

## **GREETINGS FROM GRACE TITLE**



### ***Lake County Office Opening Soon***

Well, after a two month break since our last newsletter we have much to report. We have secured a location for our next branch office in Eustis which will serve East Lake County. Later we may have other locations in Lake County if we feel the need from our customers to do so. The Eustis office is located at 2500 S. Bay Street, which is U.S 19 one half mile from US 441 as you go north into Eustis. The phone number is 352-357-8200. We are working to have that office staffed and fully operational by November 1, 2005.

### ***New Team Members***

In addition to the Eustis office, we have added staff to our Altamonte Springs office to better serve your needs and continue providing "Magnificent Service". Please join me in welcoming Maria Carvalho, Nancy Riley, and Hope Bonomo to our team. We will be updating our website at [www.thegracecompanies](http://www.thegracecompanies) to reflect these changes and of course this is where you can find their contact information as well.

Switching gears, let me express a huge thank you to all of our customers for helping us to have a great summer. We especially had banner months in August and September. But this is not very surprising since sales of single family homes have continued to explode this summer. According to the Orlando Regional Realtor Association, in August, 2,909 homes were sold, which represents a 29% increase over last August. So in spite of a volatile stock market, high gas prices and a couple of nasty hurricanes passing through the Gulf of Mexico, the Real Estate market in Central Florida remained solid. In my opinion, the Central Florida Real Estate industry should continue to flourish as we close out the last quarter of this year, and on into the first quarter of 2006. So let us all remain positive and grab our market share as we close out 2005 and set our goals for 2006.

### ***Impact of New Bankruptcy Law on Real Estate***

As many of you might recall, in May I passed on an article entitled "New Bankruptcy Law Will Have Impact On Real Estate". If you missed it you can read

it on our website at [www.thegracecompanies.com](http://www.thegracecompanies.com). I also promised you at that time that I would keep you updated and informed regarding the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005", which was signed into law in April. I recently received an e-mail that I wish to pass along to you from the CCIM Institute. The article is about the new legislation. I found it very interesting and I hope you will too.

As always, Grace Title, Inc. wishes you continued success through the remainder of this last quarter and we hope that we continue to be a part of your business. Thanks again to all for the support and confidence that you extend to the staff at Grace Title. – **D. Greg Gary**

## **New law changes home equity protection**

MIAMI -- Oct. 3, 2005 -- Florida has long been notorious for being a debtor's paradise. The state constitution allowed most residents to shield from creditors the full value of their homes, which enticed some wealthy debtors to the Sunshine State. Former baseball commissioner Bowie Kuhn and one-time financier Marvin Warner, who reportedly moved to Florida and then filed for bankruptcy, are frequently cited examples. Because of the state's generous homestead exemption, those homes were out of the reach of the creditors they owed money to. But the law hasn't just benefited the well-heeled. It also has protected average Joes from losing their property. That may no longer be the case for some, however, after President Bush signed a new bankruptcy law in April. Now, anyone who has lived in a state for at least two years but who has owned their home for less than 3 1/3 years before filing for bankruptcy can only protect up to \$125,000 of equity in their home. (A debtor who has lived in a state less than two years prior to a bankruptcy filing must file in the state where he previously lived.) Florida's unlimited homestead exemption still applies for residents who have owned their house more than three years and four months.

Sunny Isles Beach resident Elona Kaplan is one of the first South Floridians affected by the change in the bankruptcy law. While most of the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act become law Oct. 17, the part dealing with homestead exemptions took effect when Bush signed the bill. Kaplan, 43, bought her Sunny Isles Beach condo for \$178,000 in April 2003. She had moved from New Jersey following a divorce, but she didn't get the fresh start in South Florida she'd hoped. "I couldn't find a job. I was living off my savings," Kaplan said last week. Kaplan also accumulated more than \$32,500 in credit-card and other debt before filing for bankruptcy in May. The Chapter 7 filing gives Kaplan the ability to wipe out some of her debts.

### CONDO APPRAISED

Like most other South Florida homes, Kaplan's condo appreciated significantly in the white-hot real estate market. An appraisal commissioned by Alan L. Goldberg, the Miami bankruptcy trustee in Kaplan's case, valued her condo at \$335,000. After deducting Kaplan's mortgage, Goldberg determined Kaplan's equity in the condo at about \$150,000. Since Kaplan owned her condo less than 40 months, it fell under the new \$125,000 cap on homestead exemptions. After applying the cap, Goldberg concluded Kaplan has more than \$25,000 in equity that could go to repay creditors. So Goldberg filed a court motion claiming he has the right to sell the condo. In bankruptcy court Wednesday in Miami, Kaplan's lawyer argued the \$125,000 cap on homestead exemptions doesn't apply in Florida. North Miami Beach attorney Richard Birkenwald relied on a June ruling in the U.S. Bankruptcy Court in Arizona to support his contention. That judge, Randolph J. Haines, ruled the \$125,000 cap only applies in states that have not opted out of federal homestead exemption limits, such as Florida and Arizona. In his eight-page ruling, Haines concluded this may be a glitch in the new law. But he left it up to Congress to fix. Fort Lauderdale lawyer Thomas Messana, who represents the bankruptcy

trustee, said the Arizona ruling was wrong. U.S. Bankruptcy Judge Robert A. Mark, who oversees Kaplan's case, agreed with Messana and ruled that the \$125,000 homestead exemption applies in Florida.

#### MIXED SIGNALS

Birkenwald said he has no plans to appeal Mark's decision, even though Mark's ruling means there are opposing bankruptcy court decisions on the issue. Kaplan admitted after the court hearing she's worried her condo could be sold against her wishes. "Absolutely," Kaplan said.

"That's the only thing I have left." "If she wants to keep her house, I'm willing to work with her," Goldberg said. "But her creditors are entitled to \$25,000." He suggested she could obtain a second mortgage loan to pay her creditors. Meanwhile, Birkenwald is preparing to argue the steep appreciation in the value of Kaplan's condo and her mortgage payments shouldn't count in calculating the equity that's applied to the \$125,000 cap. He also said the condo's value is closer to \$305,000 than to the \$335,000 used by Goldberg. "The intent of the legislation was to stop people coming from other states and shielding assets in their homestead," Birkenwald said. "That isn't the case here." If rising property values are applied to the \$125,000 cap, Birkenwald predicted many homeowners struggling with financial problems will be reluctant to file.

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**225 S. Westmonte Drive, Suite 2080  
Altamonte Springs, FL 32714  
321-207-0465  
800-943-0465  
321-207-0466 (Fax)**