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Finding solutions to messy foreclosures

By: ZACH FOX - Staff Writer
More businesses and nonprofits are offering advice

Community Housing Works, a nonprofit group with an Escondido office that doles out free housing advice, is getting so many calls it cannot answer them all. Chief executive officer Sue Reynolds says she wishes the nonprofit was fielding even more calls.

Bank-owned foreclosures last week countywide hit a new high during the housing recession, and 2008 will see as many, if not more, foreclosures in San Diego County, according to two recent reports released by real estate agencies.

"Last year, we'd have one or two calls a month," Reynolds said. "Now, we're getting a dozen to two dozen a day. And we don't advertise."

The thousands of families facing foreclosure locally often do nothing in advance of losing their homes out of embarrassment or fear, housing advocates such as Reynolds say. That can often leave them with expensive tax bills, lawsuits for the remaining balance on their loans and black marks on their credit scores.

signs of R**evol**ution (read the bolded part backwards) and a person or two waving his signs on freeway overpasses, but have yet seen his face on CNN. What gives? 45 comment(s)

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In Riverside County, there were 57,241 foreclosure filings in 2007, more than triple a year before and an 827 percent increase from 2005, according to data from RealtyTrac, an Irvine-based foreclosure tracking service.

For families who have fallen behind, there are essentially three options:

- Go through foreclosure, causing major damage to the borrower's credit rating and possibly leaving the homeowner with huge tax bills and lawsuits from the bank for the remaining amount of the loan after an auction.

- Set up a short sale, in which the lender agrees to sell the property for less than the total loan amount. These can be difficult, especially if there are different lenders holding two or more mortgages. The borrower's credit rating is still negatively affected but less so than in a foreclosure.

- Convince the lender to accept a loan modification, in which an adjustable interest rate is frozen at a previous level. Homeowners have to be able to make the original payment. The credit rating is affected, but the borrower can stay in the home and avoids foreclosure.

Walking away

The confusion surrounding foreclosure has led real estate agents to focus on short sales, encouraged attorneys to tailor their business toward doling out foreclosure advice and spurred the creation of a Carlsbad-based company, You Walk Away, which guides families through the process.

"It's a 1,000 percent increase (in short sales from a year ago)," said Dan Holbrook, a Carlsbad real estate agent. "It's huge. Short sales have gotten increasingly easier to do as lenders recognize it as a veritable loss mitigation standpoint."

That worries some low-income housing advocates because no matter the amount of help, failing to pay off a loan in full will damage a homeowner's credit score.

"I think foreclosure ... always needs to be looked at as a last resort," said Reynolds, of Community Housing Works.

Further, the explosion of foreclosures has some housing insiders worried that it could create a culture in which not paying off a loan is acceptable.

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"My 11-year-old could tell you there's going to be more foreclosures this year than last," said Jim Klinge, who owns his own real estate agency in Carlsbad. "I'm an old-school guy. I think people should stick it out. ... It's in the atmosphere. There's enough homeowners contemplating bailing out ---- I think they're being encouraged."

The first step for families facing foreclosure should be to ask their lender for a loan modification so they can stay in the home, Reynolds said.

Community Housing Works pushes lenders for loan modifications through a coalition of government entities and banks, including the U.S. Department of Housing and Urban Development, sometimes known as HUD, Countrywide and Chase Manhattan.

"My thought is if (a foreclosure company) is not a HUD-certified effort, you should not trust it because where's the business model?" Reynolds said. "How are people making money?"

But if a homeowner has lost a job or otherwise can no longer afford the original mortgage payment, a loan modification is likely not an option, Reynolds said.

Then the homeowner is essentially forced into either foreclosure or a short sale.

Selling short
Blair Wilson says he could not be happier that he went through a short sale. As a self-employed marketing consultant, when business dried up, he said, he fell behind on a refinanced mortgage.

He set up a short sale through Holbrook, who said the San Marcos home sold for $547,000 in April, $100,000 less than what was owed on the home across two mortgages.

"Now we're seeing lenders become more realistic, more cooperative," Holbrook said.

Wilson moved to Las Vegas in search of a better job market. He now rents but hopes to buy a home within a year and said his credit rating is only slightly below average.

"I tell friends, you've got an opportunity to do a short sale, but they still think that the foreclosure is the way to go," Wilson said. "The difference between the two is like day and night, but you have to have somebody that you can really, really trust."

When foreclosure is unavoidable
Short sales only work if the borrower's home can sell for a high enough price to satisfy the lender.

"For some, it may be (the payments are) too much," Reynolds said. "Then they're going to have to address the possibility of a foreclosure."

For them, there is more to foreclosure than mailing the keys to the bank and vacating the home. Beyond a black mark on the foreclosed person's credit rating, the bank that owns the mortgage can file a lawsuit against the homeowner, suing for the difference between the sales price and what is still owed.

"There's certainly economic rationale why some folks might be tempted to walk away, but there might be long-term consequences," said Paul Leonard, director of the California branch of the Center for Responsible Lending.

That is why housing advocates such as Leonard recommend that homeowners meet with experts ---- such as real estate lawyers or accountants ---- before going through foreclosure.

For those facing foreclosure, one local lawyer advises that homeowners might be able to stay in the home longer by stopping payment on the second mortgage.

"If you foreclose on a house and it only pays the first (mortgage), the lender on the second won't foreclose because they won't get anything," said Ken Andrews, a San Diego lawyer. "Basically, it's just a waiting game."

But homeowners who stop paying a second should be aware it might do more damage to their credit rating than immediately entering foreclosure because they will be delinquent on payments for a longer period of time and incur heavy late fees, he said.

Andrews said the right plan ---- paying off credit cards and not carrying a balance ---- can bring homeowners' credit levels back to buying a home within three years.

"If you're talking about going into any kind of foreclosure, your credit is ruined so I don't see the difference between just walking away and not paying your second," Andrews said. "But you've got to be careful. This is for somebody who can definitely make payment on the first in perpetuity because if the first forecloses, then the problem is just going to be worse."

Contact staff writer Zach Fox at (951) 676-4315, Ext. 5412, or zfox@californian.com.

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Comments On This Story

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staff.

Let It Go! wrote on Feb 9, 2008 7:42 AM: As a member of the group of people who are buying because prices are finally becoming realistic - I won't even look at a short sale. The process ties the buyer up for months in the meantime, the buyer has lost the opportunity on foreclosure deals. My best success has been find a lender who is realistic about the direction of the market and negotiate with for a foreclosure, avoid the short sales - they are nothing but a headache and you don't get much of a bargain.

banks are stupid wrote on Feb 9, 2008 10:08 AM: if they don't do everything they can to keep an owner from defaulting. Not only are cutting their throats in the short term by losing hundreds of thousands of dollars on a ,loan, they're contributing to the rapidly declining market, which just feeds on itself. If they would all just agree to hold the line on interest rates instead of kicking up the adjustable rates, they would probably keep at least half the potential foreclosures at bay. They would lose a little money, but not nearly as much as if the owners default. But too many banks play hardline and hurt themsleves as much as the borrowers. Stupid!

chris wrote on Feb 9, 2008 8:46 PM:honestly, the whole economy has been riding on the cash out mortgage financing bubble for too long and it has to crash. I think the banks know that just as well as we all do and they are willing to help when they can, but they are not exactly making alot of money off mortgages right now. I think the larger banks also know a couple of things that are keeping them from helping as much as people think that they should

1 the market is inflated and needs to correct itself for their mortgage businesses to get back to being succesful
2 The way the mortgages have been bundled and sold off to investors is going to change and it will be alot harder for them to conitue to finance loans as investors are not real excited about buying the loan packages.
3 How can you accept a 6% rate freeze or whatever and then at the same time be giving out loans to new customers with good credit for a higher percent. Your good customers are not going to stand for that. In the mean time, the banks financial planning and stability is built upon the adjustable rate mortgages either being payed off through refi or someone paying the higher percentages. On some of the higher risk loans, they are basicly selling the loans at a small amount above cost knowing that they made their money on all the fees, points, etc as people refinanced 2 years later or as they payed more after the initial %.

Now because banks are loosing money on this end, they are jacking up credit card rates and fees on good customers with solid credit histories. Sometimes as much as 10-15% increases.

Yes banks and mortgage brokers were predatory, but all salesmen are. Who is surprised by this. They do the same thing that car salesmen have been doing for years. I'll be damned if the gov't or the banks should help owners out of their situation beyond a short term leniancy.(say extend lower rates for like 1 year) Any more than that is just propping up an obviously failed market that is in dire need of restructuring and teaching helping people who tried to live the dream without paying for it. I personally sick of hearing about people making 50,000 per year whining that they can;t make their 250,000 house payment. What happened to the old thought that you can afford a house that is 2x what you make per year or so. Or that for major purchases always plan on the worst (as well as never buy a house without having a couple payments in the bank somewhere.

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