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A renter's dilemma: Foreclosures can hit those who don't own

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It happened to Shari Torigian of Patterson three times in three years. Cheryl Vrba of Los Banos said it happened to her four times in four years. It is happening now to Alexis Grijalza of Modesto and her three children.

Renters are being forced out of houses every day in the Northern San Joaquin Valley after homeowners default on mortgages and lenders foreclose. The result often is financial hardship for renters who had no clue their shelter was in jeopardy.

"It is stressful. Where are we going to stay now? We have three kids, and my baby was just born Oct. 3," lamented Grijalza, who recently learned the Vernon Avenue house she's been renting for more than a year was repossessed by lenders.

The lenders insist she move, but Grijalza doesn't have a car or good credit. She's fearful she'll become homeless. To convince her to move out, the lenders offered to pay her \$1,500 if she'd leave in two weeks.

That's called "cash for keys," a technique some lenders use to avoid the time-consuming eviction process.

Many home renters say such compensation doesn't begin to cover the cost or hassle of moving.

It's as good a deal as most renters can expect, however, because rental agreements are voided by foreclosure. Banks don't like being landlords, so they order tenants out.

Torigian can tell you all about it. She rented a Patterson home in 2004 from "the nicest people," only to get the boot by a bank eight months later. She moved across town into another rental house, but after several months she got suspicious.

"I asked the landlord, 'What's going on with all these notices from the mortgage company?' " Torigian said. She didn't get a straight answer, and before long that house was foreclosed on. Torigian didn't get her security deposit back, but she gathered enough money to move into yet another Patterson home.

One month after unpacking, Torigian said that house, too, was foreclosed on. Again her security deposit was not returned.

EXHIBIT B-4- MORTGAGE LENDING
Meeting Date: 01-28-08
Document consists of 4 pages.
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"You put almost \$3,000 down sometimes (for first month's rent and deposit), then you've got to arrange for utilities and put deposits down on them. It's expensive," she said. "We're in our 50s, and we can't keep moving like this."

Renter insisted on 3-year lease

Before she rented another Patterson home, Torigian said, she checked the property owner's credit and references. She also researched public records about the home's ownership to assure it's not in the process of being foreclosed on.

Torigian said she also insisted the owner sign a three-year lease that guarantees all her expenses will be paid if she's forced to leave.

She's become an advocate for renters. Torigian said she cuts "Notice of Trustee Sale" listings out of newspapers and mails them to the Patterson houses facing foreclosure. She wants tenants to realize what's happening to the property they rent.

Landlords can't be trusted to tell tenants about financial trouble, warned Vrba, who's had to move four times because of foreclosure.

"Every time we have asked the owner: 'Are you sure you are going to keep this house?' And every time the answer is the same: 'Yes, we plan on keeping this house forever.' Forever has turned out to be, on average, 11 or 12 months," said Vrba, whose husband and son have health problems.

J.J. Martin said he and his family "almost ended up out in the street" after the Empire house they were renting was foreclosed on. Martin wasn't offered any "keys for cash" from the lenders that foreclosed, and the house's former owner didn't return his \$1,050 security deposit.

"He's nowhere to be found now," Martin said of his old landlord. Martin said he lives paycheck to paycheck, so being forced to scrape up another security deposit and move on short notice was a serious financial burden.

"Be very careful about who you agree to do business with. Make sure you're not going to get reamed," Martin said. "They need to make a law that tenants must be contacted if landlords are not paying their mortgage."

There is, in fact, a "rent skimming" law designed to protect renters in houses that landlords have owned for less than one year, according to Tom Pool, spokesman for the California Department of Real Estate.

California Civil Code Section 890-894 enables tenants to sue landlords who, during their first year of ownership, collect rent but don't pay their mortgages. Tenants can sue to recover actual damages, including moving costs and security deposits, plus attorney's fees and costs. The court also may award tenants exemplary damages of at least three times the amount of actual damages.

Pool said that law was passed to stop so-called foreclosure rescue companies from transferring the property deed but not paying the mortgage.

Other California laws protect tenants from losing their security deposit because of foreclosure.

California Civil Code Section 1950.5 enables tenants to sue their previous landlords and the current property owners, including lenders who get the property after foreclosure, for the return of security deposits.

"You should always get your deposit back," stressed Janet Portman, author of "Every Tenant's Legal Guide" from Nolo Press.

If the landlord who collected the security deposit won't return it, she said, the foreclosing lender is obligated to return it.

Lawsuit for breach of contract

Portman said tenants who had rental leases broken by foreclosure have the right to sue their former landlords for breach of contract. She said tenants can sue landlords in small claims court to recover their moving costs, the cost of getting a new rental home (credit check fees, etc.) and the difference between what their new rent is compared with what their rent was under their old lease.

Tenants, however, don't have the right to remain in a home after foreclosure. New owners must give tenants at least a 30-day notice to leave (60 days for those who rented the house more than one year), but tenants have no right to stay longer than that.

"You don't have any real beef with the bank because (its legal rights to the property) are superior to yours," Portman said. "Banks don't want to be your landlord. They don't want to have the liability or responsibility of owning rental property."

Lenders often hire local real estate agents to contact tenants and convince them to move out.

Chad Costa is one such agent with Re-Max Executive in Modesto. He works for more than 15 lenders and he's handling about 160 foreclosed homes.

"We like to get renters out as soon as possible," Costa confirmed. "I'm empathic with their situation because it's not their fault. The bottom line is, they get the raw end of the deal."

But Costa said that if renters don't leave voluntarily, attorneys are hired to get them evicted.

"We turn out to be the bad guys because we're telling them the bad news," Costa said. "We're just employed by the bank, but we're the ones who get yelled at."

It's often hard for tenants to find the right person to yell at.

Take Martin's case, for example. After the Empire home he was renting was foreclosed on, property records listed the Bank of New York as the new owner. But a spokesman for the bank told The Bee the bank doesn't own the house, GreenPoint Mortgage does.

GreenPoint Mortgage, however, was bought by Capital One Financial Corp., which this fall announced it was closing GreenPoint's residential mortgage origination operations.

So who's Martin supposed to sue for his \$1,050 security deposit?

"I wouldn't even know where to start," Martin said. "And I can't afford to hire a lawyer."

On Martin's behalf, The Bee contacted GreenPoint, which referred the matter to Capital One spokeswoman Julie Rakes. In a phone interview Thursday afternoon, Rakes said Capital One understood Martin's hardship and would give him the \$1,050 he lost because the security deposit wasn't returned by the landlord.

Then Rakes told The Bee she wanted to go "off the record," meaning she wanted to say something that couldn't be used in the newspaper. When The Bee declined that request, Rakes said she was rescinding what she said about paying Martin.

In an e-mailed statement Friday about Martin's deposit, Rakes said: "While we are sympathetic to the tenant's circumstances, he needs to take the matter of his security deposit up with his landlord."

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