

New Paperwork Scandal Needn't Spook Buyers of Colorado Foreclosures

The big news this week and last was about the unfolding scandal in which it was revealed that several major lenders have engaged in the "robo-signing" of foreclosure documents and similar procedural lapses which could conceivably cause past foreclosures to be declared defective and be set aside.

Well, I spent most of Monday researching this topic with noted real estate attorney Russ Sindt, with another attorney who serves the Realtor community, and with Deputy Attorney General for Consumer Protection Jan Zavislan.

I'm pleased to report a consensus among them that there is no likely impact on innocent buyers who, in good faith, pay value for a Colorado property that was foreclosed via the public trustee process unique to Colorado.

Foreclosure varies from state to state. There are 23 states where

foreclosures are ordered and carried out by the courts following a court action in which it is proven to the court's satisfaction that borrowers are in default and lenders have the right to foreclose. In 26 states the courts aren't involved, and the lender merely proves to a private trustee's satisfaction that the borrower is in default. That trustee then performs a "repo" action on the home. This is where the lack of due proc-

ess could come back to bite banks. And then, there's Colorado, where we have a "hybrid" system in which a court grants the foreclosure action, but it is carried out by each county's public trustee.

Bank of America announced on Monday that it is resuming foreclosures in those 23 states with judicial foreclosure processes, but that foreclosure actions remain frozen

in the other 27 states, including Colorado, until it can determine that its procedures can withstand further scrutiny. Because of Colorado's judicial involvement, this will hopefully be determined quickly.

What about the role of title companies? Title insurance insures you specifically against future title claims against your home. I suspect, in light of what's becoming known, that title companies will less readily grant a title commitment if their research suggests that a prior foreclosure could be challenged. Therefore, if you get a title commitment, you and your lender can probably feel comfortable proceeding to closing.

Again, let me reiterate that this scandal does not impact properties that are already foreclosed or that have already been purchased by a new buyer, at least not in those 24 states with judicial involvement — and possibly not in those 26 other states, either.

REAL ESTATE TODAY



By **JIM SMITH,**
Realtor®

This Week's Featured Listing:

New Carpeting Makes Lake House Sparkle

This beautifully maintained home at 6273 Yank Court is perfect for anyone who likes living next to a lake. When you're not fishing or canoeing or just walking around the lake (or playing tennis on the public tennis courts), you can relax in your backyard or work in your vegetable garden. But the good weather is coming to an end, and you'll be happy to know that the all-new carpeting in this home has mitigated its one negative, which was the out-dated wall-to-wall carpeting. The new, lighter carpeting has made a huge difference and combines nicely with the skylights and updated kitchen, new windows and new roof, to make it a great bargain at this price. You can take the updated video tour at the website shown above, or call me for a private showing. **Open this Saturday, 1-4 p.m.**



GOLDEN REAL ESTATE
Serving the West Metro Area

Jim Smith
Broker/Owner
Golden Real Estate, Inc.
DIRECT: 303-525-1851
EMAIL: Jim@GoldenRealEstate.com
See All Listings on Your Mobile Phone!
Text "GOLDN" to 87778 for our Free App!

Visit www.GreatGoldenHomes.com to browse all Golden Real Estate listings. Find 100 or more previous columns archived online at www.JimSmithColumns.com.