

City of Richmond's Foreclosure Eviction Ordinance
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On June 16, 2009, the Richmond City Council passed an ordinance that provides for eviction controls on residential properties after foreclosure. The new law requires purchasers at foreclosure sales to have just cause to evict tenants.

Realtors handling residential properties that are being sold through a trustee's sale or judicial foreclosure must be familiar with this new ordinance. The most important thing to know is that buyers of such properties are prohibited from endeavoring to recover possession unless the new owner has one of twelve just causes or grounds for eviction. In an eviction lawsuit to recover possession, a tenant may defend by asserting the landlord's violation of the ordinance. Violation of the law could also result in a liability for damages.

The foreclosure eviction ordinance focuses on the person who first takes title after the foreclosure sale. Once this person sells the property to a purchaser for value, the law no longer applies. A purchaser for value is another person who is not employed by, affiliated with, or acting on behalf of an entity that acquires title following the foreclosure sale. It must be a person who doesn't purchase the property for the purpose of evading the protections of the ordinance.

In other words, a speculator who buys foreclosed property as an investment cannot evict without just cause. But a person who subsequently buys the property, in an arm's length transaction for fair market value, from a speculator is unrestricted by the ordinance. One who purchases, for value, from the person or entity who bought at the foreclosure sale, can ignore the new foreclosure eviction ordinance.

So what are the just causes that will permit a foreclosure sale purchaser to evict? The more common grounds for eviction allowed are: failure to pay rent, violating a lease covenant, nuisance, failure to grant access to the owner when required by law, unapproved subletting, and owner or relative move in evictions.

Compliance with the foreclosure eviction ordinance will be difficult for those landlords unfamiliar with eviction controls. Anyone attempting an eviction after a foreclosure sale should seek the advice of legal counsel familiar with rent and eviction control laws. Realtors should not be advising their clients of whether or not an eviction is possible or how easy an eviction might be.

Many foreclosed single family homes will be purchased by persons who wish to owner occupy the property. Under the new ordinance, a landlord, who is a person with at least a 25% interest in the property, may recover possession for his or her own use and occupancy. The landlord may also recover possession for the use or occupancy of his or her spouse, domestic partner, grandparents, brother, sister, or immediate in-laws.

The new foreclosure eviction law is just the beginning of eviction controls in the City of Richmond. It will now be easy for the Richmond City Council to expand eviction controls to all landlords and all situations. The basic eviction control law is now in place. All the City Council has to do is change the definition of landlord to include all property owners, regardless of whether or not title was taken through a foreclosure sale. Eviction controls never go away. They just get worse over time.