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Notifying Residents of Foreclosure Actions

Almost all states require significant notice to the public before courts or foreclosure trustees can take the extreme action of kicking people out of their homes. The poignant images of the millions of people who lost their homes as a result of fraudulent practices of Great Recession are vivid today. Although foreclosures have slowed since the peak of 2.8 million in 2010, there were still more than a million foreclosure filings in 2015, according to RealtyTrac. http://www.realtytrac.com/news/foreclosure-trends/realtytrac-2015-year-end-u-s-foreclosure-market-report/

In Virginia, foreclosures may occur through power of sale clauses agreed to by borrowers when a loan is executed (often without providing the borrowers a choice) or by court action. Lenders may require a very short period of notification. Virginia law guarantees a scant three days of public notice when lenders insist upon a short notice period, and it can allow a lender to seize a property in only a few months. Virginia's foreclosure period is one of the shortest in the nation. Some states permit up to 1,000 days to give residents the maximum opportunity to keep their homes.

The short period means that effective and broadest possible notification to the general public is essential to provide borrowers (and innocent renters) a fair chance to save their homes or move before they are kicked out.

The Consumer Financial Protection Bureau and the Federal Trade Commission have ordered significant changes in mortgage underwriting practices of past to help protect the public. But even when all goes well, many are still at risk of losing their homes when they lose jobs, suffer health setbacks or face rising interest rates that they did not expect.

Public notice of foreclosures is an important tool for communities to protect residents and their homes.

- It gives residents time to assemble resources to redeem the property before they are removed;

- It provides notification beyond the personal service given to the owners. When renters have paid their rent, but owners have not paid the mortgage, the newspaper notice provides an extra avenue of information;

- It invites buyers to the sale. When the unfortunate sale finally happens, more readers of the notice lead to more possible purchasers and higher prices. The higher bid, the more money available to satisfy the mortgage company and provide residents with a portion of their equity.

- It introduces transparency into the foreclosure process. Public outrage at the billion dollar bailouts of financial institutions, only recently rekindled in the movie " The Big Short," puts policymakers on notice that faster, more secretive foreclosures only add to public cynicism and concern.