

# OUTCOMES TO AN ASSOCIATION FORECLOSURE SALE

By David Stone

Over the last few months I have been asked to provide a brief review of possible outcomes should the association decide to proceed with an actual foreclosure sale. While the following does not cover all possible scenarios, it should provide a basic understanding and, hopefully, a comfort level which will empower the association to make a reasonable and informed decision.

There are 3 possible outcomes to an association foreclosure sale:

- 1) The owner reinstates the property immediately prior to the foreclosure sale. If that happens, the association is paid and all foreclosure fees and costs are paid.
- 2) The property is sold to an investor at the foreclosure sale. With the proceeds from the sale the association and NAS are paid in full. This outcome is common if there is equity in the property, making the purchase to the investor worthwhile.
- 3) In today's current real estate economy, the most common scenario is that the property reverts back to the association. This happens when there are no investors at the sale to purchase the property. The association basically "buys" the property for what the owner owes the association. For example, the owner owes the association \$2,500.00 in assessments, late fees etc., including collection fees and costs. The property is sold at auction to the association for that amount. The association is responsible for paying the foreclosure fees and costs, which total approximately \$1,700.00, not including the real property transfer fee. The association then owns the property and can try to sell or rent the property. The most common option is to notify the lender of the association's ownership and the intent of the association not to make payments to the first. It is often believed that the association must make payments to the lender if the association takes title to the property. This is incorrect. The association has no legal obligation to pay the lender. The obligation to pay the lender was made by the previous owner, not the association. So while the lender may commence a foreclosure action while the association owns the property, the foreclosure documents will reflect the previous owner, not the association. The association may wish to make payments to the first only if the association wants to keep the property for rental or sale purposes. It is important to remember, however, that the association owns the property. With ownership comes responsibility and liability. So, please be sure to contact the association's insurance agent to make sure the property is properly insured while it remains the property of the association.

Please keep something in mind: Despite the dramatic downturn in the real estate industry, the number of properties actually sold at association foreclosure is few. In the past few months, a few sold back to the association. In some cases, the previous owner "woke up" after the sale wanting his/her property back. I then made arrangements with the association to have the property deeded back to the owner. I am always pleased in those situations because the owner keeps what he/she wants, the property, and the association gets what it wants, its money.

I trust this information is helpful. Often, the best way to fully explore these outcomes is a one-on-one conversation as the specifics are often too lengthy and complex to fully explain in writing. Therefore, please feel free to call me or have a Board member call me so we may further discuss this matter.

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Nevada Association Services, Inc. is a licensed Nevada collection agency.*