Real estate: Stiffing lenders: the moral argument

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Walking away from an upside-down mortgage doesn't only make financial sense, in some cases it might be the right thing to do.

So says University of Arizona law professor Brent T. White, who's now beefing up the moral side of his argument that homeowners could benefit financially by defaulting on their mortgages.

Critics of White have said it would devastate the economy if people listen to him. It's also morally questionable, they say, for people to stop paying for their homes just because they're worth less than what's owed.

But Friday, at an ethics symposium hosted by the University of Arizona's Eller College of Management, White delved deep into the morality of making such a choice. He argued there could be a social benefit if families walk away from homes that have plummeted in value - especially if those homeowners were counting on the investment to support them and their family into old age.

"It might be more responsible, in such a case, to put the money saved from renting, instead, into a retirement account," White said. "So that one is not a burden on society or one's children in old age - or so that someone can fund their children's chance at a higher education. In other words, things aren't so black and white."

White, it seems, has become the spokesman on behalf of walking away from a mortgage. After the seminar he said he never really expected to play such a role. He thought the paper on underwater mortgages would fade into obscurity, like most academic works.

Of course, White isn't the only one with an opinion about walking away from a house that's dropped in value. Two of the other panelists at Friday's event, a Tucson banker and the head of a local real-estate company, don't stand to gain if the practice becomes widespread.

"I do have some conflicts with Professor White's view of using the opportunity of not paying your mortgage, and preparing yourself for that act, only because the negative equity situation - the investment side of the home ownership - may hamper future wealth creation," said Rosey Koberlein, the CEO of Long Companies.

Koberlein declined to make a blanket statement regarding the morality of walking away from a home. She said the circumstances that lead up to that choice vary with each case. She did point out that when homeowners sign a mortgage contract, nothing in the document gives them relief just because their house drops in value.

Also, a homeowners should understand that there may be legal repercussions if they used their homes' rising value to make other investments.

"For many, many years, up until this long, hard meltdown, the borrower enjoyed the appreciation of the value of the home," Koberlein said. "And enjoyed it without an equity share by the bank."

And banks themselves can be in a tough spot, said John P. Lewis, the president and CEO of Southern Arizona Community Bank, which is in the process of combining with Bank of Tucson.

Federal regulations can make it tough for them to work with a borrower even if they want to, he said, because banks can get dinged and have to put up more cash to back up a modified loan.

On one point, Koberlein seemed to agree with other critics of White, saying if underwater homeowners start walking away from their mortgages en masse the economic consequences would be devastating.

But why should homeowners bear the burden of the entire economy, White asked?

Big corporations can walk away from a bad investment, so why not homeowners?

A real-estate company in New York defaulted on $4.4 billion in loans even though it had the cash to pay its bills. And no one, said White, questions whether that company - Tishman Speyer Properties - took the moral course of action.

So why should it be different for a family of four that's juggling bills, stuck in a house that's worth half what they paid for it, and still trying to put a few bucks away for the future?

"It is unfair, in my view, to ask individual homeowners to prop up the housing market on their back, something they actually can't do
anyway," White said. "It's especially unfair if it means sacrificing their family's financial security."

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