

Banks' breaks saving homes



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Anything but foreclosure.

That appears to be the attitude of banks as they show a new willingness to work things out with a distressed borrower by other means.

Some experts say that may foretell a continued slowing of the pace of foreclosures in Lee County.

But others say the trend only shows a new aggressiveness by lenders in clearing problem loans off their books by any means — including, perhaps, a new wave of foreclosures.

In July, 438 foreclosures were filed in Lee County. That's about the same as it has been since last fall, when the number leveled off after a gradual decline from the all-time high of 2,665 in October 2008, following the collapse of the real estate market in early 2006, according to statistics compiled by the Southwest Florida Real Estate Investors Association.

Jeff Tumbarello, director of the association, said he doesn't think the current low numbers are disguising a "second wave" of foreclosures rivaling the first.

"When you look at the sheer volume of the numbers, we've given back the boom already," he said, noting that about 74,000 properties have been foreclosed on since 2007. From a mathematical point of view, I'm hard-pressed to see Lee County have this monstrous second wave that'll drag us off the cliff."

For the past three years, Tumbarello said, more than 64 percent of sales have been for cash — not a likely source of new foreclosures.

It's true that there are still middle-class people finally reaching the end of their rope and slipping into foreclosure, he said. "But that's more of a trickle than a wave."

But Jack McCabe, a Deerfield Beach-based real estate consultant who tracks home markets on both coasts of Florida, said the banks are only hanging fire on foreclosures while they resolve the problems they have with shoddy paperwork and lost notes for some loans.

“This is just a blip in the trend,” he said. “They’ve temporarily slowed down foreclosures, but it doesn’t mean it’s a permanent trend.”

It’s true many people are getting short sale offers they could only have dreamed of a year ago, McCabe said. A short sale occurs when the bank agrees to give up some of what’s owed so the borrower can sell the property at its current market value.

For example, he recently looked at the paperwork in a Sarasota case in which a woman in arrears on a \$210,000 mortgage was offered \$35,000 in cash by a bank if she’d sell her house for \$115,000.

Still, McCabe said, with 330,000 open foreclosure cases in the state, there are plenty of cases in which banks will choose to foreclose. “They’re still going to have to foreclose on some of them to get them out of the house,” he said.

For others, however, the new openness probably means banks will be more likely to accept deals suggested by a borrower who wants to stay in the house. A loan’s balance could simply be written down so it makes sense at today’s market prices, McCabe said.

Why the leniency?

Why are the banks suddenly more willing to consider alternatives to foreclosure?

Elmer Tabor, owner of Wonderland Realty in Cape Coral and former chairman of Riverside Bank of the Gulf Coast, said he’s seen the new attitude by banks. “The other thing that we’re seeing that’s strange is that they’re being very lenient about going back after deficiencies (judgments giving the lender the right to collect whatever it’s still owed on a loan after it’s sold at public auction after a foreclosure goes through).”

To a great extent, Tabor said, the new attitudes are driven by increased pressure by regulators. “I think the regulators are saying, ‘It’s long enough. Get this stuff off your books’.”

Mark Morris, a former banker who’s now a real estate agent with Sands Commercial Group at VIP Realty in Fort Myers, said it’s also a sign that banks are becoming more sophisticated about maximizing how much they get back when a loan goes bad.

“On the commercial side they’re absolutely trying to encourage buyers to get with a broker and sell the property ahead of time,” Morris said. “They do not want that property back.”

The generous short-sale terms that make such deals possible, however, aren't available to every bank. "Only the banks that are very well capitalized are doing that," Morris said.

In any event, at present the foreclosure cases that were clogging the court system in recent years have largely been resolved, Lee Clerk of Court Charlie Green said. There were 27,000 cases at the peak in early 2009 but that's down to 8,000 today.

The banks' willingness to work things out is welcome, but will go only so far as long as the economy remains weak, said Kevin Jursinski, a Fort Myers-based attorney who represents foreclosure defendants.

"Unfortunately, until we get people back to work, we're still going to see the attrition," Jursinski said.