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HOW THE PURSUIT OF THE AMERICAN DREAM TURNED INTO CHICAGO'S HOUSING NIGHTMARE

by LAUGHLIN CUTLER

In 2006, a web of questionable lending practices came to light following the end of a housing boom.[1] As mortgage rates increased, more borrowers defaulted on their loans, sending home values plummeting and driving even more homes into foreclosure.[2] Since that shift began, nearly 100,000 homes in Chicago have gone into foreclosure.[3] The Chicago rental market has also suffered, with foreclosures affecting almost 81,000 apartment units since 2008.[4]

In the wake of scrutiny by Congress, courts and various administrative agencies, many banks put their foreclosure procedures on hold.[5] Now, following a settlement with five major lending banks, foreclosures have surged again in many major markets, including Chicago.[6] The government is now addressing ways to combat this housing nightmare and restore the American dream of home ownership.[7] Unfortunately, it may be several years until this lofty goal is realized.

The $26 Billion Settlement

In late 2010, evidence emerged that some foreclosure proceedings had been improper.[8] Among other practices, banks were signing off on foreclosures without first verifying the documentation.[9] This led to charges against several large banks for negligent foreclosure servicing practices.[10] After 16 months of negotiating, 49 states, numerous federal agencies and the five largest bank servicers—Bank of America, Wells Fargo, JP Morgan Chase, Citigroup and Ally Financial—reached a settlement of $26 billion.[11]

As part of this settlement, Illinois Attorney General Lisa Madigan advocated for as many as one million homeowners to see a reduction in their mortgage principal.[12] A $17 billion portion of the settlement will be used to reduce the principal on loans over the next three years.[13] Another $3 billion will go towards refinancing for qualified borrowers.[14]

In addition, those who were improperly foreclosed upon will receive close to $2,000 each, reflecting compensation for improperly-charged fees and delayed processing times.[15] However, if a homeowner suffered more than several thousand dollars in damage – such as the loss of a home – these homeowners can still go to court and seek full compensation from the banks.[16]

According to Michael Nixon, a policy advisor to U.S. Housing and Urban Development (HUD) Secretary Shaun Donovan, the deal is meant to soften the financial blow to homeowners as much as possible.[17] In addition, the standards and procedures set forth in the settlement deal reflect the current reigning authority on mortgage servicing standards, which Nixon believes will eventually become published regulation.[18] For its part, the Obama Administration's goal is to make sure that people have every opportunity to stay in their homes.[19]

THE CHICAGO FORECLOSURE LANDSCAPE

The Chicago housing market is particularly fragile, burdened by a high number of distressed properties, foreclosed homes and short sales.[20] For example, in February 2012, foreclosure notices in the Chicago area totalled 11,582: a 42 percent increase over 2011.[21] During roughly that same period, Illinois as a whole reached a 15-month high, with home auctions up by 141 percent over the previous year.[22] This is all evidence of the reactivated wave of foreclosures.

As a result, the "shadow inventory" of homes in foreclosure presents a huge concern for the stability of the Chicago housing market.[23] Due to a substantial backlog, the average foreclosure process in Illinois takes 575 days, nearly 8 months longer than the national average, which often creates an excruciatingly slow process for families in financial straits.[24]

A further concern for Chicago, again echoed nationwide, is increasing rental rates, which showed an annual increase of more than 9 percent.[25] This is particularly disturbing because as home-ownership becomes more difficult to attain financially, the demand for rental properties will likely increase.[26] All of these factors combined have created a "perfect storm" of an unfavorable housing market in the Chicago area.

Moving Forward: Mitigating the Crisis

In the midst of this storm, the need to stabilize Chicago's housing market is great. Fortunately, several government agencies and public interest groups are stepping in to help mitigate the financial burdens facing many Chicagoans.

First, under a program spearheaded by Fannie Mae, the government-sponsored mortgage finance company, qualified investors are able to convert foreclosures to rental properties, keeping critical units out of limbo and on the market.[27] Chicago is one of the first cities to participate in this scheme, with 99 properties (comprising of 120 units) sold to private investors.[28] As part of the program, these investors agree to assume any current leases in the properties and must continue to rent out the units for a specified number of years.[29]

In addition, local nonprofit organizations, namely the Community Investment Corporation and the Building Blocks Pilot Program, are working to convert vacant or foreclosed homes to prevent economic blight in Chicago neighborhoods.[30]

In addition, since 2009, the City of Chicago has received $169 million from the federal government under the Neighborhood Stabilization Program.[31] This program is designed to help neighborhoods recover from the housing crisis, and has proved successful in turning around foreclosed-upon Chicago buildings.[32] With this funding, the city is able to purchase buildings in foreclosure and create apartments for low- and moderate-income tenants.[33] Focusing on rental apartments that average people can afford acts as a way to restore balance to the housing market.[34]

Furthermore, individuals can strategically participate as investors in the rental market by using retirement funds instead of cash or financing.[35] With a self-directed Individual Retirement Account (IRA), an individual can invest retirement funds in rental properties as long as the property is used solely for investment purposes and the investor does not personally occupy the home.[36] There is also a federal tax exemption in place for debt forgiveness that allows taxpayers to benefit fully from debt forgiveness.[37]

Additionally, private consulting companies are working to review foreclosures and evaluate potential modification plans to many of them.[38] If any issues arise in the foreclosure review, individuals are able to file suit against the lender, regardless of whether it is one of the five banks involved in the aforementioned settlement.[39] The government, too, is working with individual homeowners to provide modification programs.[40] An affordable modification program may be obtained after providing an affidavit of hardship, at which point the government provides a borrower with a trial plan for repayment and helps the borrower determine a permanent modification plan.[41]

Though several major obstacles still exist, it is evident that Chicago is taking steps to repair the damage of the mortgage crisis and restore public confidence that the American dream is worth pursuing.

Notes

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