



Zombie Foreclosures...Do You Have a “Walking Dead” Lurking in Your Community?

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While the economy has significantly improved in all areas, including the life blood of the community – payment of assessments, there are still homes in many communities sitting there empty, overgrown, or condominiums sitting there with no electricity and no air conditioning to regulate the humidity in a unit and who knows what growing behind the walls. Both of these situations cause property values to decline and homeowners to become anxious. These homes may have had a mortgage foreclosures initiated and the homeowner has walked away, but the bank hasn't completed the process, leaving it in limbo for months or even years. This is called a Zombie Foreclosure.

According to Realty Trac, one out of every five homes currently in foreclosure is a zombie property, and in certain metro areas in states like Florida and Nevada – hit especially hard when the housing bubble burst in 2008- that number can be as high as one out of three. Obviously, all areas can have this situation.

Borrowing information provided by CAI (Community Associations Institute), in certain areas across the United States, associations have experienced upwards of 50% of their total units being two months or more behind on their association payments. The failure to pay assessments in community associations leads to a particularly unfair result because the expenses of the association must be paid regardless of the delinquency.

This effectively means the other owners in the community pay the delinquent owner's share of the expenses while the delinquent owner (and that owner's lender) continues to benefit from the maintenance of values realized as a result of those expenses. Moreover, numerous delinquencies may materially impact the financial condition of the community association and result in a reduction in the value of all homes in the community.

Federal and State Laws require banks to maintain property. The Consumer Financial Protection Bureau (CFPB) has established rules to protect homeowners from costly surprises and dealing with unscrupulous mortgage servicers. These protections have been put into place to preserve the financial well-being of homeowners. The financial security of community associations is also an important component in preserving the financial well-being of homeowners.

When community associations engage in foreclosure proceedings against a delinquent homeowner, the mortgage holder is often unresponsive and fails to provide the necessary response to the association. This neglect is particularly egregious in cases where the mortgage servicer is Fannie Mae or Freddie Mac as both servicers are legally



required by the Federal Housing Finance Agency to take an active interest in the property being services.

Servicers will often delay the foreclosure process to avoid paying assessments on the property. This can cause community associations to suffer financial loss while placing an unfair burden on the delinquent homeowners who find themselves in a zombie foreclosure due to the delayed actions of the servicer.

Any property that has a loan backed by Fannie Mae or Freddie Mac is required to provide timely service. Upon expiration of the breach letter, their servicers must expedite foreclosure proceedings to the greatest extent allowable under applicable law.

If your community has zombie foreclosures, CAI is strongly encouraging you to file a complaint with the CFPB. Tell them how a servicer's delayed foreclosure actions have negatively affected your community association.

The Dodd-Frank Act directs the CFPB to facilitate the coordinated collection, monitoring and response to consumer complaints regarding certain financial products and services. To file a complaint, you will be required to provide the address of the property in question and your contact information. CAI also asks that you send CAI an email (government@caionline.org) to notify them that you have filed a complaint.

To get started on submitting a complaint to the Consumer Financial Protection Bureau, visit:

[HTTP://www.consumerfinance.gov/complaint](http://www.consumerfinance.gov/complaint).

To navigate through the questions to be found there and make filing your complaint easier, please visit:

www.caionline.org/Advocacy/MortgageMatters/CFPBcomplaint/Pages/Background.

This will take you to a step by step instruction on how to navigate the complaint form. Trust me, you may need it.

Judith Duncan

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