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Housing foreclosure backlog eases

After an uptick in 2012, numbers drifting off again.

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The number of foreclosures backlogged in the Lee County court system drifted up in 2012 after three years of sharp decline — but now the numbers are trending down again.

There were 24,056 active cases on Jan. 31, 2009, but that dropped to 8,132 by Jan. 31, 2012 before starting to rise again. But for the past four months the number's been falling.

Faster and easier short sales by lenders are responsible for the recent improvement, said Jeff Tumbarello, a real estate agent with Stockbridge Realty and director of the Southwest Florida Real Estate Investors Association, which generated the statistics.

Rather than enduring the long, expensive foreclosure process, he said, lenders are increasingly opting to make a deal with the borrower: Sell the house at its current market value and the bank will forgive the rest of the loan balance.

In recent months, Tumbarello said, "A lot more (foreclosures) are being dismissed" while at the same time there are fewer being sold at public auction after a foreclosure judgment. "Short sales are making up the difference."

Kara Jursinski, a Fort Myers-based attorney who represents people being foreclosed on, said the backlog's rise in 2012 could be due to the use by more lenders' attorneys of a form of foreclosure that pushes the case through quickly: in no more than 60 days the borrower has to come up with a credible defense or the lender gets a judgment allowing the sale at public auction of the house to meet the mortgage debt.

The problem, Jursinski said, is that while the lender's attorney is pushing through the foreclosure, the borrower may be working with another bank official on a short sale.

In that case, sometimes the lender "wanted to afford buyers time to do modifications or short sales" but the fast-tracked foreclosure threatens to preclude those solutions.

As a result, she said, "Sometimes they get a final judgment and keep canceling the sale" in hopes that the short sale can be accomplished.

Jursinski said she's handled cases in which the bank cancels the sale date as many as four times. "It's just a waste of time for the courts and the attorneys" and slows down the whole process.

But the renewed shrinking of the backlog may be a result of the eventual success of the short sale process, Tumbarello said: paying off eventually after the initial delays from canceling the sales.

Two months after the backlog reached its historic high of 2,665 in October 2008, Lee and other counties in the state embarked on an aggressive “rocket docket” in which retired judges expedited large numbers of foreclosure suits to push them through the system.

But in mid-2011 the state money that funded that program ran out, and that’s one reason why foreclosures trended up in 2012, said Charlie Green, who was Lee County clerk of court at the time.

Some cases were withdrawn by lenders unprepared to move forward with them because of questions about whether attorneys had made paperwork errors or there was a question as to the true owner of the note.

Now, Green said, “I think lenders are refilling some of those cases they cleaned up.”

The problems with those cases may still resurface, however, said April Charney, a Venice-based foreclosure defense attorney who also trains attorneys in how to handle those cases.

Issues about whether a loan was ever properly conveyed to the entity filing the foreclosure typically aren’t resolved, she said, “so the problem that existed before is still the underlying title, there’s still the break in title for the loan.”

The trend of falling foreclosure sales tends to make the market healthier, experts say. As the number of distressed sales drop, home prices rise.

Some buyers may have jumped in recently because they feel prices have already bottomed out.

The median price of homes sold in Lee County rose 23.1 percent to \$153,890 in February compared to \$125,000 a year earlier, according to the Realtor Association of Greater Fort Myers and the Beach.

In the Naples area, the median price of an existing single-family home rose 20 percent to \$260,000 from \$216,000 in the same time period, according to the Naples Area Board of Realtors.

Tumbarello said that whether foreclosures are resolved through the courts or short sales, the faster the better as far as the public good is concerned.

“You’re looking at some extremely affordable places to live in now in Lee County, which is inherently good for us” because that frees up more money for consumer spending, he said.