickly.

Always try to help the homeowner. You are providing a service and should not feel any guilt about doing a deal. In most cases, the bank will end up taking the property back anyway, and you are providing a way for the homeowner to save some face, maybe their credit rating, and definitely additional heartache. You are saving the bank time and money, and you expect to get paid for your knowledge and experience in solving a problem you did not create. Nothing I ever suggest or teach in any way should be construed or used for illegal or unethical practices. Do it the right way, and you will build a great reputation and help a lot of people who have their backs to the wall.

2.9 WHAT YOU NEED FOR SUCCESS

So, what do you need to make this process a success and start building a personal real estate fortune? Well, here's my short list for starters:

1) Knowledge or at least the ability to learn;

2) Great organisational skills;

3) Cash, or at least access to people with cash;

4) Patience and good listening skills;

5) The ability and love of talking to and dealing with people;

6) Lots of persistence.

If you start with these, the rest will fall into place.

A lot of people stumble at point three – access to cash. If you do happen to have stacks of cash lying around, a glowing credit report and the ability to borrow a tonne of money, it certainly does make things easier. The main thing you'll need is the drive and ability to be able to find properties to invest in.

If your cash situation is a little less solvent, and I'm assuming this is the case for most people reading this book, let me be brutally honest with you. You should not expect to be able to do no work and just have money rolling in. This won't be the case. You will get out what you put in with this system. Another piece of advice for those type A personalities like me: you'll probably get excited as you read through these materials, but don't go out and quit your day job. At least not right away!

If you put in the hard yards, you should get a return. But don't expect instant money or put pressure on yourself to achieve it.

2.10 SIXTEEN STEPS TO SUCCESS

I have developed a concise 16-step process for successful investing in distressed property.

Step 1) Locate the property. Find distressed properties and motivated vendors. Divorces, deceased estates, bankruptcies and properties that are heading into foreclosure are a great place to start.

Step 2) Contact the owner and arrange a meeting.

Step 3) Verify the initial information given to you by the homeowner.

Step 4) Conduct an investigation. (Also known as doing your homework!)

Step 5) Inspect the property.

Step 6) Calculate the value of your investment. You will never pay retail again using this system.

Step 7) Analyse your costs and profits. None of this makes any sense unless you can make a profit.

Step 8) Negotiate with the owner.

Step 9) Negotiate with lenders.

Step 10) Negotiate with lawyers. Lawyers may well be involved in the transaction, so you will need to talk to the right people, and get the wrong ones out of the way.

Step 11) Negotiate a short sale. Times are tough and lenders are in a dealing mood. You will need to set up, check, and structure a short sale for the homeowner and present it to get lender approval.

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Step 12) Negotiate the purchase. Nothing happens until the owner agrees to sell the property to you.

Step 13) Protect your interest. Once the deal is set, you will need to know how to protect your new property and avoid last-minute surprises.

Step 14) Fix it up. There will be repairs, sometimes lots of repairs!

Step 15) Sell or rent it. It's only fun if you make a profit so we will look at the specifics of making sure that you make money on your investment.

Step 16) Do it again! If you've followed the steps correctly, you'll be excited to try again. Each deal is different, and a fortune is waiting right around the corner.

THREE PHASES OF FORECLOSURE

There are three stages of foreclosure. You will quickly learn how to recognise which phase the property you are looking at is at.

1) **Pre-foreclosure stage**: This is the period between when a homeowner misses a payment, and when the lender commences legal action.

2) **Short sale**: This is where a deal can be cut with the lender to pay out the loan on the property for less than what is owed on it.

3) **Mortgagee sale**: This is where the lender sells the property.

The first phase is where we will be locating our properties in the first instance. If necessary, we can then follow them down the foreclosure path, trying to acquire them at each phase. The earlier you get to a deal, the better your chances of paying a good price for the property. By the time a property reaches the public auction stage, it will have been actively marketed and received a great deal of attention. Its owners will have been beaten up by the process and worn out. Buying at this stage may be both risky and competitive.

Are there deals out there? Yes, but they take a lot of work, and luck to get. Properties that are purchased from the lender via a mortgagee sale will almost always be bought at auction. First, almost all properties are listed with real estate agents, and at fair market prices. That makes it a little hard to make a profit. Due to the recent rash of foreclosures, you may come upon advertised 'mortgagee auctions'. Good deals can be found, but there are many professional property flippers at these things, and you're likely to end up over-bidding.

The law requires banks to sell repossessed properties through public auction and to try to get the highest possible retail value for the asset. At this point, the property may have already been fixed up, and the lender has taken their loss. They are under no pressure to wheel and deal. Most properties in tis category end up selling for within 10 per cent of the asking price.

EVERYTHING YOU NEED TO KNOW ABOUT THE FORECLOSURE PROCESS

Now let's get down to terms and details of the foreclosure process that you need to know. This section helps you get a handle on the players, documents and clauses, and exactly what happens along the way.

Security instruments: When a residential or commercial loan is made, the property is put up as collateral to secure repayment. You might better know this security instrument as a mortgage. A mortgage involves two parties: a mortgagee who is the lender and a mortgagor who is the borrower.

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The mortgagor signs a loan agreement and a mortgage, which is held by the mortgagee until the loan is paid off.

Two types of lenders: Real estate loans, secured by a mortgage, are provided by two types of lenders:

1) Institutional lenders, or

2) Private lenders.

Institutional lenders include banks, mortgage lenders, mortgage bankers, credit unions, capital real estate investment trusts and insurance companies.

Private lenders include everyone else: individuals, businesses, private companies, associations or investment groups. You need to recognise what type of lender you are dealing with because that will have a direct effect on how you approach the deal.

Mortgage lender versus mortgage broker: When dealing with mortgage entities, you want to get to decision makers. It helps to understand the roles of the two types of mortgage:

1) A mortgage lender is a licensed entity which has its own funds or access to funds to directly lend to a borrower.

2) A mortgage broker is a licensed individual or company who is committed to initiate loan applications and represent the programs of many different mortgage lenders to borrowers. Mortgage brokers earn a fee directly from the lender or the borrower, or a combination of the two.

Even though a mortgage broker may have initiated the original loan for the borrower, they will not be of any help in negotiating or tracking down the current loan information.

HOW THE FORECLOSURE PROCESS IS STOPPED

It is important to understand how the foreclosure process is stopped. There are several ways a borrower or lender can stop or stall the entire sequence of events, which could affect your timing on a purchase of the property:

- **Reinstatement:** The borrower can pay back any delinquent amounts at any time prior to judgment (and sometimes even after if the lender agrees) and reinstate the loan.

- **Forbearance:** The lender and borrower could enter into what's called a forbearance agreement, which allows the borrower additional time to bring the loan current or make other payment arrangements.

- **Bankruptcy:** If the borrower filed for bankruptcy at any time prior to judgment for possession being made, the process grinds to a halt whilst a trustee in bankruptcy takes over the homeowner's financial affairs.

- **Note modification:** The lender has the right to alter the terms in the notice to make it easier for the borrower to make the payments. While the borrower has to agree to the terms, such modifications are becoming more common with the drastic increase in foreclosures. The lender can alter the interest rate, payment amount, terms, and may even convert a variable rate loan to a fixed rate loan to keep the borrower in the home.

- **Short pay:** As opposed to a short sale, a short pay allows the borrower to pay off the lender for less than is owed while still remaining in the property. This is usually done in refinance situations and

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is still cheaper for the lender than a full-blown foreclosure. However, this is rare because it's hard for the borrower to qualify for any type of refinance any more (once they've defaulted on a mortgage).

- **Prepayment plan:** Similar to a note modification, the lender and borrower agree to a new payment plan without altering the terms of the loan. This is a great option for the lender because the foreclosure option is still readily available if the borrower doesn't follow through on the new payment schedule. This is the most common initial option, and can involve payments added to the end of the loan, bi-weekly payments, or other altered payments for a period of time until the borrower gets back on their feet.

- **Deed in lieu of foreclosure:** Here they simply sign over the deed to the lender without having to go through the drawn-out foreclosure process. If the homeowner really doesn't want the property, this saves time and aggravation for everyone involved.

EVERYTHING YOU NEED TO KNOW ABOUT FORECLOSURE PROPERTIES
Once a homeowner is upside down in their home mortgage, there is an opportunity to use this to your advantage while helping them out of a tough situation. Everybody wins!

Temporary market fluctuations, life situations, and just bad stuff can force homeowners to sell their properties through a short sale to avoid foreclosure. Most investors, and even homeowners, walk away from these situations, but this is where all your work in locating these properties and your knowledge of the process can bring you big rewards that are well worth your efforts.

Short sales occur every day, but few people know how to negotiate one, let alone how to profit from one.

Here's a simple rule that you as an investor should abide by: if the owner has less than 15 per cent equity in the property, we look at short sale opportunities. More than 15 per cent, we are buying the equity. In this section, let's focus on the short sale transaction, find out who is involved, and how to get the deal done.

2.11 WHAT DOES 'UPSIDE DOWN' MEAN?

The great Australian dream of owning a home has never looked so elusive, but that hasn't stopped people from pursuing it anyway – or the banks from granting their wishes. We all want the very best we can afford and to improve our lifestyle. Many homeowners have purchased homes way beyond their affordability limit. This phenomenon is particularly prevalent in markets where prices are sky-high and even the most basic homes cost a fortune, but it happens almost as frequently in soft markets. The phenomenon is made worse by creative lending products that don't have borrowers' best interests at heart.

Many homeowners have in the past refinanced their homes to access equity for improvements or to finance other purchases. Many now find that their total loan balance far exceeds the current appraised value of their home. When you can't sell it for enough to cover the amount owed on the home, you are upside down. In other words, your head is under financial water.

2.12 UNDERSTANDING A SHORT SALE AND A SHORT PAY

When a lender releases a homeowner from their mortgage at anything less than the full amount owed, they are accepting an amount 'short' of the agreed-on pay-out figure. The costs to legally repossess a home can be quite high, with estimates starting at $50,000 for the lender. It's not hard to see that the lender might be willing to accept something short of the entire mortgage balance in order to get out of the situation. In a short sale, the homeowner is basically paying a smaller percentage on each dollar owed.

If the lender proceeds to a mortgagee repossession, it is a legal action, and the time necessary to carry it to completion can range from months to more than a year. Once the mortgagee sale is over, the lender can file a deficiency judgment against the borrower if the amount received hasn't covered the mortgage, fees, and costs.

The problem with deficiency judgements is that they are a legal claim on the money, with no indication that they'll actually receive it. Further collection actions must be taken, and those can cost the lender even more money. Another drawback is that the lender usually has reserve requirements for non-performing loans. They must maintain liquid funds to cover the shortfall. These funds cannot be reinvested or used to generate income. As you can imagine, this isn't a fun position for the lender.

So, you can see why a lender might agree to a sale to a qualified buyer for an amount short of the mortgage owed by the homeowner.

In a short sale, there is a third-party buyer who is willing to purchase the property at an amount that will not satisfy the balance of the loan. The lender may be willing to allow this because the cost and time involved to repossess the home would cost them more than the shortfall, and they aren't certain to receive more at a mortgagee sale or auction. They will also avoid the requirements for holding reserves during the foreclosure process. A successful short sale requires that all parties involved see that it is in their best interests and that everybody stands to win.

2.13 THE FOUR PARTIES INVOLVED
There are actually four parties involved in a short sale transaction. They are:

1) **The property owner:** The owner's credit score is usually impacted the same whether they opt for a short sale or a mortgagee sale. In both these cases, most lenders will settle up without entering a default on a borrower's credit report. As an investor, this gives you a carrot to encourage the seller into a transaction. You need to convince them to look past their current situation and to think about rebuilding their financial life down the track, as hard as that might now seem.

2) **The investor who owns the loan:** Loans are bought and sold in packages in the financial market. The investors who own these loans could be a pension fund or a bank. Banks and financial institutions are regulated, and those reserve issues come into play when they have loans that are underperforming. Pension funds and private groups who purchase mortgages also have incentives to get bad loans off the books. They will also have to agree to the short sale.

3) **The servicer who is servicing the loan:** This is the business or entity who is handling the collection and disbursal of mortgage payments. Whether they were paid up front, or with ongoing transaction fees, or both, the loan servicer is not interested in continuing to try to collect payments from a borrower unable to make them. They will be the main party you deal with, but cannot individually sign off on a short sale.

4) **The purchaser buying the property:** This could be you, an investor looking for a great deal on a home purchased below the true value, or maybe it's a home in which you want to live. Either way, buying a home at a short sale can result in instant equity if you understand the process and work through it properly.

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2.14 WHO TO TALK TO

Homeowners will not have a clue where to start (or may not even know a short sale is possible) and most real estate agents don't have the expertise or they wait until it's too late. You need to get started early. Consider these questions:

Who processes short sale requests? The servicer (not necessarily the same party as the end lender) is who you need to contact about the possibility of a short sale. They will coordinate the decision as to whether they (including the end investor) want to allow it, and how much of a shortfall they are willing to take.

Why don't lenders want to do it? It's a last resort. Just as the homeowner has made a promise to pay his or her mortgage, the lender has made promises to investors as to the likely return on funds invested in mortgages. Settling for an amount short of the expected return is damaging to their credibility with investors, causing formal and informal negative effects on their ability to gather future funds for new mortgages. You've got to show them why a short sale is the best option.

Can the borrower pass a hardship test? The borrower must prove to the lender that they are truly in a hardship situation that makes it impossible to follow through on their mortgage payment commitments. Because the lender is going to take a negative hit for a short sale, they want to be certain that there is no alternative.

Who makes the final decision? The money for this loan came from an investor. This investor put up the funds with an expectation of a certain return, and s/he will make the decision as to whether the short sale is in his/her best interests or not.

Who do I contact first? Start with a loss mitigation department where the borrower is making their payments. Do not talk to the customer service people, you will get nowhere fast. Tell them you are preparing a written proposal to purchase the subject property and get a contact name, phone number, and email address for them.

2.15 STEPS IN A SHORT SALE TRANSACTION

It is critical you understand the steps in the short sale process before you negotiate. You need to know who is responsible for what and what documentation will be needed to get the lender's acceptance. Follow these 11 steps to get a successful short sale approved and to the closing table:

1) Situation analysis: After evaluating the value and condition of the property and the outstanding balance on the loan, it is determined that the property is upside down and a sale would not pay off the lender.

2) Get permission: You will need to obtain a signed borrower authorisation to make contact with the lender. They won't speak to you without it.

3) Contact lender: Contact the loss mitigation department or the person listed on the letter from the lender to the homeowner. Try to make initial contact while the borrower is right there; it is easier in case the lender wants to receive verbal authorisation as well.

4) Write hardship letter: The borrower must write a detailed letter regarding his or her situation. It must include compelling reasons for the lender to do a short sale, and that the alternative is foreclosure or bankruptcy.

5) Get repair estimates: Get three estimates from licensed contractors as to the costs to bring the property to marketable condition.

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6) Supporting documentation: Put together supporting documents to prove the hardship and paint the picture for the lender.

7) Purchase agreement: The next step is to agree with the homeowner as to the purchase price and pay-off amounts to the lender. The borrower should get zero, or the lender will not go along with a short sale.

8) Submit package: Submit the short sale package to the lender demonstrating that this is the best solution for the lender.

9) Lender evaluation: Lender will get a price opinion, which is similar to a drive-by appraisal to support value and situation.

10) Negotiate with lender: You may go back and forth a couple of times. Develop rapport with the loss mitigation specialist, but they will need to get approval from the servicer of the loan as well.

11) Close the deal: Lender will issue an approval letter to accept the short pay off. Close the deal.

2.16 DETERMINING THE SHORT SALE OFFER

A property can be valued in a variety of ways. You might get an appraiser to do a full appraisal, using the approved method and producing a comprehensive valuation report. However, it is rarely done this way in a short sale situation. The lender is usually relying on one or both of an automated valuation module (AVM) or a valuer's opinion. The computerised AVM takes data from comparable sales in the area to estimate value.

The valuer's opinion can be either a drive-by or a more thorough inspection of the property. A lot of drive-by valuations are not done at all and are only computerised or prepared by in-house bank staff. Obviously, with this style of valuation the lender can't be sure of the interior condition of the home, or even know if the non-visible, rear-side of the home is not grossly damaged or missing.

In a short-sale package delivered to the lender, we want to be sure to present a full and detailed value estimate that includes the condition of the home, and the condition that will enable it to sell in the marketplace.

You don't want to own every foreclosure property. This sounds obvious, but sometimes beginning investors try too hard to make every deal work. Most deals won't - that's just the nature of the game. In this section, we take a look at how to decide whether the deal has legs or not quickly. When you're looking at lots of properties, you can't afford to spend too much time weeding out the bad deals.

2.17 EVALUATE THE INVESTMENT POTENTIAL

A good suburb/area assessment will instantly get your mind running. Don't be afraid to take a drive around, you'll find that you can quickly evaluate any potential in a property. You will subconsciously be deciding whether to rent it or flip it. You will have a good idea of the retail price range, and what your general bottom line will be in order to make a profit.

This ability will come in time, but start out by making notes. Initially, try to make an appointment to view any home sales on the street, or drop by some open houses on a Saturday afternoon. Then work the numbers backwards. I begin with a general market price, then I subtract 37 per cent to allow for sales commissions, marketing, holding costs and other incidentals, another five per cent for a below-market sale (in case I need to reduce the price for a quick sale), and 10 to 15 per cent for repairs. Then I subtract from that my required profit margin, and I am left with a rough estimate of acquisition.

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Listing price	$500,000
Marketing and sales commission	($35,000)
Quick sale incentive	($25,000)
Repairs and renovation	($75,000)
My minimum profit	($50,000)
Maximum acquisition	$315,000

This means that unless I can get the property for $315,000 or less, it won't make sense to pursue it. Is a 10 per cent return good enough? Sometimes yes, other times no. But make sure you add in what you need to clear to make the deal worth your while. The numbers will vary depending on the suburb and property assessment, but this assessment helps weed out a lot of properties upfront.

2.18 FINDING AND INVESTING IN MORTGAGEE REPOSSESSIONS

Now that you have a solid foundation and an understanding of the pre-foreclosure market, it is time to put your business into gear, and go and make some money.

2.19 FINDING THE SELLERS

In this digitally connected age, finding sellers has never been easier. There are dozens of websites, Facebook pages and chat rooms. You can even locate distressed owners on YouTube. Try a few Google searches to see what works, including the terms, 'motivated seller', 'reduced home for sale", or 'urgent home sales'. You will get multiple hits from people trying to sell for various reasons, so make sure you do some due diligence. Look for credible sites where you can easily determine who is running the operation and why. Sites that require you to register may give you more protection. You can also utilise people finder sites if you need to locate sellers who have moved out and haven't left any contact information.

In my Real Estate Rescue course, I teach my students how to find leads for distressed sellers from a variety of sources.

2.20 LETTING SELLERS FIND YOU

Sometimes it is easy to forget that sellers are looking for us too. Thousands of homeowners around the country are thinking right now, "I wish there was someone to take this house off my hands." So ask yourself, "Am I easy to find?" Make yourself easy to find.

Even with the web ruling sales for just about everything, desperate people still go to the free local newspaper - especially the over 60s. At 2am, they are looking at the classifieds because they can't sleep so why not have an ad for them? One that simply tells them you are the buyer they are looking for. Ads like these work: "Investor seeks houses to buy", "Can't make your next house payment? Call me" or "Don't let the bank take your home from you, if you want to sell now, I want to buy now." Distressed owners will call.

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2.21 HOW TO PROPERLY CONTACT AND INTERACT WITH HOMEOWNERS
A large part of your success will be based on your ability to read people. If you can quickly discern what to say to whom, at what time, and for how long, you will have more success than you can imagine.

People in general are terrible communicators. Those who are good communicators are much more successful in getting a deal done and in building strong relationships with sellers. When seeking out properties, you must follow common sense first, and business sense second. There are entire academic studies on the theory of "first things". This basically says people give more credibility to what's first than what is second. Your job is to beat everyone to the punch, be first in line, and then more often than not, you will be the first to eat.

Remember, you will be there to solve the problem, not present a new one. Communicate like a problem solver, not an investigator. There will be rejections, and a lot of them, but rejection is like fuel for your car, you can't get anywhere without it.

2.22 FIRST OF ALL, TRY TO HELP
Help me to help you … In the end, this helps everybody!

When homeowner have fallen far behind on their payments, they often can't see the forest for the trees. Emotions can be blinding. Before offering to take the home off their hands, make sure they have explored all the other available options. The point is to be a resource to them. If there is a way the homeowner can save the home that doesn't involve you buying it, guess what? You still win! If they ever get in trouble again, you'll be the first one they call. Many deals are not done the first time round. Your first contact may just establish to them that you are knowledgeable and willing to help. You never know where your profit will come from down the line.

You will want to explore the homeowner's assets and family resources with them. Take them through the thinking process. Make sure that every possible financial resource is tapped out. This does two things: it allows you to estimate the seriousness of the situation while showing the homeowner the same thing – how serious their situation is. By the time you have helped them explore all their options and it emerges than you're only one still standing, the case to sell to you will already be made. Again, it's a win-win-win scenario.

Make sure that the owner has explored reinstating the loan, a forbearance agreement, refinancing, hardship relief and so on – everything possible to keep their home from being repossessed. You can probably tell that you must strike a nice balance between what is profitable for you, and what profits the homeowner. Think of it this way: whatever profits the homeowner through your purchase or your advice, actually profits you. You are setting yourself up as a specialist, and you will sleep better at night knowing you're doing the right thing.

At the end of the day, people in distress know other people in distress. The person whose home you help them keep becomes your free marketing representative. They will spread the word.

2.23 VERIFYING CRITICAL PROPERTY INFORMATION
It would be nice if everyone involved in the transaction was honest and had perfect memory recall. Unfortunately, that's just not the case in most real estate deals. This is even truer if the homeowner has lived there for many years. When large public corporations buy smaller companies, they do what is called due diligence on the company being purchased. This involves a very thorough examination of all the company's historical and business records. They send in a team of auditors to go over the

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books for years back. It's the only way they will move forward with the huge amounts of money at stake.

You are the corporation in this case. The purchase you're about to make is not for billions of dollars, but it is certainly enough of a chunk of money to deserve your own due diligence. Your research must be very thorough and you don't have the luxury of taking months to do it. To get on track, stay that way, and finish in a time frame that will hopefully work for the lender, you must have a plan and follow it.

If, after the initial conversation, you can see that there is potential in the deal, then we need to go hunting for facts. We start with fact gathering at its most basic level: interviewing the homeowner.

Owners want quick information based on sketchy details. As investors, we want to take our time and gather all available data in order to make a solid assessment.

Your first step, as I mentioned, is to set up a meeting with the homeowner in person. Be courteous but professional, and be sure that they understand that it might take a while, and to set aside the time necessary (usually one to two hours). If their home is full of family so that there isn't a quiet place to meet, it might take a little longer, but meet them at the property.

The kitchen table is the best place to meet, negotiate, and talk. It's their comfort zone, and you will be able to get more information from them. If that's not possible due to travel or it being tenant-occupied, then pick a neutral place like a nearby restaurant. This is second choice, however, because they may end up without some documentation that's tucked in a drawer somewhere at home.

I do not schedule appointments or pursue transactions with people who are addicted to drugs or alcohol, or who have serious mental issues. If there are those warning signs, I'm out of there. Not only is it going to be an uphill fight to get negotiations done, but their agreements and actions might be deemed unenforceable later on if they lacked the mental capacity to commit to the deal at that time.

If you are a woman, use some common sense and do not meet total strangers at their property at night or in a questionable environment. Meet in a public location, or go during daylight hours.

It is human nature to forget things, and this is especially true in situations like this one. You don't know this person very well at all, and yet you are asking highly personal financial questions. It is stressful for both of you. Go in with a list of questions so that you do not have to call them back to ask something you forgot. I carry extra interview sheets with me, and pull one out to fill out with the homeowner.

2.24 OWNER INFORMATION

Get all of the contact information for the owner: email and mail addresses, phone numbers at work and at home if they have one and their mobile number. You are not sure of the timeline for the transaction, nor their plans, so if possible, get some contact information for relatives and friends. If the deal takes longer than anticipated, the homeowners could end up moving out suddenly. Don't be left with a disconnected phone number as your only contact.

2.25 FINANCIAL INFORMATION

If you are helping homeowners prepare the hardship letter, then the owner information will need to be quite extensive, and you will want documents to back up every bit of it.

2.26 PROPERTY INFORMATION
You will probably need to contact property search firm RP Data as well as legal and title search companies at this stage, but first see if you can make your job easier by obtaining the information from the homeowner. When you set up the interview appointment, ask them to get together every document they have that pertains to the ownership of the property. They may need to go to a safe deposit box, or solicitor's office, so give them a little bit of notice. Ask them to make copies for you, or offer to make copies and get them the originals back (immediately). Everything they can give you will be one less document you'll have to pay to have printed at the Land Titles Office.

Prompt their memory by asking them to dig up everything they can, including:

1) Original deed copy

2) Plan or survey

3) Insurance policies

4) Their contract for sale from when they bought the property.

2.27 PROPERTY CONDITION INFORMATION
If there have been any recent repairs or structural work done, get all the paperwork you can get on them. There could be a caveat involved, but you also want to know about any past problems that could relate to the current value. Have any major defects been identified? In many cases, the homeowners may have tried to sell the property on their own or with an agent. Were there any potential buyers who went far enough to get an inspection? If so, you want a copy of the inspection report if the owner has one. You also want contact information for the potential buyer because they might be a candidate for a future purchase from you. Remember, you don't know where your profit will come from.

Major defects could be anything from large slab cracks to roof damage that will require replacement. You want any paperwork or inspections that mention these things. It might just make you change your mind about doing the deal at all, or at the very least, change what you will offer to reflect repairs you'll need to make. Information is king, respect it as such.

2.28 SECURING LOAN INFORMATION

Before you begin to contact lenders and caveat holders, get a signature from the homeowner authorising you to do so.

For some lenders, this won't be enough and they will require a power of attorney for the state the property is in (power of attorney forms differ from state to state).

Contact the first mortgagee first. This is the first mortgage holder, and they will be the one who typically will be deciding whether a repossession will go forward, how fast, or whether a short sale will happen. Then contact any other parties registered on the title. Use the same procedure with each, letting them know the situation and negotiating with them as to settlement of their claims, in light of the borrower's financial situation.

Of course, negotiating with other creditors registered on the title will be a bit different, as many will be losing all or most of their investments, which are subordinate to the senior lender. The key is that you must end up with a clear picture as to how much is likely to be forgiven and what may be left to pay to liquidate the claims. I tell the creditor that the debtor is in big trouble and they may not get paid at all.

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2.29 CALCULATING EQUITY

I don't know about you, but I think that this is a lot of work. You've met with the homeowner, pried into their financial privacy, done RP Data research and other legal searches, haggled with multiple lenders, and examined the home for condition and repair issues. You may even have commissioned and obtained repair estimates from contractors as well. All of this research and negotiation has one purpose: to arrive at the number reflecting the equity or profit potential in the home if you continue with this deal.

Remember, you are not actually negotiating to buy their property, you're effectively negotiating for the equity.

You have also gone out and gathered comparable information on sold properties, as well as detailed listing information on properties for sale right now.

Now we are tallying the results. What is your plan for the property? For example:

- If you are planning on flipping it, what do you expect to clear after repairs and rehab?
- If you are keeping it as a rental, what is your return expected to be?
- Do you have a buyer ready, perhaps through assignment?
- What are all the acquisition costs, including satisfaction of caveats, legal costs, Stamp Duty and repairs?
- What do you think the owner and lender will expect from a purchaser?
- Will that number work for our purposes and profit goals?

It's all pluses and minuses. Add up the cost of acquisition and rehab and subtract from what we are getting in a flip, and if the number is positive enough, then going ahead may be the decision. After all, we've got a lot of time and effort involved already.

If we are not flipping, but keeping the property for rental, we will want to look at the equity we expect to have from day one at settlement, and the expected appreciation near and long-term. We've done an analysis of the rental market, and we have determined our cash flow. We have studied how tax advantages will help our return on investment as well. If these numbers look good, we can go ahead and get our rental property ready for a tenant.

One of the best tips for new investors is to remember that this is a numbers game. The numbers either work, or they don't. If they don't work, there are a lot of other deals waiting for you.

If the plan you have for the property isn't supported by the numbers at this point, cut your losses and end the process.

If there is a high risk of the lender not working with your purchase offer, cut your losses and move on. It is nice to help an upside-down homeowner out of a predicament, but you are not a charity. You should move on to a profitable opportunity.

2.30 A FINAL WORD

Australia's property market is poised for big changes. In some states and locations, low interest rates, unscrupulous lenders, and sky-high prices have left home owners dangerously overexposed to a fluctuation in the interest rate. A tiny hike is likely to put many owners is serious trouble. And analysts agree that the only way is up for interest rates

In other states, cities and towns, property prices are soft, the result of declines in industry and the strong dollar.
Even with interest rates at a record low, nearly a million households are suffering mortgage stress and mortgage arrears are on the rise with more than 50,000 home owners behind on their payments. The supply of homes in distress is increasing every year and borrowers and banks are stuck between a rock and a hard place. Enter the entrepreneurs!

Entrepreneurs emerge from the population on demand, and become leaders because they perceive opportunities available and are well-positioned to take advantage of them. Entrepreneurs are among the few to recognise or be able to solve a problem. Entrepreneurs are innovators who are often responsible for changing business norms, embracing new processes, products or markets.

As U.S. President John F. Kennedy once famously said:

> *"The Chinese use two brush strokes to write the word 'crisis'. One brush stroke stands for danger; the other for opportunity. In a crisis, be aware of the danger – but recognize the opportunity."*

The foreclosure crisis in the Australian housing market presents savvy entrepreneurs with an awesome opportunity. Homeowners and banks are hurting. You can be the only port in the storm for both parties and profit handsomely for your efforts – you just need to know how the system works and then fill the gaping need in the market.

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3. Getting started in property development

Many fortunes in Australia have been made through property development. Just think of Harry Triguboff, Lang Walker and the Grollo family. Successful developers have the ability to see potential in a site, a vision for how it could be transformed and the tenacity to see the project through. Below you'll find an introduction to the sector. For those wanting to find out more, we run a complete course on property development.

3.1 Introduction

Australian house price growth surges to seven-year high!
Population growth in Sydney and Perth outstrips housing supply!
A population crush is pushing up Australian house prices!

These are just some of the recent headlines pointing to a continued growth in demand for residential housing in Australia.

Australia's increasing population growth and immigration rates have made residential property development a popular investment decision in Australia. Record low interest rates, high immigration, longer lives and other social and economic factors are pushing demand for housing ever higher.

As a result, property prices have grown quickly in recent years. The value of residential properties across Australia's capital cities grew nationally by an average 7.7 per cent in 2016. At the end of 2016, Australia's 9.8 million residential dwellings were worth a total of $6.4 trillion – up $274 billion in the last three months alone. The average Australian home jumped in value by $25,400 in the final quarter of 2016, reaching a mean house price of $656,800. In Sydney, the median house price passed $1 million in 2017, while the median unit price was more than $750,000.

These higher prices have pushed governments to introduce favourable policies and new incentives to encourage residential property development. Governments are rezoning new areas for residential development, reducing red tape and introducing incentives for buyers. In 2017, the NSW and Victorian governments both committed to rezoning significant new areas for residential development, while also abolishing or slashing stamp duty for many first home-buyers. States such as Victoria have announced plans to reduce red tape, including moves to accelerate approval of subdivisions.

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It’s a truly good time to be in residential property development – and we expect these conditions will attract many more Australians into the property development game.
Many of those people will be first-time developers. They may have bought, renovated and sold a number of properties – but may not have developed a dwelling from scratch. If that sounds like you, then welcome! We developed this short course to help people like you learn all the ins and outs of becoming a successful property developer.

3.2 Property Development as an investment strategy

Residential development can be more profitable than investing in established property. This is because developers are usually investing more money and adding more value than a renovation. Of course, property development is more complex than a renovation – and that may bring more risk. But there is risk in any business venture. The important thing is understanding the risks and taking steps to reduce them. Successful investment is about being ‘risk-aware’ as opposed to ‘risk-averse’.

As Warren Buffet once said: “Risk comes from not knowing what you’re doing.”

In this introduction to the sector, we will introduce you to the tools and knowledge you need to manage the risks involved with property development – and the confidence to make correct decisions. First-time developers can significantly reduce risk by following a simple piece of advice: start small and consolidate before building up to bigger and better things. Learn to manage risk on small projects and you will have a greater chance of making a sustainable and profitable career out of residential property development.

3.3 Why should you become a residential property developer?

Need more reasons why residential property development is a great path to take?
Here are six reasons:

Be Your Own Boss
Property Development is not a passive investment like buying shares. As a developer, you are a creator and an entrepreneur. You are in control and that can be very satisfying. Through your own actions and capital, you will see your own vision come to fruition by improving or renovating existing buildings or rezoning and subdividing land. Many property millionaires made a career change by starting with a small-scale residential development, and forging a new, fulfilling path.

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Make your money work harder
Low interest rates mean low returns on cash investments. The stock market is facing volatility due to global uncertainty. Meanwhile residential property remains a stronger, safer investment.
In this course, we will show you how to leverage a small amount of equity to raise the full funding of a development, earning a significant return when the property is sold. Property development offers a number of different cash flow strategies, such as funding projects by selling "off the plan" before a property is built. We will show you how to increase your profit using innovative financing and negotiation techniques. It's even possible to obtain full financing without any collateral.

Take advantage of government incentives
As we outlined above, some States have introduced new incentives to boost residential development. Depending on the location of your project, you may be able to take advantage of these financial incentives. There are a number of tax incentives for private investors to invest in property development. These allow deductions for associated expenses connected to property development.

Fund future investments
If you decide to retain your development as a long-term investment, its value will continue to increase. It can then be used to fund future projects. This strategy also offers a level of insurance in case the market changes – you can always retain properties and rent them out for cash flow.

Take advantage of growing markets
Net migration and longer lives are contributing to rapid population growth in Australia. By 2060, our population could be anywhere from 40 to 50 million, creating a continuous demand for new homes and infrastructure. Each new residential development has ancillary needs – schools, shopping centres, medical centres, etc. There are also thousands of brokers and real estate agents advocating the qualities of property as an investment, providing a continuous flow of buyers and improving property prices over time and market cycles.

3.4 How do I know if property development is right for me?

Property development is very rewarding. But we know it's a big decision to take that first step. You may be considering giving up a safe job or putting your savings on the line.
How can you be sure that this is the right path for you?

To find out, here is a list of questions that we encourage you to answer honestly:

1. Are you willing to face challenges and deal with stressful situations?

2. Can you go around, or through, or over-and-under when road blocks arise?
3. Can you persist and persevere when you hear the word “no”?
4. Do you have entrepreneurial experience or skills?
5. Are you self-driven?
6. Are you prepared to take calculated risks?
7. Do you have a keen interest in property?
8. Do you enjoy negotiating and making deals?
9. Do you have leadership or management skills?
10. Are you a creative and lateral thinker?

If the majority of your answers are ‘yes’, you probably have the right attitude to tackle this rewarding professional path. These are qualities share by all successful developers. However, it is also critical to assess your personal situation.

Here is some information you need to know about yourself:

- What is your net worth (assets minus all liabilities)?
- What is your borrowing power from a lending institution?
- What amount of time can you commit to searching for potential developments?
- How much time will you have to manage development process?
- How much money it will cost to start a development?
- How much money can you afford to have tied up for an extended period of time?
- How much money can you afford to lose if things go wrong?
- What is your investment strategy: sell or hold?

This information is not only useful for confirming whether property development is the right path for you. When you decide to go ahead, the answers to the above questions will help you decide another very important question: What is the most suitable type of residential development for your personal situation?

3.5 The risks involved in property development

Like any business venture, there are risks involved with property development. Circumstances can change without warning – and sometimes these changes are beyond your control.
The key is working out how to reduce these risks to an acceptable level. Good property development is about risk management and mitigation. The better you can manage risk, the better you will be able to handle bigger projects that offer higher potential returns.

Here are the most common risks in property development:

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Financial Risk

In property development, loss of your initial investment or equity is a possibility. You may have to sell at a loss or even face bankruptcy if costs blow-out, construction runs over time, or sales are not achieved. This can be caused by poor assumptions in the feasibility study, budget overruns, lower-than-anticipated sale prices, increase in interest rates, high vacancy rates, and inaccurate predictions of operating costs.

Tying up funds

Property cannot be sold as quickly as other asset classes such as gold or stocks. If something goes wrong – or if another investment opportunity comes up – you may not be able to access the cash you need quickly.

Loss of Equity

In most scenarios, you will supply some equity up front in either acquiring the development site or funding the construction. This equity or added value can be lost if a site is not finished and sold on time and within budget.

Missed Opportunities

Developers who don't receive the projected cash flow returns from a development also run the risk of losing other opportunities via a knock-on effect. If they cannot get in and out of a project expediently they may miss out on the next deal.

Unexpected problems with your site

As a result of impatience or poor research, developers can often pay too high a price for a site or end up with a location that is hard to market. The good news is that risk can be mitigated by strong negotiation skills and due diligence.

Unexpected events

Sometimes failure is due to process, strategy or poor management. At other times, you may be impacted by events outside your control such as shifting markets, styles or buyer demands. But even these risks can be significantly diminished through careful research and market knowledge.

Market Acceptance

While a new development concept may be successful in one city or area, it may fail in another. Traditions and trends can vary from locality to locality. By the time interest is shown you may have lost some capital. Localised research and planning for an area will help alleviate the risk.

Variations to Laws and Regulations
Property development is subject to a number of laws. Changes to laws or local authority regulations can impact expected returns.

Laws include environmental protection acts, building by-laws and building moratoriums. Careful attention to any possible changes in political and social movements can help lower the impact. In 2003, one new law caused the Sydney property market to fall and caught property developers short. A vendor exit tax was introduced by the State government, affecting sales of properties. The government wanted two bites at the cherry – stamp duty revenue from buyers and tax from vendors. When the government saw its tax revenue on property transactions plummet, it abolished the tax after one year.

Delays in Development
There are many parties involved in property development, so any delay can be magnified and have a knock-on effect. If Council doesn't approve a development, builders lining up to work are pushed back. If a lender doesn't settle progress payments on time, a site may shut down. When funds do come through, your tradies may have found alternative work. Delays can push projects into undesirable markets. For example, properties being unintentionally marketed at Christmas are affected when the market shuts down for a month. (This can be managed by placing time buffers in the feasibility study – more on this later.) Plans may be held up in Council or matters could turn litigious, ending up in the Land and Environment Court, derailing the budget and timetable.

3.6 Minimising Risk

That's the bad news – now here's the good news. Most of the above risks can be significantly reduced. Here are the main tactics for reducing risk:

Research
Researching the type of development and market area is essential to success. Thorough research prior to undertaking a specific development means a better chance of reducing the associated risks.

Contingencies
Protect yourself from financial loss during a development process by creating contingencies. From acquiring land to the completion of the project, always ask yourself, 'What if?' and work out contingency factors to protect your interests.

Limit your borrowing liability
It is important to limit your borrowing liability. Avoid signing personal guarantees on any financial borrowing, especially if the development can stand on its own. If a property has

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enough equity to suit the lender's normal lending criteria, don't be coerced into signing over any other properties as an additional guarantee, or giving a personal guarantee.

Limit your legal liability
Protect yourself from personal liability by purchasing through a limited liability company. If the worst happens, you will only lose what you have invested. This also helps protect against litigation from consultants, contractors, tenants, vendors or the public. A corporate vehicle will also protect your personal assets when applying for a loan. (Dominique Grubisa offers an asset protection service called Master Wealth Control. To learn more, please contact our office.)

Share the risk
You can share the risk (and profits) by bringing in partners. This may be a good tactic for first-timer developers.

Diversify
As you gain more experience as a developer, try to expand beyond specific types of developments and geographic areas. There is always the possibility that demand will shift from one area to another.

Get the right insurance
Insurance may seem like a waste of time. Yes, it's intangible, but unexpected situations can happen, so it's essential to be insured. Employ a good broker specialising in property development and, most importantly, read the fine print. Most insurance companies have clauses that will limit their responsibility to pay.

3.7 Part-time vs full-time property development

If you have come this far, the next step is to decide what kind of developer you should be. Many factors will influence this decision. Residential property developers come in all shapes and sizes. They can be people with other jobs who are doing development on the side. Or they can be full-time developers who have made a career out of it.

Part-time developers can include enthusiasts with a separate full-time job or someone who is expanding into bigger projects after successfully flipping a few renovated houses. They often develop with the aim of selling to the public. They may, for example, purchase a site in a Greenfield corridor and build a speculative home.
Those fortunate enough to have a property rezoned by Council to an increased density might build another home at the rear. Renovators tend to acquire properties that are run down or in a state of disrepair. They will often start alterations doing the work themselves,

or acquiring materials cheaply. Some developers in this category seek to sell at a profit, while others hold the developed property as a long-term investment.

Developers who have had success on a part-time basis often turn it into a full-time job, progressively taking on bigger projects, bringing in partners and taking advantage of more sophisticated funding models.

3.8 What development strategy suits me?

There are a number of different strategies you can follow as a property developer.
Below is a list of some common strategies. Your personal situation and goals will help determine which of these is right for you.

Strategy 1: Speculation
Speculation means purchasing and developing a property without a secured tenant or buyer. Some developers have made big sums of money in Australia by taking this route. But the risks can be high. This strategy tends to work in times of strong economic growth when there is increasing demand for new homes. Strong economic growth will likely increase property prices – and this has even been known to save developers who have made poor decisions. It's best to be conservative, especially if you are starting out. Developers who speculate should approach developments with a conservative expectation of quick and large profits, a vision of what will happen to a particular market area, and an awareness of the short and long-term risks involved.

Strategy 2: Developing first-rate properties
Many developers choose only to build 'Class-A' properties in up-market areas where demand is consistent. This strategy involves paying higher upfront costs to acquire the best development sites in the belief that higher prices and better rental rates will follow.
On the downside, fewer buyers can afford higher prices. These properties can remain unsold for longer and developers may need deep pockets to support longer holding periods.

Strategy 3: Adding value
Under this strategy, developers seek to add value to older buildings. They may buy buildings in need of repair or rezoning. Developers can significantly increase the value of a property by undertaking the proper renovations or rezoning.

Strategy 4: Selling part of a development
Some developers purchase large properties or vacant blocks of land with the intention of selling portions to other speculators or developers. This might be a large industrial area that can be developed into another use, or an existing residential property on a large plot of land

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that can be subdivided and partially sold. This strategy generates cash that can be used as a deposit for the retained portion, reducing capital exposure or reaping a quick profit.

Strategy 5: Converting properties
Some developers specialise in converting older properties that have outlived their use. Developers can create new value, for example by converting old office blocks or industrial loft space into apartments.

3.9 The phases of property development

No matter what type of property you are developing – whether you are a beginner or a seasoned expert – everyone must start with a plan. Being prepared is critical. That means having a good plan – and sticking to it.

Let's start with an overview. We will start here the 'what' and walk you through the 'how' later. There are the six main phases of the development process:

Phase 1: Research
Good research is the key to success in property development. We start out by arming ourselves with all the information needed to determine which locations have the potential to make money or not.

In this phase we evaluate potential suburbs, neighbourhoods and sites, do a preliminary market study, put together a budget, carry out a preliminary financial analysis, prepare a timing analysis and review the political climate and the Council approval process.

Here are the steps we need to undertake:
a) Become expert in at least one area – probably starting with the suburb where you live;
b) Decide what kind of development suits your goals and capability;
c) Gather information from the local Council. Get a zoning map for the area. (This document will have different names in different States (e.g. in NSW Residential 1 or R1 is a single dwelling, Residential 2 is low-density, then higher density, etc. You're looking for what you can do on certain blocks.);
d) Identify potential development sites in your chosen area;
e) Discuss your proposed development with a Council Planner.

Case Study: The case of the disappearing tree

If you are ever tempted to skip some of your research, think about this story from Martin Cork of property development company Provent.

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When it comes to residential development, Martin is a seasoned pro, having undertaken dozens of projects for himself and as an agent for others in a career spanning two decades. But even an expert can succumb to cutting corners in the rush to do a deal. Several years ago, Martin spotted a development site on Sydney's North Shore. In a hurry to close the sale, Martin bought the property having only seen it at night. Upon visiting the site in broad daylight, he was shocked to notice an unwanted feature in the middle of the site.

"I did a lot of the negotiation on this property at night and it wasn't until after I had signed the option agreement that I went there during the day," he says. "I realised there was a massive black butt tree impacting on the site, and to the local Council, black butt trees are sacred. "It could have been an absolute disaster, but in the end, we were able to successfully design around it. I was definitely a bit anxious there for a while."

Phase 2: feasibility

Once we have completed our research and checked off development requirements with a Council duty planner, the next step is a feasibility study. This is basically a business plan for your development.

The purpose of feasibility study is to demonstrate that a project will be profitable.

It's also the point when you create an actionable plan based on the information you have gathered. As part of the feasibility study we will:

a) Complete a market study and work out a preliminary program for the project;
b) Evaluate our design criteria;
c) Set a target budget and pull together our initial financial plans;
d) Set milestones;
e) Confirm zoning and required approvals.

This is where you will use software programs such as Feastudy to help create your feasibility study.

Phase 3: Preconstruction

Once we are satisfied that the project will be profitable, we are ready to prepare for construction. During this phase, we finalise the acquisition of the site, get any required government approvals and begin talks with builders and other professionals we will need for the construction of the project.

We will evaluate these pre-construction steps later in the course:

a) Organise our finance;
b) Secure the property by purchase or option;
c) Engage an architect to produce your plans and DA;
d) Evaluate prospective builders and project managers;
e) Submit a Development Application or other required documentation to Council;
f) Revise and update our feasibility study. (We will keep doing this throughout the

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project);
g) Organise Certification and Construction Certificate;
h) Begin pre-sales if applicable.

Phase 4: Construction
This is one of the most exciting moments in the process. During this phase, your development project will finally become tangible. While you may not be doing any of the actual construction work yourself, you will gain great satisfaction seeing your hard work come to fruition.
In this part of the course we will examine these steps in detail:
a) Choosing a builder;
b) The building contract;
c) Using a project manager;
d) The stages of construction;
e) After the handover.

Phase 5: Marketing and Selling (or Renting)
No matter whether you are selling or renting your property you will need to include a healthy budget for marketing. In a hot market anything will sell, but in a tighter market you need to present the project well.
In this part of the course we will look at how to prepare a marketing plan. Depending on whether your strategy is to sell or rent, the plan may include elements such as:

- Researching your target market
- Commissioning creative that suits the marketing channel. These could include: Floor plans and a list of finishes
- Professional drawings that show how the development will look on completion
- Video, animations or graphics that allow prospects to experience what it will be like living in your new property.
- Deciding which marketing channels will work best to reach your target market. This could be local newspaper ads, social media (paid or organic), letter drops or working through a property agent.

3.10 Conclusion

You now have an overview of the qualities needed by developers, how they manage risk, and the different phases of a residential property development.
If you're inspired by the role that developers play in society and the potential financial benefits of development it's time to find out more. Research truly is the key to success on any development project. It's crucial understand in detail the work involved in undertaking each stage of the project and how you'll work together with the experts involved from architect to quantity surveyor to the duty planner at council.

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If you are a first-time developer we highly recommend undertaking training to gain this knowledge. This will place in the best position possible to progress your development quickly though council, sell it to an appropriate market, and, hopefully, make a handsome profit.

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4. Asset Protection

What's the point in building wealth if it can all be stripped away from you in the blink of an eye? With major changes to the global economy and a major redistribution of wealth in the wind, countless personal fortunes will be lost. Those brave enough to face this uncomfortable truth are the ones who will survive and thrive.

4.1 Introduction

Across the world, countless personal fortunes have been built by investment in the real estate market. Just take a look at Donald Trump, the current President of the United States, whose multi-billion-dollar fortune rests largely on savvy property development. Trump grew a small fortune inherited from his father into a very large one through clever property deals in Manhattan in the 1980s and 1990s.

Several generations of Australian have also done very well from the property market. Decade after decade with some occasional glitches, house prices have gone up, usually far outstripping the overall cost of living.

But the uncomfortable truth is this growth cannot go on for ever. While it appears that there are still shorter-term profits to be made, a major global change is on the way that will rewrite the value of property in markets like Australia and the US. The same is true for the global share market, which as I write this is enjoying near record highs. A shake-up of wealth and all global financial markets is on the way that will see countless fortunes lost, redistributed, and gained. There will be many losers in countries that today lead the world for wealth and prestige.

If you feel that you can handle some hard truths – and use them to your benefit – read on. I can try to help you by showing you how to prepare and to protect yourself while you still can, before a major financial upheaval sets in.

You may not like what I have to tell you, but it will definitely be information that you can use. The good news is that there is still time to do something. Forewarned is for forearmed. Now is not the time to look for someone to cheer you up, it's the time to get your house in order. What will inevitably happen to the economies of the developed world will only spell bad news for you and your family if you don't do anything about it.

The good news is that you can definitely do a lot about it. You can actively and correctly manage your investments and protect your assets right now before it's too late.

4.2 Why should you listen to me?

I was a practising barrister with over 20 years of legal experience in commercial and debt-related matters. I have acted for both sides, debtor and creditor over the years. In certain situations, I would have been your worst nightmare if I was chasing you as a debtor. It was never personal, just my job to be ruthless and leave you with nothing.

Unfortunately, I had the misfortune to personally be on the receiving end of the legal system a few years ago. I got a taste of my own medicine when some unscrupulous people pursued me personally. It was then that I realised that in an instant my wealth and everything I had worked so hard for over the years could be taken away from me due to unforeseen circumstances beyond my control.

From a position of owning several properties, I was pursued and left with nothing. Eventually, I was forced to live in my mother-in-law's lounge room. It was a painful time, but it taught me a powerful lesson: learn from this so you don't have to go through it again.

As human beings, we fear change. When we are afraid we become paralysed. I learned a valuable lesson when things changed for me and that was that fear was my body warning me that a different course of action was required. It was my personal, in-built alarm system saying some form of action was required. We don't need to freeze or despair, just note what our body is telling us and then set about a course of action. The winds will always change and we cannot do anything about that. What we can do is adjust our sails.

So, when I listened to my fear telling me that all my wealth was exposed and could be lost because of an unexpected chain of events beyond my control, I learned how to make myself bulletproof. I researched the subject thoroughly and reverse-engineered my knowledge on how to attack people and take their wealth, in order to build the best possible defence system to shore up my own wealth so that no-one could touch it.

Whilst researching and building this system of asset protection, I realised that the very wealthy of the world have been protecting their wealth for themselves, their families and their future bloodline for hundreds of years. They are untouchable because they can afford to be. They invest in the very best systems to make sure that what is theirs stays theirs. When a dying J.D. Rockefeller was asked about the secret to amassing his vast fortune, he famously said:

"Own nothing but control everything."

While this is something that has previously been practised only by the very wealthy, it's a method that everybody needs to and should be able to access, cheaply and easily. Fortunately, I have now devised a system to enable this to happen for anyone who wants to protect their wealth and their family's future in these uncertain times.

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But firstly, let us examine why this is necessary.

4.3 What is happening with the world?

Unless you have been living under a rock or are too young to have understood what was going on, you of course know about the global financial crisis.

In 2007 and 2008, the world was swept by the worst financial crisis since the Great Depression as problems with the so-called ‘subprime mortgage’ market in the US triggered economies around the world to falter and banks to fail. The wealth and livelihoods of billions of people all suffered.

One of the main causes of the crisis was the attitude of banks to lending money and the policies of the countries in which these banks operated. Eager to generate larger profits, banks in the US (and many other countries including Australia) offered low-rate housing loans to people whose credit histories and lack of ability to pay meant they were in no position to service them. High mortgage approval rates drove up the price of properties and home owners of all sorts began borrowing against their homes, creating increasing levels of debt. When the inevitable happened and home owners in their thousands began defaulting on their loans, the housing market collapsed taking with it the banks who had provided the loans and other suspect financial products. Victims included Lehman Brothers, Merrill Lynch, and the Royal Bank of Scotland. The US Government was forced to step in and spend trillions to stimulate the economy and prevent a complete collapse of its banking system and, in turn, the world that depends on a robust United States.

Despite rescue measures by governments around the world, housing markets and stock markets around the world slumped, employment fell and people were sent into bankruptcy and either lost their homes or were evicted. Almost every major economy in the world fell into long recessions. (Although, Australia avoided joining this club thanks to strong demand for its minerals from fast developing nations like India and China.)

A decade or so on, with life seemingly back to normal it’s easy to think that the world has recovered from the GFC. In the US, where the trouble began, employment is rising and the stock market is setting new records. In Australia, property prices have soared in many major capitals, buoyed in part by low global interest rates aimed at encouraging spending.

But the sad truth is that the Band-Aid fixes implemented since the GFC have done nothing to remedy the inherent instability of the global financial system that world’s economies rely on. Rather than increasing stability, stimulus measures including printing more cash have just created more underlying debt, pushing us ever closer to a new global collapse.

4.4 The global economic house of cards

Take the US economy. The leader of the free world and the financial leader of the entire planet is technically insolvent, meaning it owns creditors around the world far, far more than it can possibly hope to repay. It's printing new money at a rate of knots to cover the enormous black hole in its budget, leaving the consequences until tomorrow like a teenager with a spiralling credit card bill. The US owes something in the order of $14 trillion (that's 14 thousand billion dollars), despite having total assets of a little over $3 trillion, with the gap widening every year. It's there in black and white in the US Governments' own numbers. With no plan to reel in debt, the problem simply keeps on growing and growing. And the unnerving reality for US citizens is that the most logical solution the US could take to plug its cavernous debt is to access the wealth of its people through higher taxes or other means.

And it's not just the US that's in trouble. When the GFC hit, governments dug deep and tried to stave off the inevitable by getting into debt and spending money. We had stimulus packages, bailout packages and all manner of tricks on the part of political spin doctors but at the end of the day they just got further and further into debt.

As they say, when you are deep in a hole you need to stop digging. This hasn't rung true yet in Europe and America - where the two huge economic fault lines are. A straw could break the camel's back and cause the dominos to tumble around the world. But the obvious and imminent danger is coming out of Europe.

The weakest links among the European nations following the GFC were affectionately been known as the 'PIIGS' – Portugal, Italy, Ireland, Greece and Spain. They were teetering on a knife's edge and technically insolvent, depending on bailouts from the rest of Europe to stay afloat.

Several years on and Greece's economy is still the worst in Europe, with public debts nearly 180 per cent of its Gross National Product. Italy and Portugal remain technically insolvent by that measure and have been joined by Cyprus and Belgium.

Several European nations received 'bail-outs' from a central European scheme after being unable to repay or refinance their public debts or those of their heavily indebted banks. Portugal and Ireland have recovered enough to exit bailout schemes, but remain heavily in debt.

The United Kingdom and France both have debt levels pushing towards the red, each owing more than US$1 trillion.

Little by little the fixers and politicians are beginning to realize that this is a problem that is unfixable and any number of Band-Aids and bailouts will not make things 'normal'

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again – those heady days are gone and all the king's horses and all the king's men cannot put humpty dumpty together again. Greece and the other PIIGS (to name but a few) have too much debt. This will never go away.

The powers that be are holding constant meetings trying to decide who should wear the losses.

Across far too many developed countries, public debt to GDP ratios are now at or beyond 100 per cent. This leaves them all vulnerable. Basically, one quarter of all earnings go to servicing debt. Countries are not earning enough to pay their bills. Most of the big Banks in Europe and America are insolvent. Without artificial support from authorities they would be unable to survive a crisis.

This affects Australian banks because they cannot borrow overseas and they are unable to stand up and lend to the country. Australia stops without the free flow of credit to keep the wheels turning.

Many nations of the developed world are insolvent or close to it, with Japan owning more than 200 per cent of their GDP. Nations in such a plight can shuffle along now but could not survive without borrowing to service their debts.

What world leaders are hoping for is that they can buy time and stave off a crisis by supplying cash to banks who would use the money to then buy Government Debt. The longer they can prevent a day of reckoning, they feel the more likely it is that these debtors will be able to grow their way out of trouble. So, what is really happening is that we (or rather our world leaders) are trying to buy time in the hope that we can somehow trade our way out of trouble. Unfortunately, though the debt is too great and the debt itself will stop growth. So, all that is happening is, that we are delaying the inevitable.

In a normally functioning financial system banks usually manage to fund themselves. At the end of each day, they tally up deposits and withdrawals and work out who has surplus funds and who is in deficit. The deficit banks borrow from the surplus banks at the interbank lending rate to balance the books. Then it's lights out and everyone goes home happy. Things get a little uncomfortable if a bank persistently finishes each day with a cash deficit. Its peers become a little suspicious. Perhaps the bank took too much risk and expanded its balance sheet a little too aggressively. Now, it can't satisfy customer withdrawal requests due to a lack of liquidity. Other banks are no longer prepared to lend to it in case they don't see their money again. So, the bank in question goes to the central bank for a loan. This used to be a last resort for banks however today it is much different.

Banks readily ask for bailout from the Central Bank all the time and it is not a matter of last resort. It just doesn't work the way it used to work. That was before easy credit rendered just about all of the developed world's banking system insolvent. Now there is

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no shame in heading down to your local Central Bank for a loan when every other bank is doing it too. The banks are barely keeping their heads above the water.

Australian banks are not going to fail tomorrow but they cannot survive if the rest of the world's banks go under. If Australian banks cannot borrow to lend then we too cannot borrow and we sink along with the rest of the developed world as a result of the flow on effect.

4.5 Other factors

These are some of the other factors feeding into the instability:

The housing bubble

As we know, house prices have always risen in Australia. Sometimes the rate of price increase has plateaued or slowed but it was unheard of for house prices to fall or go backwards. The experts have always told us that house prices double on average every 7 to 10 years. Historically this may have been correct, but we have seen markets go backwards intermittently. Why? It is largely because the credit bubble has burst. In reality, people cannot afford the house prices being asked and cannot service the repayments. People were buying properties with borrowed money – the more money which was available and the more people banks would lend to, the higher real estate prices were pumped up. When the credit tap gets turned off and people can no longer borrow the money to pay the inflated prices, these high prices have nowhere to go but down. Your house will only double in value if there are people with double the money to pay for it. Mr Market is very good at finding his own level. Consistently record prices are a thing of the past and all the experts expect further major corrections. If you are counting the good times to stay forever you will go broke – as Keynes once said:

"The market can remain irrational a lot longer than you can remain solvent."

The credit bubble

After the deregulation of the banking industry under Paul Keating in the mid 1980s, the Australian credit market was opened up to competition from other lenders around the world. We no longer had a closed-shop oligopoly as our banking industry in which a few lenders controlled the market. Suddenly, lenders had to compete for business and the goal became to lend as much money as possible. This allowed lending standards to slip until we got to a point prior to the GFC where anyone with a pulse could get a credit card and anyone who owned property could use it as an ATM to draw money out of.

Dangerous loan products were introduced; known as 'low doc' or even 'no doc' loans where lenders could legally lend to borrowers with little or no income, on the strength of

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the value of their property. Lenders did not seem to care if the borrower had no income to make repayments – they would lend them more money than they needed, secured against the equity in their property, and the borrowers could use this extra 'buffer' of loaned monies to make their repayments. When this ran out, they could have their home revalued at a higher price and draw out more money to keep on going. Debt is not a problem whilst ever you can get more debt, it is when the credit bubble bursts and you can't borrow any more that the day of reckoning comes.

The stock market bubble

In the period from 1928 to 1982 (that is over 54 years) the stock market rose by 300 per cent. Stocks have always been seen as a vehicle for wealth creation as it was a market which increased over time (as with housing). However, those gains became artificially inflated in recent times. In the 20 years from 1982 to 2002 the stock market increased an astonishing 1200 per cent (compared to 300 per cent over the preceding 54 years). The market grew 4 times as much in 70 per cent of the time. This would have been fine if there was real value and productivity to support such growth. Unfortunately, as with the housing and credit bubbles we have looked at above, this rapid price inflation was all artificial. The 1200 per cent growth in the stock market came without 1200 per cent growth in gross domestic product (the earnings of the country) or earnings of companies.

As we have seen Mr Market is like water – it eventually finds its own level and the false and inflated prices cannot be sustained.

More than most types of markets, global share markets are inextricably linked and when one falls, it's like a virus. Confidence helps stock markets grow (which they have been doing since Trump came to power: the so-called "Trump Bump") and then unease followed by fear and finally panic selling lead to crashes – which are most commonly defined as a double-digit fall in the overall value of a market index. A correction is a smaller and slower drop.

Claims that the market is about to crash are not unusual. But only a fool would ignore the chorus when it grows louder: we have seen two huge crashes in the last 30 years that devastated millions of investors: 1987 and 2008. Right now, many leading experts – including the chief economist at Moodys – agree that US stocks are overpriced and that either a correction is coming. Some say the outlook is worse and that a huge crash is bearing down; by many indicators we have same problems that preceded those crashes: share price valuations and price-to-earnings ratios are very high. Also, worldwide political tensions seem worse they have for decades, in particular the threat of war.

That has led many economists to openly talk of not if but when – and how to protect yourself when it happens. Either way, when it happens it's too late to sell and save your skin.

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4.6 What Does This All Mean for You?

If and when things do tumble, it’s those at the bottom of the food chain that will be most affected and see their wealth eroded.

What will governments do when the crisis comes? Like any drowning man, they will grab on to anything – anyone holding cash or wealth in the resulting Armageddon does so at their own risk. A large and obvious target for governments will be what you have worked so hard for all these years: your wealth. Taxes will rise and laws will change. It is already happening. That is why it is more important than ever to protect everything you have right now. Those who do not act quickly risk having their wealth destroyed or taken. European and American governments are already looking at superannuation funds as a massive pool of money that they will borrow from to keep themselves afloat and to stop life as we know it from going under.

So, you see, now is the time to lookout for ourselves. The ship is sinking and it is literally every man for himself. Those who are smart will act now to ensure that their wealth is protected. They will pack their supplies ready for the emergency that lies ahead. It’s not that people will never be wealthy again. It is just that we must now do things differently: we must adapt and survive. What worked for the last 50 years will soon be ineffective and those who can’t change will be winnowed out. As Darwin said:

“It is not the strongest or the smartest who survive, but those who are the most responsive to change.”

So how can we protect ourselves from the dangers that lie ahead? What must we do differently?

4.7 The Achilles heel of property investors

Most property investors, or anyone who owns real estate, will usually hold the title to that property in their own name. This means that their significant equity in property (the part that they own, free of the mortgage to the bank) is exposed to creditors. Australia is that we have a Torrens Title system of property registration. Every single piece of land, or real estate, has a number and is registered in each state with the land titles office of that state.

Anyone claiming an interest in that land has to register their interest on the title of that property for it to be recognized. This is why banks will register their mortgage on your title. When you see a copy of your title deed, or when anyone performs a title search on your property, it will be subject to a first mortgage to the bank. Any other person who wants to claim security against your property can then register a second mortgage if you allow them, or alternatively, a caveat on the title to the property.

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When you sell a property, you must discharge all debts on the title. This means paying out the first mortgagee for them to remove their mortgage. You'll also need to pay out anyone who has registered a caveat on the title before they can remove that caveat; the new purchaser will not want any debts on the title. They will want a 'clear title'.

Where property owners can get in trouble is that creditors, or anybody pursuing them or wanting to attack this significant wealth held in property, can register a caveat on the title to that property.

We know that property is (and always has been) a great vehicle to hold and grow wealth. A drawback of property though is that it can be the most cumbersome of asset classes. It is easy to identify, being in the realm of public information on a national (and readily accessible) register, and it is difficult to liquidate.

In an emergency, property is hard to hide and impossible to offload it quickly. Unlike shares or cash property cannot be easily sold or traded in and out of. As we know, there are invisible costs like stamp duty, legal fees and other expenses due at purchase or sale time. Then there is the considerable amount of time it takes to liquidate a property – you cannot just withdraw your equity at a branch or instruct your broker to liquidate. You need to appoint an agent, have photos and marketing prepared and it will take at least two weeks from when you commit to selling to when the property is visible to potential buyers. Standard settlement time is six weeks, so even if you find a buyer immediately there will still be at least two months before the proceeds (minus commissions, advertising and marketing costs) are in your hand. You simply cannot quickly sell a house when you need to and the only way to speed up the process is to take a big haircut on the sale price. So, if someone is chasing you for money, your property becomes a big target and you cannot easily evade such a strategy.

A creditor will always know if you own property because it is publicly available information and is easy to find out – and the first port of call for litigation lawyers. As a barrister working in the debt collection industry, the first thing that I look at with a prospective defendant is whether they hold property in their name. I am delighted if I do a title search and realize that my potential target owns real estate. Unfortunately for them, it is publicly available information. I can run a search on their name across all Australian databases and while I sit at home in my pyjamas on a Saturday morning and will know in seconds the addresses of all properties they own, or have an interest in, in Australia. I can even find out how much they owe the bank on those properties. With another click of a button on my laptop I will know what their property is worth, anywhere in Australia, without having any local real estate knowledge. So, I know what their equity is and I know that they cannot move quickly enough to avoid an attack on that equity. If I am worried that they might offload the property or try to evade me, I can also freeze that asset so they cannot sell it, mortgage it or otherwise deal with it. I thus have the ultimate power over them and they quickly lose

control. I can attack their wealth and there is a pot of gold at the end of the rainbow for me as there is nothing that they can do about it.

Given that most very rich people store their wealth in property, there needs to be a way to reduce property investors' exposure and potential loss of control. We don't need to become afraid, freeze up, sell all our real estate and bury the money in the backyard, but we do need to minimize the risk if we are going to hold our wealth in property. Therefore, when I set out to reverse engineer the debt collection process in order to create the ultimate 'asset protection weapon' the first thing I needed to address was the vulnerability and exposure felt by the property owners.

So how do we get around this?

4.8 How to protect your equity and property quickly and easily without having to pay stamp duty or excessive transfer cost and still retain the ultimate control

In order to practice what J.D. Rockefeller preached – "to own nothing but control everything" - we need a legally viable vehicle with which to control our wealth. The technical legal answer is to form a trust, which is a legal entity that acts through a trustee. Anyone over 18 years can be the trustee of a trust and the trustee can be a corporate entity (i.e. a company) or an individual. The beauty of a trust is that, whilst it can do anything a company or an individual can do and is a legally recognised entity, there is no register for trusts in Australia. Your trust is therefore below the radar and is only available to you and those who you choose to allow in to your circle of trust. That allows you the ultimate in control, unlike a company or real estate ownership where creditors can research you, your company or properties through ASIC (The Australian Securities and Investments commission) or the Land Titles Office.

How does this help if you are holding property in your own name, or under a company name where you (or the company) may be a target to creditors, or others who wish to attack your wealth? You don't want to have to sell and hide the money under your pillow, nor do you want to have to incur stamp duty just to change ownership over to a safe entity like a trust. Don't worry, there is a little-known secret that those in the know use to transfer their exposed equity in real estate over to a trust and give themselves the ultimate vehicle for control of that asset.

While devising my asset protection system, I realised that banks and first mortgagees have the ultimate box-seat. When it comes to fighting over control of real estate assets, a first mortgagee has the trump card. Even in a bankruptcy situation the first mortgagee does not have to co-operate with the trustee in bankruptcy as they are a secured creditor. Their power comes from the Torrens Title system of registration of lands that we have in Australia as discussed earlier.

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Under our Torrens Title system, we have a concept of 'Indefeasibility' of title. This means that the first to register an interest in land will be ultimately protected and will stay on the title until their debt is paid out to their satisfaction or they otherwise elect to remove themselves from that title. Once an interest is registered it is 'indefeasible' or final. This means that your first mortgagee is in a great position as against all other creditors. What we need to do then to protect ourselves is to create a trust whereby we essentially control that entity and that entity then registers an interest on the title to our property. This protects our equity. We are still the owners of the property however our trust holds an unregistered second mortgage and registers this interest on the title. That sucks up all the equity in the property.

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4.9 **How Does It All Work?**

Let me go back to first principles briefly - because if you understand the mechanics of the law, it will be easier to grasp the strategies I have developed. You can then assess their effectiveness as they apply to your ultimate goal. If you know what can go wrong, you know where you are most vulnerable, and you can set about safeguarding yourself.

Debts

There are two kinds of debt: secured and unsecured. Secured debts are those secured by mortgage over the property you own, a mortgage over your real estate, a charge over your car or furniture (if you have it on finance) or a debenture charge over your company. If you borrowed money on a secured basis then your lender will have taken these types of securities from you in the loan agreement. Your failure to pay an instalment is a breach of the loan contract, entitling the lender to give you a notice to bring the arrears up to date or pay up the remainder of the loan account balance. Non-compliance entitles the lender to seize the goods and sell them. In the case of real estate, it entitles the lender to get a court order for possession of the property and evict you and then sell it.

Unsecured debts are those where the lender has provided you with a loan, or supplied you with credit, for which the lender has no security at all. In the case of credit cards, your obligation is to pay the lender the minimum amount each month that it stipulates, month after month. Your failure to pay an instalment is a breach of the loan contract, entitling the lender to give you notice to bring the arrears up to date or to pay up the full amount of the loan account balance. Non-compliance entitles the lender to sue you, using a statement of claim for recovery of the debt, plus interest, plus legal costs.

A third category of creditor is an unsecured creditor who sues you for an amount of money (i.e. for negligence or breach of contract) and wins a judgment against you. That judgment is a piece of paper, signed by a judge and stamped by the Court saying that you owe the money. The judgment creditor then proceeds to enforce that debt by going after anything you have of value: your salary, rental income, equity in properties and personal goods and effects.

4.10 What can the Creditor/Lender Do?

Secured Creditors

A. REAL ESTATE

If you default under your mortgage, the lender will post you a statutory default notice under the laws of the state where the property is located. The notice will give you 30 days

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to repay the loan. Non-compliance by you will entitle the lender to exercise its power of sale under the loan documentation. If you correct the arrears and even if things continue normally, should you default again the lender does not have to issue another 30-day notice.

The lender will then make a Supreme Court application for an order for possession of the property, in other words: an eviction order. The Court application has to be served personally on each borrower. Personal service means that the Sheriff, Court Bailiff or a licensed commercial agent must physically hand a copy of the application to each borrower. The court papers will state a hearing date, usually a month ahead. Unless you have a defence you don't have to appear at Court. The matter will be dealt with in your absence and in the usual course of events the Court will make an order for possession and costs against you.

The Sheriff or the Bailiff will come to the property a few weeks later serve a writ, or a warrant, for possession. Service can be personal but if you're not present when he comes, execution of the writ is effected by the actual document being taped or stuck to your front gate or door. The writ will tell you the date by which you must leave, otherwise he will return with a commercial agent to physically take possession for the lender and a locksmith to change all the locks to bar your re-entry.

Once you've gone the lender will engage a real estate agent to list the property for sale by private treaty or by auction. You have no input. Following the sale, the lender will pursue you for recovery of the balance of the loan account as an unsecured creditor, details of which are set out below.

Hopefully, none of this will happen to you, and your only interest is to see how the system fits together so you can understand the process. If you know the worst that can happen, you can guard against it.

B. CARS, FURNITURE AND PERSONAL GOODS

Your car, boat, motor cycle, furniture or other personal property that you have under finance can be seized by the lender if you default under the loan contract. The first thing the lender will do is issue you with a statutory default notice under state legislation. You will be told to settle the account in 30 days. In the case of non-compliance, the lender will make an application in a Magistrate's Court for an Order for possession of the goods. This will entitle the lender and its commercial agent to repossess the goods and sell them. The Order for Possession usually goes further and authorises the lender to enter upon private property, using reasonable force, to seize and remove the goods.

If for example your car is parked in the street or another public place and the lender finds it he can organise a tow-truck to take it away. Obviously, this is very stressful if you come out of the supermarket and find your car gone. If the vehicle is in your garage or on other

private property the lender cannot remove it without supervision which means that the local police will be in attendance.

It's a common popular misconception that the lender is obliged to only sell your car or furniture at retail value in an auction sale. The reality is that the goods will be sold off, by one of the auction houses listed in the yellow pages, for at or below the current wholesale price. For example, the car that you cherish and believe to be worth A$50,000 could end up being sold under the hammer for only A$10,000 and there is nothing you can do about it.

After the sale, the lender will become an unsecured creditor and be entitled to sue you using the devices set out below to recover from you the balance of the money due.

Unsecured Creditors

As stated above, the balance of account on a secured loan becomes an unsecured debt after the security property has been sold off. Credit cards and personal loans entitle the lender to sue you for the balance of the loan account if you can't keep up with payments. As a general rule such claims are extremely difficult to defend because the Courts take the simple view that the lender gave the borrower money to spend, the lender wants the money back, the borrower has not repaid it therefore the borrower is guilty.

Claims for unsecured debts are made through the Courts by the lender issuing a Statement of Claim and unless you have a valid defence, there will be no formal Court hearing. Resolution will be an administrative process in the Court office, where the Registrar stamps the papers and enters a judgment against you for the debt, legal costs and interest.

With a Court Judgment, a creditor who is unsecured has 5 available remedies:

1. **Public Examination to obtain information about your current assets liabilities, income and expenditure.** The lender can have you brought before the Court to supply this information so they can calculate their next move.

2. **Writ of Possession of goods.** The lender can have the Court send the Sheriff or Bailiff to your home, place of business, or to your rental properties to seize and remove your furniture and personal effects and have them auctioned.

3. **Writ of Possession of land.** With a Judgment, the lender can issue a writ or a warrant and register this on the title to your real estate. If the property is not subject to a mortgage, the Sheriff or Bailiff can sell it by auction. If the property is subject to a mortgage, then the writ or warrant will stay endorsed on the title to your property accumulating annual interest and you will have to pay it out when you either sell the property or refinance it.

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4. Garnishee. A lender with a judgment can 'garnishee' (intercept) money due to you from other people. The most common 'garnishee' is on wages where your employer is ordered by the Court to pay you a specified minimum amount out of your wages, with remainder of your pay remitted to the lender. Bank accounts that you have can also be garnisheed and you won't necessarily know about it until your cheques start bouncing, as the Court can order the bank to drain your accounts and pay the lender. Perhaps the least obvious garnishee that can harm you is where the lender intercepts rent due to you from your investment properties or garnishees your real estate agent, so that the lender gets paid and you don't. Without a cash flow from your investment properties you might be exposed to defaults under your other mortgages.

5. **Bankruptcy.** A lender with a Judgment can go to the office of the Insolvency and Trustee Service of Australia (ITSA) and issue what is called a Bankruptcy Notice which is a procedure under Commonwealth Legislation directing you to pay the Judgment within a specified period and in the case of non-compliance the lender can then make an application to the Federal Court of Australia for an Order for your Bankruptcy. Unless you get yourself into a position to pay out the debt in full, bankruptcy proceedings are fatal because the Courts always ultimately grant the Bankruptcy Order sought by a lender. The Court will appoint a Trustee in Bankruptcy to administer your affairs while you are a bankrupt and this will either be a government agency, the Insolvency and Trustee Service of Australia or a Court-appointed private chartered accountant. You must have a meeting with the Trustee and make a truthful disclosure of all your assets and liabilities income and expenditures. The Trustee will take title to all of your real estate and your personal possessions except for basic household furniture and tools of trade. Everything else you have will go to the Trustee who will then distribute it among all of your creditors. Being a bankrupt is like being out of jail on bail, you can remain in society but there is very little you can do financially. The minimum period of a bankruptcy is 3 years but this can be extended if the Trustee believes that you are hiding assets. Upon being declared bankrupt you have to surrender your passport and you cannot leave the country.

I am laying out the worst-case scenario here – not that this will probably ever happen to you, but we are guarding against that one bullet in the game of Russian roulette and you need to know what can happen when things go wrong. This way so you can see how to block off all avenues a potential creditor may use to come after you and everything you have worked hard for.

4.11 Asset Protection

So, that's the law – the cold hard truth! But where there are laws, there are also loopholes. There's nothing we can do about secured creditors – the loan agreement has been signed and the money is owed and they have the right to possess the goods by law. We can

negotiate with these creditors. Remember, they do not want your goods – they are in the business of lending money and they would prefer money than being lumbered with a car, a plasma television or an ugly chain store lounge suite. You can cut a deal with these creditors.

The unsecured creditors are the weakest of all creditors and rank lowest on the credit food chain. This is because they have nothing of substance to take from you. They are desperate. You may have noticed this in their persistent or harassing phone calls. This is because that is all they *can* do – stalk and harass and hope to God you'll pay them. They don't want to throw good money after bad chasing you. Remember they have to pay lawyers to sue you and if they can't get the money you owe them now, how are they going to get their legal costs back from you?

Maybe they want you to see the whites of their eyes and they'll sue you and get a judgment against you. That sounds like scary stuff, doesn't it? In reality, it's not. Remember you can apply to pay a judgment debt by instalments. If you have no money what they can do? Chase you further, crash tackle you and try to empty your pockets?

You see, you have to reverse it – we are taught that debt is bad and it somehow sounds illegal to owe people money and be sued. You have breached a contract – you have not stolen. These are *civil* cases not *criminal*. We are in the commercial world here – people go broke and default on deals every day of the week all around the world. This is a risk of doing business and lender took that risk when they lent you money. You can't pay them now, probably because someone else did not pay you. No big deal. You have the power not them. You have their money - they have to chase you for it and that gets expensive.

When I first started practising as a solicitor, I worked in debt recovery. I was in charge of suing people who did not pay their unsecured debts. Nine times out of 10 I would tell my client (the big nasty lender) to close the file, write off the loss and stop wasting money because the debtor was 'a man of straw'. That is, he had nothing.

Put simply, a judgment is a piece of paper from the Court, stamped by a judge confirming that A owes money to B. That means you owe money to the lender. That's it – it's not a crime, the judge is just rubber stamping the lender's allegation that you owe money and haven't paid - no surprises - you already knew that. This is a civil case: one civilian against another, not a criminal case where the Crown prosecutes the accused. Remember it is up to the lender to chase you and if you have nothing, if there is no pot of gold at the end of the rainbow then it's the lender's problem, not yours. Put simply; they can't get blood out of a stone.

So, what you want to do is to turn yourself into a stone – or 'a man of straw'. It is fine to get a judgment against you and it is fine for the lender to chase you, but in the final analysis you have nothing of value, no assets and no income.

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This is how the wealthy operate; through 'structures', such as companies and trusts. They own nothing themselves and are not exposed to any risk in that sense.

You can operate this way as well.

4.12 The Recommended Asset Protection System

As mentioned earlier, most people hold their most valuable asset, their property, in their names. As we have learned, this means that our significant equity in our properties (which is usually our biggest chunk of wealth) is open to an attack from creditors – as we have seen, anyone preying upon you can easily run Land Titles searches and will find out you own real estate. Most people have a lot of equity in their properties which they don't understand is a 'sitting duck' for creditors. We need to protect that equity.

Okay, so how does our asset protection trust operate in practice? As we know, with the Torrens Title system for registration of interests in land in Australia, anyone claiming an interest in land has to register that interest for the world to see. Anyone can do a title search on anyone else's property and will have notice of other interests. Competing interests work in terms of priority, according to date of registration. That is, the date that the interest was created is irrelevant – the first to register the interest on the title to the property prevails.

The concept of 'indefeasibility' of title means that when someone registers an interest in land on the title to that property that is final. No-one can challenge or remove them from the title and their security over the property stands in order of the date they registered their interest. Therefore, the first mortgagee goes first (as they are the first to register), then other mortgagees or subsequent registered interests, line up in order of their dates of registration.

Let's use an extreme example to illustrate the point. Let's say I own a property outright (with no mortgage) and it is worth $500,000. On Monday, I go and borrow $300,000 from Westpac secured against the property. Westpac do a title search and see that I own the property unencumbered and there is no mortgagee on the title. They loan me the money immediately and I sign all the mortgage documents and bank a Westpac cheque for $300,000 on the following day, Tuesday. On Wednesday morning, I do a quick title search and see that Westpac still haven't registered their mortgage on the title so as far as the rest of the world is concerned the property is still unencumbered. I go to NAB and borrow another $300,000. NAB gives me the money there and then on Wednesday – as again, they do a title search and again find that the property is unencumbered. On that Wednesday, I sign a mortgage to the property over to NAB and they run directly to the Land Titles Office and register their mortgage. On Thursday, Westpac's filing clerk ambles over to the Land

Titles Office and registers the mortgage which I signed with them on Monday only to find that NAB now has a mortgage registered on the title.

I am probably in trouble for committing fraud and various other offences, but at the end of the day NAB's interest prevails – yes, Westpac lent the money first but NAB registered first and the concept of indefeasibility of title means that NAB prevails. They can seize and sell the property if I don't pay the mortgage and they can take their $300,000 and be fully paid out. Westpac, having lent the money first but being second to register will get paid out whatever is left after NAB have helped themselves to whatever they require to discharge their mortgage. If it is not enough to pay out their loan that's too bad!

Most people know what a mortgage is – it is a debt registered against a property, usually because a lender advanced money for the purchase of that property and will register their mortgage on the title to protect their interest until the loan they gave the property owner is repaid. Sometimes it is paid off over many years and other times it is paid out when the property is sold. Usually the purchaser's own lender advances the purchase price of the property, which pays out the owner/seller's loan. Of course, the purchaser also registers their own mortgage on the title.

4.13 Registering a Caveat

Another common interest often registered on a property title that you might be unaware of is a 'caveat'. Caveat means 'beware' in Latin and when registered on the title to a property, it is a form of warning to anyone searching the title to beware that there is a debt owing to someone else. The caveat can be withdrawn by the creditor (the person who is owed money, who registered the caveat) when the debt is satisfied.

We register a caveat, as opposed to a second mortgage, because we want to do as J.D. Rockefeller said, "Own nothing and control everything". Unfortunately, we are vulnerable as things stand because we own the property and yet can lose control of it – anyone can register a caveat, or writ, on our title and we are powerless to stop this. If we grant an equitable (unregistered) mortgage to our trust and the trust then registers a caveat on the title, we can prevent anyone else registering or claiming an interest in our equity. Indefeasibility of title means that once our trust registers on the title it can control the equity remaining in the property. What we are doing is asserting control and blocking out anyone else who wants to try and register on our title after us.

We can have our trust remove or replace our caveat at any time. For example, if we want to sell or refinance the property – and the first mortgagee lender will not be made aware of this so it will not cause any waves for you with higher ranking creditors. If we try and register a second mortgage, the first mortgagee will know about it, so in most states we will need its consent to do so. That will be more trouble than it's worth and will result in

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us losing control by having to involve others (something we don't want to do as this is all about us gaining control). A caveat enables us to affect the ultimate control! It is quick and easy yet very, very powerful.

4.14 Putting it all together: what this means for us and our asset protection strategy

What we want to do with our asset protection is, in effect, mortgage all of our equity to a trust and that trust will then register a caveat on the titles to each of our properties, to represent that mortgaged interest.

The caveat (noting an 'equitable' or unregistered mortgage) will sit there compounding and will soak up all remaining equity so that there is nothing else for others to take. Any other creditor who comes along and tries to attack your wealth or your equity will be in the same position as Westpac was in our example – they can take whatever is left after our trust (who registered earlier and has an indefeasible interest) has been paid out in full to its satisfaction.

In addition, all of your clothing, jewellery, vehicles and any personal property of, would be assigned and transferred to the trust.

You do not transfer ownership of your real estate to the trust. Why? Because you would have to pay stamp duty on the transfer, and get the lender's consent which would mean a new loan application and approval. Lenders will not agree to this. So by way of an equitable mortgage, you transfer your equity in the property to your trustee and you register a caveat on the property title to protect the trustee's interest in the property.

Here's an example: you own a property and have 100% interest in the equity of it. The moment you borrow against the property your share of the equity decreases and the lender's share increases. If the bank lent you 80% of the market value of the property you would have a 20% equity left in the property. By mortgaging this 20% equity to the trust you have no equity in the property at all because you owe 100% or more of what it is worth. It makes it very difficult for lenders with judgments to try and take your 20% because you have mortgaged it.

Similarly, with your furniture, clothing and jewellery - whether under finance or not - you have some equity in it all and by mortgaging those items to the trust, creditors cannot seize them.

You will not have any bank accounts in your name as all of your banking will be done through the trust, and your trustee will direct the bank to allow you to be a signatory to the cheque account and that you are given an EFTPOS card. This will enable you to cover your cost of living and your creditors cannot garnishee your bank account because it would have been closed.

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Your tenants will be directed to pay their rent to the trust, and if you have a managing agent you will cancel the existing managing contract and the trustee will enter into a new Management Agreement with the agent. You no longer become the client and all future rent is paid to the trust. Creditors cannot get the rent because although you owe them money under a judgment, you have no money because the trustee holds it.

If you are self-employed your business will be mortgaged to the trust, all invoices will be issued in the name of the trust and payments made into the trust bank account.

If you are employed PAYG then you will have the pay office pay your wages into the trust bank account instead of to you personally. You will continue to be on the books as an employee and receive superannuation (because creditors cannot seize superannuation) and the annual group certificate will be issued in your name. We will prepare all of these documents for you and give you written instructions on what to do and how to set it up, so that it will work and give you peace of mind.

4.15 Frequently Asked Questions

Do I have to pay Stamp Duty?

No, stamp duty only comes into play if the title is being transferred across to someone else. The ownership of the property remains the same. All we are doing is mortgaging the equity to a trust, which is essentially controlled by us. It is a legal entity and a vehicle to hold and control our wealth.

In effect, what we are doing is mortgaging ourselves to the hilt so that we have two creditors. The first is our first mortgagee (who for most of us is already registered on our title and has an indefeasible interest). We accept the debt, we know we owe them money – the amount our property is mortgaged for – but we are looking to protect our stake in the property after the mortgage is accounted for, our equity.

The second creditor, who is entitled to the balance of the equity after the first mortgagee is paid out, is our trust. If anything ever happens our first mortgagee will get paid out first, so that our share is not exposed, our trust will get paid out second. We are a beneficiary under that trust so the money comes back to us.

Does my trust have to pay tax or have any accounting requirements?

No. Your trust is not trading or earning an income at all. It is merely a structure which is holding existing wealth. You pay your taxes as usual.

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Who should I use as a Trustee?

I suggest anybody over 18 years who you trust. Others have had success with parents, siblings, other family members or very close friends. Do not use a passing acquaintance or a professional. They will not want to do it. It must be somebody who you trust enough to ostensibly hand them the reins.

What if my trustee betrays me? I do not want to give control to someone else.

You would be the appointer under the trust and therefore have the ultimate power. You can remove a trustee or replace them at any time, so you are not really relinquishing control. You are using your trustee in order to control your wealth. The trustee is essentially your puppet.

What if I cannot find one or do not trust anyone enough for the role?

If there is nobody to act as your trustee then you can incorporate a company with you as director and use this entity as your trustee. What this means is that your company is separate from you and your company is taking a controlling role with respect to your wealth. The goal is to separate you as owner of the wealth and turn you into that straw man mentioned above. On paper you own nothing, but behind the scenes you control everything.

If you need a corporate trustee you can incorporate a company online for around A$400, which may be cheaper than going through your accountant. The reason we would want a new and separate company is that we don't want a company which is trading – we don't want to expose your personal assets to business debts. You can set up companies online quickly and easily (24-hour turnaround) by going to www.ecompanies.com.au . They then email you all you need (incorporation certificate from ASIC etc). Most people who are self-employed or financially independent run their businesses or earn their passive income through companies of which they are directors and shareholders – a company is a great vehicle which will enable you to "Own nothing but control everything".

What is a testamentary trust?

A testamentary trust (sometimes also referred to as a will trust) is a trust which arises upon the death of the testator, and which is specified in his or her will. A will may contain more than one testamentary trust, and may address all or any portion of the estate of the testator (the stuff you leave behind when you die). Testamentary trusts differ from other trusts which are created during your lifetime.

There are four parties involved in a testamentary trust:

1. The person who specifies that the trust be created, usually as a part of his or her will, also known as the testator.

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2. The trustee whose duty it is to carry out the terms of the will. He or she will be named in the will and may also be referred to as the 'executor'. This person will handle the deceased estate and apply to the court for a grant of Probate.
3. The general trustee. Once the court has granted probate, the testamentary trust will come into existence and the general trustee will be responsible for managing the assets in the trust.
4. The beneficiaries will receive the benefit of the assets in the trust. They will not own the assets, but will receive all benefits from them. They will therefore retain benefits without the responsibility or risk of ownership.

Why do I want to be 'a man of straw'?

Put simply, if you have no wealth and no assets it means that there is nothing for anyone to take from you. We are trying to set up hurdles and barriers between yourselves and your assets - and potential future creditors, by creating an asset protection trust. We want to divorce you, as an individual, from your wealth so there is nothing for creditors to strip from you.

As things stand, if you have money in the current climate, you are a large target for anybody because cash is king and money is finite. We know that world events are likely to worsen as a massive debt bubble bursts and a lot of people are owed a finite amount of real money – it will be like a game of musical chairs where the demand for real wealth and money will far outweigh the supply. In order to protect our wealth, we are putting it in a safe place and removing ourselves from the picture whilst we control everything from behind the scenes. When the music stops we will be ready.

What happens if I want to re-finance and borrow more money against my security property or I want to sell the property?

If we register a caveat on the title to your property, in favour of your trust as a second mortgagee, we can remove it at any time by lodging a withdrawal of caveat - so that any time we want to re-finance or sell we can just remove the caveat. Again, we retain ultimate control.

What about my other wealth?

Other forms of wealth are much easier to protect. Cash at banks, shares, personal items, chattels, cars and any other items of value including income and wages are easily protected through a simple legal document which can assign those assets or wealth across to the structure of the trust. These things are not as difficult to assign to a trust as property is because there is no public register where creditors can search ownership of these things. If a creditor is looking at you as a target for acquisition of wealth they will firstly run a land titles search – your kryptonite will be property. Beyond that they can legally intercept your

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income, earnings, personal goods and chattels and other wealth, but there is no public register for such information so they will have to work hard to find and attack this wealth and it will seldom be as valuable as the wealth you hold in property. Through asset protection structuring and legal paperwork all of these items of wealth can be quickly and easily assigned across to your trust and there is no place to register this ownership in the public domain, so proof of ownership will come from legal documents that you hold.

Can this be challenged?

Wherever there are asset protection structures there will always be creditors or others trying to attack them. No asset protection system can spruik itself as being impenetrable. Having said that, what we are trying to do is make it difficult for creditors to get at you. The more they have to prove, the more expensive it becomes and the more difficult the exercise. They effectively give up when it comes to throwing good money after bad.

The onus, or burden of proof, is on the creditor to show that what you have set up is somehow liable to be set aside by a court and available for them to take as creditors. This becomes very costly and difficult and can be an uphill battle because they have nothing to base their allegations on and you have all the requisite legal documents. Yes, they can get a court order that you produce documents but they need grounds for this and cannot just go on a fishing expedition hoping to dredge up something.

In reality, it is impossible to mount a challenge without ammunition and there is no way to get ammunition without some compelling evidence in the first place. It also becomes very difficult and costly for them to attack a registered interest on a title due to the concept of indefeasibility of title. Any challenge is a very expensive exercise and the legal cost alone to challenge such asset protection structuring would probably outweigh the debt that they are chasing. Put simply, it just becomes un-commercial for creditors to challenge such asset protection structures.

This is what the very rich aim to do: have layers and layers of protection; companies within trusts within other companies. It becomes too convoluted and expensive to examine, analyse, prove and undo. Donald Trump famously once told his creditors "you can sue me but I will hold you up in court for years and cost you more in legal expenses to fight me then what I owe you. I have the best lawyers and have tied everything up so tightly you will never ever unravel it."

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4.16 Conclusion

This is the ultimate weapon of control and those who don't have it are massively exposed. Those who do have it will be able to control their wealth and come through the coming crisis and prosper. This is a time of massive change and re-distribution of wealth and those who come though the other side and grow, the new rich, will be those who are set up right and have the right craft, tools and survival kit to weather the storm as well as the right setup to control, guide and grow their wealth into the future.

Remember what worked in the past will no longer work, you need to think faster and smarter and you need to think and act for yourself.

As this plane goes down and everybody heads for the exits, remember you are on your own.

Are you in control?

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Just two per cent of Australia's population controls the lion's share of the nation's wealth. Members of this elite group live in the most desirable suburbs, own multiple properties and move in exclusive circles.

What's the secret to their remarkable success? In a word, it's knowledge. They possess a deep understanding of the way our financial and legal systems work that allows them to protect and develop their wealth.

Dominique Grubisa's work as a lawyer and her own life experience have given her a unique insight into ways of amassing and protecting wealth. She built a fortune at a young age, only to lose it when the financial tide turned. Now, having climbed back up to the top of the wealth tree, she is sharing her knowledge with others. In this book, you'll learn how to build wealth through smart real estate investment and how to protect it from unforeseen circumstances. Use the knowledge within to try to secure your own place among the two per cent!