

Foreclosure freeze slows South Florida's residential real estate sales

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The decision by three major banks to freeze foreclosures will buy distressed homeowners months of extra time and temporarily block lenders from reclaiming homes.

But it also threatens to buckle South Florida's home sales.

Bank-owned properties make up about 40 percent of home sales in South Florida, and suspensions by JP Morgan Chase, Bank of America and GMAC could deliver a debilitating blow to that crucial segment of the embattled real estate market.

“People don't realize that this *is* our market,” said Matthew Murray, a Realtor with Pat Dahne Realty Group who specializes in bank-owned sales. “It's what's selling. If you delay the process, it's going to delay the recovery.”

There are mounting reports of approved foreclosure sales being stopped pre-closing, and buyers being left in limbo as banks try to deal with exposed “robo-signers” and unverified affidavits.

As the foreclosure moratoriums play out, a slowdown in low-priced, bank-owned properties coming through the pipeline could further hamper sales in South Florida, which depends on foreclosures more than most parts of the country.

The lenders have put the brakes on their foreclosure operations after bank employees and affiliates confessed they had been individually signing thousands of legal documents each month without verifying the details of the cases. Those documents, which contain crucial information like the amount owed and the owner of the note, have sparked allegations that thousands of foreclosure filings are tainted by fraud and forgery.

As paperwork issues stall sales, the hottest sector of the local market -- bank-owned properties, or so-called REOs -- lies at risk of going cold.

Together, the three lenders represent nearly a third of the local REO market. Bank of America, for example, has nearly 500 REO properties listed for sale in Miami-Dade and Broward counties, according to its website. GMAC, now known as Ally Financial, has at least 200 REOs in South Florida and JP Morgan has at least 250. Many of those properties have buyers and are currently pending sales, the banks' websites show. Other banks could follow suit in stopping foreclosure sales, although Wells Fargo announced Wednesday that it would not go that route.

IN LIMBO

Realtor Matthew Murray pointed out that most of his sales have not yet been affected, but other Realtors said bank suspensions have left some current sales in limbo and the future of the REO market uncertain.

Ashton Coleman, a Realtor with Keller Williams, planned to close on the sale of a North Bay Village condo this Friday before he got a letter from Bank of America saying the sale was being stalled.

“We figured that it would be fine since the bank already owned the property, but we figured that the bank probably found something wrong,” Coleman said. “The bank will be delaying [the sale] for at least 15 days, and for as many as 90 days.”

GMAC sent out letters to real estate agents last month alerting them that pending REO sales would be delayed an additional 30 days, Realtors said.

Anthony Askowitz, who has a few pending deals on GMAC-owned properties in Miami, said many of his buyers are investors, and have been willing to wait.

“If it's an investor, the investor is going to be able to handle it a lot easier than someone who has to move out of their current home by a certain date,” said Askowitz, a broker and owner of two Re/Max offices.

But the depths of the foreclosure mess have not fully been uncovered, and no one knows for sure how long it will take lenders to clear up paperwork problems and re-start the foreclosure machine. With banks facing new calls for federal investigations and full-on foreclosure moratoriums, 30 days might not be enough.

HIGH-LEVEL CALLS

U.S. House Speaker Nancy Pelosi, Sen. Al Franken and Florida Congressman Alan Grayson are among those calling for bank probes and foreclosure halts across the U.S.

Most REO sales contracts have provisions that allow banks to halt a sale if issues come up concerning the property's title, said Murray, who added that has happened to him just twice in 20 years.

“The only way that happens is if they can't give you free and clear marketable title,” he said.

Banks have authority to push these sales back for months, but not all buyers will be willing to hang around. Bank-owned properties are often abandoned and unkempt, and the longer a home stays empty, the more vulnerable it is to vandalism and disrepair, which can affect the home's value.

“It's in the bank's best interest to get this rectified as soon as possible,” Askowitz said. “So I don't think that this is going to drag on.”

Dennis Donet, a Miami foreclosure defense attorney, said that despite the banks' desire to fix things quickly, legal battles could stall foreclosure sales for a year or more.

One of his clients recently learned that the sale of his foreclosed property was being canceled by its new owner GMAC, because of problems with the lender's foreclosure affidavit. Jeffrey Stephan, the GMAC employee who signed the affidavit, was exposed last month as a so-called "robo-signer" during a deposition. Stephan said he had signed more than 10,000 foreclosure documents each month, indicating that he had not taken the time to verify the details of each case.

LONG-TERM ISSUE

Donet has been talking with attorneys that represent banks, and said the general consensus is that questionable affidavits and lost documents will leave foreclosures hanging in the balance for a long time to come.

"There isn't anybody saying that this isn't going to be at least a six-month to one-year delay on the process," he said. "Anything that interrupts the flow of capital is bad for the community."