In the aftermath of Hurricane Irma, rather than report on the prior quarter's news and trends, we elected to use this opportunity to share information property owners and buyers may find of significant value in their recovery efforts and planning. Please contact us if you would like additional information.

The Effect of Hurricane Irma on the Real Estate Market

As a 60+ year-old real estate firm with offices from Key Largo to Key West that tracks and analyses the market, we're uniquely positioned to comment on the effects of Hurricane Irma on the Keys-wide real estate market. We have first-hand experience with the physical and market recovery of the Keys from storms dating back to Hurricane Donna in 1960 followed by Betsy in 1965 all the way through Georges in 1998 and Wilma in 2005.

While the physical recovery from Irma is in full swing, the real estate market recovery will take time to fully understand, but positive signs are already apparent. We know that newer homes built to the latest building codes weathered recent storms much better, and while still tied to the market as a whole, held their values well. In fact, we've sold a number of newer and/or undamaged homes since Irma in the hardest hit areas at pre-Irma prices which suggests that the market, going forward, is much more resilient than in prior storms. We also expect that the vast majority of pending sales awaiting closing prior to Irma will proceed to closing now as well.

The post-Irma market is decidedly different than after prior storms for several reasons.

The physical recovery is generally going much faster in most areas because utilities were quickly reestablished to most neighborhoods. When Hurricane Donna knocked out the Tea Table bridge and the water line with it, it was months before road access and utilities were restored. This time, the availability of water and electric along with quick responses from local, state and federal government agencies has fueled the recovery from Irma faster than prior storm events. Many parts of the Keys had power long before the mainland.

The economic and financial conditions today are also generally better than before or after Georges or Wilma. Wilma signaled the end of a real estate boom in the Keys. At the start of 2005, sale prices were increasing at unprecedented rates and many traditional buyers were priced out of a market with unsustainable prices averaging over $800,000 coupled with low inventories of properties for sale. As 2005 progressed, those inventories began to grow signaling that the market was starting its inevitable cyclic decline. By the time Wilma struck in October, inventories had grown from 1,500 to 2,500 listings, and then skyrocketed to 4,500 within 90 days after the storm. 2004 and 2005 were some of the most active hurricane seasons ever. People were simply worn out and many decided to leave rather than suffer another year of storm warnings and events. That exhausted psychology was punctuated by the subprime crisis which continued the market slowdown through 2013. The market finally recovered and stabilized in 2015.

None of the factors that led to the increase in listings in 2005 exist today. The recent market has been stable in the number of listings for sale, number of sales, average sales price and sale price-to-list price ratios which does not signal any inherent weakness in the market. With a current average sale price under $600,000, the market has a lot of room to move upward in price. Interest rates are relatively steady and low, and there are no other outside forces which appear to be acting on the market as was the case after Wilma.

Accordingly, the real estate market will largely be shaped by the psychology of sellers which will be evidenced by the number of properties listed in the coming weeks and months. There is a well-documented, inverse relationship between listings for sale and sales (buyers). If sellers respond to Irma by putting large numbers of properties on the market, the market will record fewer sales and prices will be impacted. One month after Irma, however, there are fewer properties for sale than before the storm. If the market is not flooded with new listings, the market will largely not be affected in terms of price, and the number of sales will return to pre-Irma stabilized levels.

We're optimistic about the market recovery; not based on hope but on our knowledge and analysis of the market and the forces at play which are currently stable and strong. After living and working through over a dozen hurricanes through the years, we recognize that storms are a fact of Keys Life from which we have recovered and will continue to do so.

How the Little-Known Casualty Losses Tax Code Provision Can Benefit You

The deduction of casualty losses tax code provision for income tax purposes can help mitigate the financial losses property owners have suffered as a result of Hurricane Irma including owners of rental homes and commercial property as well. (Casualty loss is defined as damage, loss, or destruction of your property due to a sudden or unexpected event such as a hurricane. Normal wear and tear does not apply.)

The casualty loss rules are different for properties held for personal use vs. business use. Vacation rentals that meet the IRS definition of business use will qualify under those rules.

Internal Revenue Service Topic 515 provides basic guidance as to the deductibility, for U.S. income tax purposes, of property losses resulting from Hurricane IRMA. For personal-use property such as a personal residence, the deductible loss is equal to the lesser of:

- The adjusted tax basis of the property, or
- The decrease in fair market value of the property caused by Hurricane IRMA,

So, here is how it generally works for a home used as personal, non-rental property: If the home is insured, the casualty loss can cover the deductible and any other portion of the loss not covered by insurance like docks and landscaping. Accordingly, if a home is worth $500,000 before the storm and $400,000 after the storm (determined by appraisal of both the before- and after-Hurricane IRMA fair market values of the damaged property), and the homeowner gets a $50,000 payment from his insurance company, then the Casualty Loss deduction would be $50,000 subject to any existing rules that require the loss to exceed a percentage of the taxpayer's Adjusted Gross Income (AGI.)

Casualty losses can and do include losses that are uninsurable like landscaping, pools, docks, etc. that can very significantly reduce the value of a property.

The rules for commercial or income-producing properties do not include any AGI reductions.

The casualty loss will be filed with the 2017 tax return. Consult with an accountant for more information on your specific needs. Be sure to take photos to document the damage for the appraiser. More information can be found at www.irs.gov/publications/p547.

How Hurricane Events Affect Pending and Contingent Transactions

Many buyers and sellers of Florida Keys properties have questions about how pending or contingent transactions will continue in light of Hurricane Irma.

There are two controlling provisions of the standard FAR/BAR "As Is" Residential contract (which is the commonly-used contract form) that specifically deal with hurricane events and the impact of them on pending and contingent transactions, and provide most of the guidance the parties will need in this respect. Standard "G" *Force Majeure* and Standard "M" deal with the specific extensions of time related to the contract and damage thresholds for cancellation related to property restoration.

The Force Majeure provision states that all buyer and seller deadlines for any obligations under the contract such as financing approvals and inspections (if they were unexpired prior to Irma), surveys, title work and closings are extended for up to 7 days once the aftermath of the hurricane (including the lack of electricity and internet services) no longer prevents the fulfillment of such obligations. *The parties must be given notice that all third-party vendors are operational before the clock starts ticking.*

The closing date is extended for a maximum of 30 days from the contract Closing date.

After these time periods have elapsed either party may cancel the contract or the parties may agree to extend the contract terms and continue to a closing at a later date. The Risk of Loss Standard establishes 1.5% of the purchase price as the threshold for the cost of restoration of property damage. If the property is not damaged or the cost of restoration is less than 1.5% of the purchase price, then the parties are obligated to close under the contract assuming all other contingencies have or will be met. Given the difficulty in effecting restoration prior to closing in the next 30 days or less – especially considering the small labor pool relative to the amount of overall recovery work -- it is altogether likely that the property restoration may not be complete prior to closing.

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The contract anticipates that eventuality and provides for 125% of the "ESTIMATED cost to complete restoration (not to exceed 1.5% of the purchase price) to be escrowed at closing."

If the cost of restoration exceeds 1.5% of the purchase price then the buyer may cancel the contract or accept the property along with 1.5% of the purchase price and proceed to closing.

The parties are certainly free to negotiate the percentage amount upward if they so choose. The 1.5% restoration cost includes the cost of pruning and removing of damaged trees but does not include the cost of replacement of the damaged trees. The Seller is not obligated to replace landscaping.

This does not re-open any contingencies in the contract including inspections, right to cancel, and financing. The lender may, however, reasonably request a reinspect prior to funding.

Monroe County Substantial Damage Assessment and Floodplain Regulations

Property owners will face many challenges in recovering from Hurricane Irma. Recovery and rebuilding the community will focus on making homes and businesses more resilient. Newer structures built to current code and elevated were far less damaged.

Inspection teams are currently accessing properties that have "substantial damage," as defined by the National Flood Insurance Program. It's common to think substantial damage merely describes a structure that has sustained a large amount of damage by a flood or other disaster. In reality, "substantial damage" is a specific term. It applies to a damaged structure in a Special Flood Hazard Area – or floodplain – for which the total cost of repairs is 50 percent or more of the structure's adjusted market value before the disaster occurred, regardless of the cause of damage. (These rules apply to BOTH pre- and post-FIRM structures.)

Market value means the county property appraiser's value of the structure plus 20 percent, or alternately, a value of the structure established by appraisal. Land value is excluded from the determination. For example, if a structure's adjusted market value before the damage was $200,000 and repairs are estimated to cost $120,000, that structure is "substantially damaged."

It's important to know the percentage of structural damage because that information helps property owners decide whether to repair or replace a damaged dwelling. If the total cost of repair or renovations exceeds 50% of the value of the structure, you may be subject to bringing the dwelling up to current codes. That includes elevating the dwelling above the base flood elevation. If you disagree with a decision about substantial damage, you may submit a complete cost estimate for the repair of **all damages sustained by your home** that is prepared and signed by a licensed general contractor. Your contractor will be required to sign an affidavit indicating the cost estimate submitted includes all damages to your home, not just structural. The total cost of all projects applies. This means a contractor cannot break the job up into smaller projects with separate permits to fly under the radar. The total of all projects must be added up and counted as one. In fact, some communities require that projects be calculated cumulatively over several years. Check with local authorities to see if this applies to you.

All communities in Monroe County participate in the National Flood Insurance Program and are required to have floodplain regulations and make substantial damage determinations. Flood Damage Prevention Ordinances must be in place for residents of a community to purchase subsidized flood insurance through the National Flood Insurance Program (NFIP).

With the vast impacts of Hurricane Irma, Local officials, FEMA staff, State Floodplain Management Staff, and FEMA contractors are making inspections in the Keys and will continue visual inspections throughout the coming weeks and months to calculate substantial damage.

ALL property owners should check with local building officials to determine if permits for repair are required BEFORE beginning work. The County Building Official, Rick Griffin, has exempted permit requirements up until Nov. 11, 2017 for work that would eliminate imminent danger to life or to prevent further property damage caused by Hurricane Irma. On Sept. 25, 2017, the Monroe County Building Department started accepting permit applications (exempted from permitting fees for a limited time) for a variety of purposes.

Property owners who have a flood insurance policy and a substantially damaged building in a Special Flood Hazard Area may be able to use additional funds from their flood insurance policy (up to $30,000) to help defray the costs of elevating, relocating or demolishing a structure. For more information on this provision – also known as Increased Cost of Compliance – contact your insurance agent. National Flood Insurance Program policyholders, who have questions about their flood insurance policy or the claims process, and disaster survivors, who have general questions about the National Flood Insurance Program, can contact the support hotline by calling 1-(800)-621-3362.

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AND/OR CURRENT RESIDENT:

For more information on general flood insurance questions, contact your local floodplain administrator, the National Flood Insurance Program (800-427-4661) or your local insurance agent. If you use TTY, you can call the National Flood Insurance Program at 800-427-5593. You can also emailFloodSmart@dhs.gov to request information in a language other than English. Information also is available at www.fema.gov and www.floodsmart.gov.

Coldwell Banker Schmitt Charitable Foundation

Hurricane Irma has forever changed the lives of everyone in the Keys and the needs are great, ranging from providing shoes to school children who lost everything, to assisting families so that they can return to their homes.

The Coldwell Banker Schmitt Charitable Foundation is reaching out to help.

The Foundation is a 501c3 tax-exempt, non-profit organization founded in 2002 to assist permanent residents of the Florida Keys whose short-term critical needs are not being met through other means. To date, more than $2,000,000 has been raised from Coldwell Banker Schmitt agents and staff as well as the general public enabling the Foundation to help over 800 individuals and families. 100 percent of the donations collected are returned to those in need. Each application is vetted and reviewed by the Board of Directors and only those that are approved can be funded.

If you would like to help, you can make a tax deductible donation by visiting any one of our five offices throughout the Keys, through the Foundation's website: www.GoodDeedsInTheKeys.org, or by calling 305.240.1047.