

Real Estate News SEPTEMBER 8, 2015

South Florida renters stuck in aftermath of real estate crisis

HIGHLIGHTS

South Florida foreclosures waning but still high

Cash-strapped renters turn to foreclosed homes

When foreclosure comes, renters have little time to move



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Jean Celin Calvary Bible Alliance Church pastor poses for the picture on Aug.16, 2015 in Delray Beach. **ANDREW ULOZA** - FOR THE MIAMI HERALD

BY NINA AGRAWAL
Special to the Miami Herald

Outside the Calvary Bible Alliance Church, Jean Celin holds court. Dressed in a smart black suit, headset cradling his neck and cell phone in hand, Celin greets a steady stream of churchgoers while taking one phone call after another.

Celin is the assistant pastor at this Haitian church in Delray Beach. He’s been serving here for the past 30 years — almost as long as he’s been in the United States.

“Everybody likes him,” said Marc Horace, the senior pastor at Calvary. “He’s very helpful, he’s a very giving guy.”

But for the past seven years, Celin and his wife Marie have been struggling to stay a part of what he calls “a real family.” First, the home they owned for 20 years was foreclosed on. Then they moved into a series of rentals whose owners were underwater, too.

Affordable housing advocates say it’s impossible to know how many Floridians are in a similar position, but such stories aren’t uncommon. Though South Florida’s foreclosure rate has dropped by 50 percent over the last year, it’s still double the national rate, according to CoreLogic. Moody’s Analytics estimates one in every 87 homes in the region was in foreclosure in the first quarter. In Miami-Dade, Broward and Palm Beach counties, about 16 percent of mortgaged homes are underwater, with loans greater than the current value, according to Zillow.com.

SOUTH FLORIDA’S FORECLOSURE RATE DROPPED BY HALF IN THE PAST YEAR. BUT IT’S STILL DOUBLE THE NATIONAL RATE.

The condo Jean and Marie rent now, in the middle of a neat row of turquoise-and-white bungalows in the gated Kings Point community, was foreclosed on in June. It’s set for sale at auction in October.

Celin worries about finding a new home they can afford. “Nobody want to live somewhere when you know today or tomorrow they’re going to kick you out,” he said. “I tell you the truth, I don’t let these things bother me, but sometimes... it does.”

Odd as it may sound, Celin and his wife are better off than they could be. Tenants often don’t know about the foreclosure or sale of the property where they live; high turnover among tenants and sometimes-unscrupulous landlords make it hard to ensure they receive the notice to which they are legally entitled.

A recent change to Florida’s landlord-tenant laws is designed to help. It guarantees that Celin and his wife will have at least 30 days after the condo is sold to move out.

The law went into effect on June 3 of this year. It was meant to replace a federal law, the Protecting Tenants at Foreclosure Act. That law, passed at the height of the foreclosure crisis in 2009, gave renters the right to stay in their homes until their lease expired – or at the very least, 90 days. It was only meant to be temporary, though, and expired on December 31, 2014.

Without any comparable state law in place, tenants like Kurt Schumacher of Jacksonville were out of luck.

Schumacher, his wife and their son moved into a rental property in 2013. The owner told them up front that the house was in foreclosure, but Schumacher, a mortgage lawyer himself, knew about the federal act and figured he would have ample time to move if the house were sold.

Then, in February of this year, Schumacher got a call from his wife while he was at work. The house had been sold and the new owners showed up at the door with a notice to vacate “immediately.”

“I wrote a response saying, ‘I’m an attorney, and I am relying on the federal act. Therefore, it’s my position you have to give us 90 days,’” he recalled. “ ‘Not that we’ll need that period, but we’ll need something more than ‘immediately.’”

At a court hearing, Schumacher asked for an extension based on the federal act, but the judge said it didn’t apply. The family was given six days to vacate.

“It’s a very embarrassing experience,” said Schumacher, “even though we did nothing wrong. We were reluctant... to tell the neighbors.”

Moving on short notice in the middle of a school year proved difficult – and expensive.

“We had to incur a lot of costs that we wouldn’t have incurred otherwise,” Schumacher said. He estimates he and his wife spent at least \$5,500 on storage, moving, and legal fees, as well as in lost vacation time. They were also limited in their choices of where to move, since they wanted to keep their first-grader in the same school. They ended up finding a home that cost \$650 more per month.

Alice Vickers, founder and director of the Florida Alliance for Consumer Protection, lobbied for the state law precisely because of stories like the Schumachers’.

“Frankly, in my opinion,” Vickers said, “no tenant should ever be set out of their rental with 24 hours’ notice. I don’t care what the situation is.”

Vickers had been trying to get a state tenant protection law passed for years, but it wasn’t until the federal law expired that she saw a window. Her organization worked with Representative Mia L. Jones (D-Jacksonville) and Senator Darren Soto (D-Orlando) to draft legislation that mirrored the federal law.

In the end, though, the bill that passed was much less expansive.

“This was the bottom line of what we hoped the legislation would provide,” Vickers said. “Thirty days was compromise language.”

A RECENT CHANGE IN FLORIDA LAW GUARANTEES RENTERS AT LEAST 30 DAYS TO MOVE.

That compromise was struck with Florida’s banking lobby.

Kenneth Pratt is executive vice president for government relations at the Florida Bankers Association, which represents bankers’ interests in Tallahassee and in Washington. Pratt said that one of the

banks’ main interests is getting Florida’s real estate back on the market.

“We want to see Florida’s real estate industry... be vibrant,” he said. “So what we proposed to the bill’s sponsors was that 30 days would be a sufficient amount of time... in order for someone to be able to vacate the premises.”

Pratt is careful to point out that banks don’t have to evict someone after 30 days; even under the federal law, he said, they sometimes waited longer than the minimum.

“While there is an interest in getting the real estate back on the market, there is not an interest in having a renter that is disenfranchised,” Pratt said.

The fact remains, though, that banks and other purchasers can take possession of a property 30 days after getting the title to it.

Bruce Jacobs is a partner at Jacobs Keeley law firm, which specializes in foreclosure defense and represents both landlords and tenants.

The best thing tenants can do, Jacobs said, is to understand their situation, engage in the legal process, and make back-up plans, “rather than just putting your heads in the sand and waiting for the sheriff to show up. That’s the worst situation to be in.”

Jean Celin is doing what he can. He contacted Legal Services, showed up at foreclosure court, and plans to monitor the October sale.

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WE LIVE PAYCHECK BY PAYCHECK.
Jean Celin

In the meantime, though, Celin is hoping for the best-case scenario: That he and his family stay in the apartment and continue paying the same rent, to a new landlord.

The worst-case scenario — having to move out quickly — would present a financial hardship. Many landlords ask for first month’s rent, last month’s rent, and a security deposit — close to \$3,000 at their current rate. The Celins have started socking away a moving fund.

Jean Celin isn’t able to work. His kidneys are failing, and he goes to dialysis three days a week. Between the \$1,010 he collects each month in disability, and the \$1,200 Marie brings home from working as a home health aide, the couple is struggling to get by.

“We live paycheck by paycheck,” he said.

If they do end up having to move, Jean hopes to find another place in Delray Beach — one they can stay in for the long term. Whether he gets the 30 days provided by the new law or the 90 days under the old law, he’s tired of moving.

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