

Communities Fight Back After Banks Walk Away

By: Lita Epstein

People aren't the only ones walking away from underwater mortgages. Banks are walking away, too. Communities are fighting back to regain control of their neighborhoods. Some by forcing banks to terminate mortgages. Others by purchasing the homes abandoned by banks, fixing them up then renting or selling them.

A recent study done by the General Accounting Office found that banks charged off 46,000 properties between January 2008 and March 2010 with 60 percent of these charge-offs happening before even filing for a foreclosure. Then the banks just abandon the properties. These numbers are probably low. So what are communities doing to take back control of these abandoned properties?

The San Bernardino Economic Development Authority found an innovative way to get control. They have partnered with the Inland Empire Concerned African-American churches to begin purchasing foreclosed homes. A spokesperson for the authority said, "In a city with a population of approximately 200,000, it has been estimated there are at least 5,000 vacant foreclosed homes," but she thinks its "probably much higher than that."

The church group is a group of pastors in San Bernardino, Calif., that has a lot of past experience managing construction projects. It's one of at least a dozen groups working with the cities Community Housing Development Organization to fix up and make homes livable. When the renovation is done they rent or sell the property to someone who needs a home.

In Florida, the Association Law Group is helping homeowners associations take back control of abandoned homes by forcing the banks to put up or shut up. They use a tactic called the Mortgage Terminator to get banks to

foreclose on the property or step out of the way by clearing the title to the property. Then the homeowners association forecloses based on a lien for past HOA fees, fixes up the property and sells or rents it.

Ben Solomon's first successful case using the Mortgage Terminator involved a property financed by Citibank. The association that was involved (which is located in South Florida) foreclosed on the property for past-due HOA fees in 2007, after two years of nonpayment of fees. Citibank never acted, and the mortgage that it held prevented the association from selling the property.

Fees continued to build until the association filed the first "mortgage terminator" case in 2010. In the summer, the court confirmed this strategy, wiped out the mortgage lien and gave the association clear title to be able to sell the property and recoup its lost fees. Since that case he's won cases against Wells Fargo and Deutsche bank. He's got about dozen more winding their way through the courts.

Solomon said there are about 110,000 foreclosure cases pending in Miami Dade County. Of those cases, Peter Ranch of the RealtyStore said there are only 3,855 bank-owned properties listed for sale and another 10,526 not actively listed. That means in Miami Dade County alone there are almost 100,000 homes whose fate is yet unknown.

Solomon says, "The banks are in no rush to foreclose and take title because that means they then must pay the HOA or condo fees." He explained that by Florida law, banks only have to pay a maximum of 12 months or 1 percent of the mortgage in back-due fees when they take possession in a foreclosure, but after they take possession they are then responsible for all fees. For units sitting vacant for two years or

more, it's cheaper for the bank not to take title. So instead, banks have been dragging their feet and not taking title on property long after the owners, who were investors in most cases, abandoned the property.

Fannie Mae is trying to increase the use of short sales and get some of the properties back into the hands of home buyers by developing a Short Sale Assistance Desk with the help of Multiple Listing Services. Right now that project is in its infancy and only operating in several regions, Janis Smith from Fannie Mae said. When it's fully operational it will help real estate professionals with "post-offer short sale issues that relate to servicer responsiveness, the existence of a second lien, or issues involving mortgage insurance."

According to the fact sheet from Fannie Mae the Short Sale Assistance Desk will "serve as a backstop to empower real estate professionals in those cases where the normal approval channel has bogged down, and where Fannie Mae's intervention may serve as a catalyst for progress towards a resolution."

Adam Kruse, a Realtor at Hermann London in St. Louis told AOL Real Estate that "we have had banks just walk away from properties and leave them sitting rotting for over a year at a time." He just went to a meeting about this new Fannie Mae program and he's hoping it will help to get short sales moving. He said right now Realtors are "steering buyers away from short sales" because it's so difficult to get them closed.

Maybe now that communities, Realtors and lawyers are finding ways to get banks to act or get out of the way, we'll start seeing some real progress toward recovery in the housing market.