

Holiday evictions show gaps in mortgage loan aid

By Anna Bahney, USA TODAY

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Rose and John Law got their eviction notice last week. After a year of trying to renegotiate a mortgage they can no longer afford, they were told they would be locked out of their home in Stockton, Calif., at 6 a.m. next Tuesday.

"It is hard to hold back the tears," says Rose Law, who is 57 and suffers from a neurological disease and fibromyalgia, a condition characterized by muscle pain and fatigue. "Every time I move something, or try to pack something, I cry. Especially at my age, having to make these changes, that's the hard part."

Tuesday, the couple received a reprieve after USA TODAY asked GMAC, the company that services the Laws' mortgage loan, about their situation.

GMAC was unaware of the health issues involved, spokeswoman Jeannine Bruin says, and now, "GMAC is re-examining this case at the highest levels of the company.

"There will not be an eviction on Tuesday, and it will be delayed until we look at the case," Bruin says.

The Laws' case highlights the ad hoc nature of many current efforts to cure a foreclosure crisis by modifying loans for certain borrowers. What happens to borrowers for whom inquiries are not made?

Thousands of delinquent borrowers still face eviction this month because their mortgages are held by private investors instead of government-owned Fannie Mae or Freddie Mac. Those two mortgage-finance giants have called a moratorium on evictions and foreclosures through early January, but the reprieve only covers mortgages they own or guarantee — about 60% of the nation's total, and 20% of the ones that are most delinquent.

Even as efforts to fashion a national mortgage-relief program continue, the year-end eviction notices for homeowners such as Law are testament to the human toll of the foreclosure problem.

"We have two months before (President-elect Barack) Obama takes over, and people will face foreclosures during that time coinciding with the holiday season," says Tim Lilienthal, with PICO National Network, a group of faith-based community organizations that advocate for homeowners. "It is stressing again the need for immediate action."

Fannie and Freddie's effort targets 16,000 borrowers whose payments are 90 days past due. But with 279,561 foreclosure filings sent to homes in October, the number at risk of losing homes stretches far beyond their loan portfolios.

Some banks, such as ING Direct, also have announced moratoriums. ING's program will help 200 to 250 borrowers among 1,300 ING customers with loans 90 days past due.

Some housing advocates question voluntary efforts such as those, claiming the modifications are temporary or don't go far enough to make the payments affordable in the long run by, for instance, reducing the mortgage's principal.

"Don't let the banks come up with a plan," says Lynne Robustelli, a housing advocate in Stockton, who organizes foreclosure fairs and assists borrowers with modifications. "There need to be consequences and repercussions if they don't treat the homeowner correctly and they don't have a plan. There is no enforcement power."

Investors' claims

Loan servicers say that while they want to go beyond the basic modifications — such as extending the life of the loan and reducing interest rates — to principal reductions, they're restricted by investors who have bought securities backed by pools of mortgages.

Bank of America was sued Monday by a group of investors who challenge its authority to modify mortgages for about 400,000 Countrywide Financial customers under a predatory lending settlement with state attorneys general. Bank of America owns Countrywide. The investors, who own bonds backed by Countrywide mortgages, want a court order requiring Countrywide to buy back any mortgages for which it reduces payments, protecting the value of their securities.

"Foreclosures benefit nobody," GMAC's Bruin says. "We're evicting people who want to stay in their home. We take control of an asset, a house, and there isn't much of a market for that. But we need to have the approval of the investor to reduce the principal or forestall the foreclosure."

Also, Bruin points out, many loans originated in 2006 and 2007 are securitized, and there are rules that prevent servicers from pulling out loans from the securitized mortgage pool.

"Typically, it has to be in default for 90 days to pull that out," Bruin says. "We may want to modify it, but we are not able."

For those struggling to stay current on their mortgage, hearing their servicer say they can't get help until they're three months late sends a mixed message.

"Say, I'm now unemployed or underemployed; I'm paying, but I anticipate I'm going to have a problem — those people are not allowed access to modifications," says Bill Garland, head of the home retention services unit at Fiserv, a financial-services company. "That is not a good practice. You're basically telling them to stop paying. I have an allergic reaction to that."

An unsuccessful move

So did Stephanie Smith and her husband, Eddie. She worked as a secretary for the school district, and he was a truck driver. They moved to Idaho for his work in 2006, but could not unload their

house in Manteca, Calif. A series of family health problems was the breaking point, and six months later, the couple and their two children moved back to their unsold house in California.

Their monthly income has dropped by \$1,500. The house that they put on the market for \$465,000 in 2006 is now valued at \$200,000. But the monthly payment on their adjustable-rate mortgage, now \$2,150, will rise in another year.

"It is really unfortunate that we have to be four months behind before they even look at a loan modification," Smith says. "It is really, really sad."

She recently learned that their loan is held by Fannie Mae and that she may be eligible for help. Smith wants a fixed-rate mortgage so she will know exactly how much she'll pay each month.

"The most stressful part is not knowing if tomorrow I'm going to have a roof over my head for my children," Smith says.