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How Foreclosure Documentation Issues Could Paralyze Housing Recovery

Published on: Monday, October 18, 2010

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The prospect of a halt to US foreclosures, in response to lender discrepancies, could paralyze housing recovery and the broader economy. Distressed property buyers may face invalidated sales along with limited access to title insurance and lending, while the backlog of foreclosures mounts and the lesson of responsible homeownership is lost. See the following article from [HousingWire](#) for more on this.

Does the public realize that one out of every four homes sold in the last couple of months is in jeopardy of having their sale invalidated?

This is important even for those who didn't purchase REO because it could affect all Americans who need title insurance and reduce the types of financing available, not to mention the skewed market that will be the result of 25% of America's housing stock standing empty.



In the wake of Bank of America, Chase, and Ally Financial's recent disclosures that employees might have rubber-stamped foreclosures without following protocols exactly, many industry and political leaders are arguing for a moratorium on foreclosure sales nationwide. As if we weren't in dire enough straits to begin with.

For the past 18 months, foreclosure rates have exceeded all records. In August, distressed homes comprised 34% of all existing homes sold in America, according to National Association of Realtors statistics. In this year's second quarter, 24% of all home sales were foreclosed homes, "the kind of volume we need to see for the market to heal," says RealtyTrac senior vice president Rick Sharga. That's not going to happen if foreclosure sales stop.

We can learn from mistakes, but to put our entire economy on hold because of a handful of procedural errors puts the housing market in a tailspin and prevents everyone from getting past this problem. Most leading economists say the only way to recovery is to push the distressed housing glut through the system – not slow it down or start over. Going backwards is not in our nation's best interest.

The nation's top mortgage-servicing banks have voluntarily halted foreclosure sales – including in-process transactions on the cusp of closing. As a result, title insurers are chiming in, saying they have concerns regarding the insurability of ANY homes foreclosed by these banks. Without proper title insurance, lenders will not offer financing to purchasers of these foreclosed homes.

These questions of details and rules are the crack that will break open the floodgates. If banks find foreclosure processes weren't followed strictly, then what? Will the previous owner, who was unable to or willfully didn't pay his mortgage re-inhabit the home he abandoned, miraculously start paying and oh, by the way, repair and rehabilitate the house that's been vacant for a year and a half?

New owners of foreclosed homes, who spend their hard-earned dollars on not only their own properties but also patronizing businesses in the surrounding community, might find themselves forced onto the street – with no returned check and no apology. Even people trying to buy non-foreclosed homes will find themselves up against a financing wall. With no foreclosures on the market, sure, home prices will rise, but without appropriate comparable sales to substantiate those increased values, good luck getting to the closing table.

Reports insist that the recession ended months ago and our economy is ready to regain its health and vibrancy. I disagree – for if our housing market, the cornerstone to a healthy economy (an assertion shared by many leaders), remains in total and complete paralysis, we will not be able to sustain any real housing stability or economic growth.

It's mind-numbing, but it is consistent with the widespread apathy toward holding homeowners responsible. This is not merely a housing industry crisis; it is a crack in the moral code of America.

It used to be that if a person could no longer afford his home, for whatever reason, he lost it. You don't pay, you don't stay. No one disputes the fact that people stopped paying what they owed and no one argues that they didn't realize their fiscal obligation. Homeowners understand their obligation.

No mortgage document offers a loophole to modify payments so they're more affordable nor does it state that if they cannot pay, they can just live payment-free for as long as they want. Should they get off on a technicality? Isn't time to hold people responsible?

Banks are in business to provide lending to the community and a place for community members to store their savings. They are not a department of government offering handouts and endless support.

When it comes to mortgages, banks lend money with the expectation that the buyer will pay them back over time. The most basic understanding of a mortgage: if you don't make your payments, you'll lose your house.

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