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Homeowners who face foreclosure still have hope

By Community Conversation Staff
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SW Fla. foreclosures list

Southwest Florida is an epicenter of the national foreclosure crisis, but little has been done by courts and local government here to give homeowners a chance to avoid it.

The evidence is everywhere of the economic and social havoc resulting from the wave of foreclosures. But the courts here, swamped with cases, have their eye on one goal: clearing the backlog of foreclosures so the system won't be overwhelmed.

That backlog is a big problem, and radical steps were necessary. But in the process legally clueless homeowners who might avoid the devastation of foreclosure if given a meaningful chance to negotiate with their lenders are hustled out of their homes through the county's "rocket docket," where foreclosure cases are sometimes disposed of in seconds.

That's OK for real estate speculators and others who may not be interested in avoiding foreclosure. But for borrowers who are, the courts should provide procedures that will deal justly and expeditiously with this crisis.

In some cases a negotiated settlement is possible, but only if courts make borrowers and lenders sit down together with a court-certified mediator.

Experts on foreclosure agree that when homeowners receive notice of a foreclosure lawsuit against them, they should act immediately to preserve their right to contest the suit effectively. They have 20 days to file a response.

"The key is to be pro-active," says Kevin Jursinski, a Fort Myers attorney with an extensive foreclosure practice. "Reply to the suit and seek help from an attorney or some other agency."

"The vast majority of foreclosure suits go unanswered by borrowers," says Lane Houk, a mortgage analyst who works with homeowners. "People are afraid, intimidated, embarrassed. They think all hope is lost."

It's best to act long before foreclosure is initiated, but the foreclosure suit need not mean the end of hope for homeowners trying to save their home or credit.

Without an attorney, the average homeowner trying to fight foreclosure is at a big disadvantage. The law is complex, and lenders know the territory.

Even without an attorney, people facing foreclosure can still protect their interests by timely filing a response and request for mediation, and by seeking help from non-profit agencies.

Expand mediation

Court-ordered mediation could resolve a significant number of cases to the advantage of both lender and borrower.

An existing mediation program deals only with the relatively few foreclosure cases that actually get set for trial.

Most rocket docket defendants, facing a summary judgment, are going to lose their homes; they're too far under.

But we should give the ones with some income and good faith the chance to finally sit down with a decision-maker from their lending institution to see if they can manage a modified loan or if there is a less damaging alternative to foreclosure, suitable to both sides.

Anthony DiMarco, executive vice president of the Florida Bankers Association, said the industry isn't opposed to mediation, so long as it's not just a delaying tactic. "We don't want to foreclose, but my members are telling me they have trouble, too, trying to contact homeowners and getting action."

We all have an interest in quickly, cleanly resolving foreclosures if it will keep people in their homes.

Some experts predict that foreclosures will continue as adjustable rate mortgages cause payments to soar and as more people lose jobs.

In Lee County, our backbone construction and real estate industries have been dragged down by the steady growth of foreclosed homes, glutting the market, depressing prices and tax bases for government and blighting neighborhoods with abandoned houses.

Lenders have a right to a reasonably speedy resolution when a borrower is not paying on his mortgage. But borrowers, even those badly in arrears, have a right to due process, as well.

Both state and federal governments have failed to take effective action so far to help people deal with foreclosure. In the meantime, some courts in Florida have acted. Those in Lee should follow suit.

Local government can help. The Home Ownership Resource Center is one of the federally approved non-profit agencies in Lee County that can help troubled homeowners, and equally important help unsophisticated potential home buyers avoid trouble in the first place.

The HORC may now qualify for renewed funding from the the City of Fort Myers, now that the agency has completed a proper 2008 financial report.

It is absurd that such agencies are underfunded and understaffed, given homeowners' need for advice and the importance to society of keeping people in those homes.

Additional Facts

Foreclosure series

Reported July 5

Our foreclosure series: Introduction to the series "Surviving Foreclosure" — a review of what's to come.

Reported July 12

Avoiding foreclosure:

Focus on struggling and underwater homeowners. What can you do to keep your home?

Today

Getting through foreclosure: What options exist? Is it better to try to save your home or find a way to leave it?

Coming July 26

Dealing in foreclosure: Buying your dream "foreclosure" home at a great price.
