

Help! This Neighborhood has a Zombie Problem: How to Identify and Respond to Bank Walk-aways.

Introduction

If your neighbors move out, and nobody moves in- sometimes for years- you may have a zombie house in your neighborhood! Bank walk-aways, or zombie houses, are an elusive problem creating neighborhood blight. Properties turn into zombie houses when a servicer does not complete the foreclosure process after initiating a foreclosure action. During this process, the individuals or families living in these homes vacate the property, sometimes due to lender intimidation and other times inaccurately assuming the servicer has taken control of the property. Regardless of the reason for the families leaving the property, the servicer postpones the foreclosure sale and a zombie house now populates the neighborhood. The homes are vacant, often quickly become dilapidated, and their ownership and futures are unclear.

Think you've got a Zombie in YOUR Neighborhood?

How to Identify a Bank Walk-away

Whether you're a concerned neighbor, a government official, or a local agency- you can identify bank walk-aways and agitate for the de-zombie-fication of a property, and thereby for the improvement of a neighborhood.

First, if you suspect a property may be a walkaway, you can pull the foreclosure file at the appropriate county courthouse. The first most important indicators are the dates on the court files. The first date to note is when the foreclosure file was **opened**. The second important date is the **date** of last action, and what that last action was. If the date of last action was more than 90 days ago, this is a strong indicator that there may be some delay in the process. More important however, is the **last action**.

There are two primary categories of properties that are indicative of a possible walk-away: "postponement properties" (e.g. - "postponement of sale" is the last action taken on the case) and those which have an "order of sale." If there has been no activity on an open file for over 90 days, and the last action was either a postponement or an order of sale- this is a strong indicator that you have a zombie on your hands! There are some foreclosure files which may have been open for some time but are NOT bank walk-away properties. Particularly, properties that indicate the property owners are entering into bankruptcy or are attempting a modification with the bank.

The next step is to send the address or addresses to the water and power companies. These properties without water and/or power accounts are indicators the property may be vacant, but it is not definitive.

The next step is to send a team to the property to inspect it. (If your neighboring house is a zombie property, this step has obviously already been taken care of.) Reinvestment Partners created an investigative survey to assess the properties while being physically inspected. You can access the investigate survey on the website www.reinvestmentpartners.org.

The last step is to conduct a title search to ultimately determine the status of these properties.

What Reinvestment Partners Did

For our analysis, we pulled all open files in Durham County, approximately 412 open files. First, we attempted to narrow our sample size by identifying the last action taken. We identified 87 bankruptcy cases. We removed these cases from our sample of potential bank walkaways. There were also certain cases which we believed were not actually active files and were likely “open” due to clerical errors. This included those properties which had been sold or those that did not have a last action. This eliminated 13 properties. We also removed commercial properties where the respondent was listed as an LLC/PLLC/etc. Then, based on the last action taken, there were certain files which did not indicate they were on a delay.

There were two primary categories of properties we kept in our pool for analysis: “postponement properties” (e.g. - “postponement of sale” was the last action taken on the case) and those which had orders of sale but were old files.

We sent two lists of the delayed properties to the water and power companies to cross check whether these properties currently had active water or power accounts. Upon narrowing our list based on those properties which did not have water, power, or both, we then sent a team to the address to document the properties’ conditions.

Of these we were able to determine 20 were vacant, of which 75% were located in majority-minority census tracts. We then conducted a title search on these properties and determined that 18 qualified as bank walk-aways. While not large numbers, these properties have a disproportionate and negative impact in their neighborhoods.

What is the Problem with Zombie Properties?

There is a spectrum of stalled foreclosures. Our work focuses on properties the homeowners have left because a servicer began the foreclosure process, but never completed it. Thus, these zombie properties are now empty and boarded up. First, allowing these zombie properties to remain in a state of limbo is a violation of North Carolina law. N.C. Gen. Stat. § 45-21.21(a)(5) requires that a sale must be held no later than 90 days after the original date for the sale. Second, bank walk-aways often become dilapidated and contribute to neighborhood blight. Once a property becomes a bank walk-away, the properties’ ownership and futures are unclear. More damaging, however, is the

fact that the homeowners who *left their home* may now *still* be responsible for the unpaid debt, taxes and repairs on the property.

Can Borrowers do Anything to Prevent the Zombie-fication of their homes?

Before becoming a zombie property, a borrower does have some options. First, a borrower can check to see if they're eligible for a modification. If ineligible, a borrower can execute a deed in lieu of foreclosure or have a short sale.

What should I do if I have a Zombie Problem?

Whether you have zombie for a neighbor or you're a local government official having difficulty with code enforcement, you can fight the invasion of zombie properties! Using the step by step process developed by Reinvestment Partners, you can identify whether you are, in fact, dealing with a bank walk-away. There are a few more steps you can take to have the servicer take action on the zombie property.

Approach the Servicer Directly

First, all major servicers have a property preservation division. You can contact this department to bring the specific property to their attention. Oftentimes, however, we have seen that this will not be sufficient to address the problems with the property.

File a Complaint Federally

If you contacted the servicer and they failed to de-zombie-fy, file a complaint with the Consumer Financial Protection Bureau (CFPB). They have an easy to access submit a complaint link on their website (<http://www.consumerfinance.gov/complaint/>).

Use our Motion

If the servicer still does not respond, Reinvestment Partners has a model motion to petition the Clerk of Court to order these foreclosure sales completed. It is worth noting, that this is an in-depth process, and requires legal representation. That means, either contact your county official, a local advocacy agency (if in North Carolina, contact Reinvestment Partners), or an attorney. The model motion posted to the Reinvestment Partners website (www.ReinvestmentPartners.org) also has detailed information on executing this process. The agency or county official can use the motion and accompanying memorandum to compel the foreclosure sale.

Take Community Action!

Another thing you can do to respond to the problem of zombie properties is **take action!** Reinvestment Partners hosts zombie dances at bank walk-away properties to raise awareness and discourse on the issue. You can record this event and post the video to YouTube for further awareness. Though these zombie dances themselves won't de-

zombie-fy any properties, they raise community awareness and also send a strong message to servicers that we expect them to comply with the law.