

POINT COUNTERPOINT / ALAN JAFFA AND ILYCE GLINK

NOT SO FAST

No one is arguing against healing communities holistically, but varying opinions prevail in how to approach a solution—begging the question, how fast is too fast when fast-tracking foreclosures?



CONTRIBUTORS



Alan Jaffa is the CEO of Safeguard Properties, a role he assumed in May 2010. Previously he served as COO. Since joining Safeguard in 1995, Jaffa has learned the business from the ground up, working through virtually every department of the company.



Ilyce Glink is an award-winning, nationally-syndicated columnist, blogger, book author, and radio talk show host, who also owns Think Glink Media, a digital communications agency.

The conversation around fast-tracking foreclosures is picking up speed, but not without hitting a few speed bumps. Namely, deciding what properties qualify for fast-tracked foreclosure and how to treat them. Alan Jaffa and Ilyce Glink weigh in on why fast-tracking is good in theory, and probably a good practice, but should slow down until the details surrounding them are ironed out.

According to Alan Jaffa

What is an abandoned property? We know it when we see it—or we think we do. It's the neighborhood eyesore, the house with high grass, overgrown bushes, and debris in the yard. Nobody has been seen living there for months. The utilities are off. Maybe a section of fence around a swimming pool has fallen down, posing a safety risk to children playing in the area.

It's estimated that about 14 percent of all homes in the U.S.—about 18 million properties—are vacant. Identifying which of those are, in fact, abandoned has become one of the biggest challenges the mortgage industry faces when properties go into default.

Despite what may seem obvious to many, no standard definition of an abandoned property exists, yet mortgage servicers are expected to identify an abandoned property, protect it from damage, and maintain it until it moves through foreclosure.

It's a Catch-22 for the mortgage industry. Failure to secure a property believed to be abandoned can expose the property to severe damage and vandalism and pose safety and nuisance risks to surrounding neighborhoods. Servicers also are at risk for severe municipal fines and financial penalties for failing to act quickly to secure and protect the property.

On the other hand, the industry faces reputational and litigation risks for securing a property prior to foreclosure if it is challenged by the homeowner, no matter how compelling the evidence that nobody was living there.

Lawmakers and business leaders are searching for ways to rebuild communities. Repairing and restoring vacant and abandoned properties is critical to that process—to stabilize at-risk neighborhoods, stem blight, stop the out-migration of residents, and uphold property values. Restoring abandoned properties offers affordable housing alternatives to first-time homebuyers and lower-income families. And it brings new vitality to communities, as businesses choose to locate in what become trendy neighborhoods and municipalities shore up their tax bases.

But the process of rebuilding can only start after an abandoned property moves through foreclosure and into new hands—a responsible homeowner, a reputable investor, a land bank, or a community development organization committed to revitalization.

The longer the process takes, the more damage is done—to the property, to the neighborhood,

and to the community. Even abandoned properties that receive regular inspections and maintenance services will deteriorate because of damage and vandalism. They lose value, negatively impact surrounding properties, and drain revenues from municipalities.

Expediting the foreclosure process—just for properties that are designated as abandoned—is the single most effective step that individual states can take to protect property values and revitalize struggling neighborhoods.

Foreclosure fast-track legislation also would define an abandoned property in each state, as the states of Illinois and New Jersey did when they enacted foreclosure fast-track laws in the past two years. This can offer important guidance and help mitigate risk for the mortgage industry and their field service partners tasked with identifying those properties.

In the meantime, the mortgage servicing industry and investor community can take the leadership by coming together to agree on a common definition of abandonment as a guidepost for states and municipalities to consider.

According to Ilyce Glink

As a real estate columnist and call-in radio talk show host, I've been hanging out at the front lines of the mortgage and housing crisis for years. I've listened to, and commiserated with, the stories of folks who lost control of their financial lives due to economic circumstances beyond their control, only to then lose their homes by what can only be described as “misguided” financial policies of the lending industry, not to mention those of the federal and state governments.

It's not a pretty place to begin a conversation over expediting foreclosures. Beyond lawsuits, national settlements, and fines are families who have suffered real and quite serious losses, many from foreclosures that should have never happened. Government programs that were supposed to help people refinance, modify their loans, or find other options to avoid foreclosure were slow and, in some cases, non-starters. It was as if the mortgage industry was trying to run through a sea of Jell-O.

Once homeowners caught onto the idea that there was no good way out, many opted for strategic default, leaving their homes in the wake of endless rounds of lost documentation and temporary, but never permanent, loan modifications. On the other side, lenders often started foreclosure proceedings—causing thousands of homeowners to pack up and depart—but then never actually took possession,

leading to today's so-called zombie foreclosure problem.

It seems like a calculated move on the part of the mortgage holders to avoid the costs of maintaining a foreclosed home until they can sell it. And perhaps at the 30,000-foot level, it is. On the ground, it has created a literal wasteland of neighborhoods, pockmarking the country with abandoned, deteriorating, and crime-infested homes.

Lenders should step in and maintain these properties. By doing so, they would limit blight, squatters, and other illegal activity that vacant homes attract and improve home values across the neighborhood. But local lawmakers and leaders are struggling to make this happen. By one count, more than 1,000 laws have been passed to try to deal with this problem. Simply the variety of legal definitions that exist to describe vacant property points to the many scenarios in which a foreclosure should be expedited so this problem can be solved.

So here are a few circumstances where I think expediting foreclosures makes sense:

The mortgage, home equity loan, and property taxes haven't been paid for years. Regardless of who is living in the house (if anyone is), nobody's paying for it and that's not helpful to the lender or the community.

The home has long been vacant. If the previous owners moved, removed all their furniture and personal belongings, and forwarded their mail to a new address, that too is sign that the home is abandoned and a foreclosure should be expedited.

The house shows obvious signs of abandonment. Papers and mail have piled up. There are broken windows. Kitchens, baths, mechanical systems, and copper piping have been stripped. Grass is uncut and exterior landscaping is unkempt and perhaps littered with junk. Water, gas, and electric service to the house have been stopped. Notices of unpaid utilities or unaddressed code violations have been taped to the door. And there is a distinct absence of blinds, curtains, and furnishings inside the home.

There are obvious signs of illegal activity that endangers the entire neighborhood. Signs of squatters, drug use, and gangs are all damaging to property values. The good news is that the neighbors always know what's going on. The smart move? Post signs on the front door with a toll-free number so they can call and report what's going on with the property.

Combining any of these factors (such as non-payment of the mortgage for years plus signs of illegal activity and abandonment) increases the odds that the house should be taken through the foreclosure process quickly.

But expediting foreclosure doesn't make sense if the mortgage holder hasn't already done the basic research required to find out the status of the homeowner and the home itself.