

Home foreclosure over \$123 debt to spark legal challenge

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MAGALIA Two local attorneys are teaming up to help a disabled man they say is losing his home over a missed payment of \$123 to the Paradise Pines Property Owners Association.

Ridge resident Willard Harrington was mystified when he was served an eviction notice in late September. The 61-year-old had been steady with his mortgage payments for the past 16 years, but had unintentionally let last year's property owners association payment lapse.

"I would have paid if I knew about it," Harrington said.

Though the bill from the POA likely was sent to him several times, Harrington said he wouldn't have recognized it.

"Me, I don't read all that well," said Harrington, who explained he's had head injuries and has been on disability since the '80s.

The Magalia resident said he probably mistook the bill for other POA mailers he regularly receives and surmises to be brochures things he tosses into the trash.

In previous years, Harrington, who has no telephone, said he would hear through the grapevine that he was late on his fees and would immediately pay.

According to Satsie Veith, staff attorney from Legal Services of

Northern California, the \$123 POA fee was due in the summer of 2003. But during the next year, no effort, other than the bills, was made to contact Harrington.

"No one contacted him personally," she said.

The property was foreclosed upon and sold sometime in the summer. Without knowledge of the sale, Harrington went on paying his mortgage through October something he'd been doing for 16 years.

Harrington insists he would have paid the bill had he known about it. He also said the association knew about his limited reading skills.

In fact, Veith said there are four previous times when a lien was placed on the property all times when Harrington was late on a payment he didn't know existed.

Paradise-based attorney Joseph Earley is teaming up with Legal Services to help Harrington. According to him, the POA foreclosed on Harrington's property with the help of the Roseville-based Allied Trustee Services.

With the penalties associated with the process, the \$123 soon ran to more than \$1,000.

"Pretty soon it becomes a debt that's really hard to pay," Earley said.

With no bids on the property during a public sale, its title reverted back to the POA. A week later, the people who originally sold the home to Harrington in 1988 bought it back for about \$3,000, Earley said.

Sixteen years ago, Harrington paid \$28,000 for the home. It's now estimated to be worth about double that amount. He won't see any of that money, as things currently stand.

Earley, who is working pro bono with Legal Services, said the attorneys are waiting to file a claim, hoping something can be worked out with the POA and the people who now own title to the home.

Letters have been sent to the association and to the new owners, but there has been no response.

"It just absolutely stinks of unfairness just blatant unfairness," Earley

said.

POA manager Tim Douglass called the situation unfortunate, but maintained the association gave Harrington ample opportunity to pay his debt and followed the foreclosure process to the letter of the law.

Harrington received four letters, one of which was certified and never picked up, Douglass said.

"He ignored them all," he said.

Members, he said, can arrange to make payment plans if they can't afford the yearly fee all at once. But the association never heard from Harrington.

Douglass said he and others at the association weren't aware of the reading deficiency. He also said that if Harrington had gone to the POA, something could have been done to better inform him when his fees were due.

"I'm sure we would've gone above and beyond," he said.

But because Harrington lived in the community for 16 years, Douglass said there was no reason to think he didn't know about the fees.

The property association, he added, has 10,000 members, all of whom are contractually obligated to pay fees when they buy their homes.

"We're not in the business of baby-sitting," Douglass said.

Nor is the association out to take over properties, he added.

"We're not in the business of owning property," he said. "We're here to service the members. But they have an obligation, too."

Douglass said the POA has a contract with Allied in which the trustee guarantees the association its assessments. The company took over the foreclosure process after about 90 days, didn't get a response from Harrington and the title was eventually given to the POA. The property was then sold back to its original owners.

Douglass said the association heard from Harrington much too late. The property had been sold.

"It's really out of our hands," he said.

According to legislative analyst Marjorie Murray, situations such as Harrington's are common throughout the state.

"The foreclosure laws that govern homeowners associations are crazy and completely unfair to homeowners," she said.

Murray, an advocate with the Congress of California Seniors and the California Alliance for Retired Americans, cited a similar case of a Calaveras County couple who were delinquent on a \$120 homeowners fee.

The husband had spent his life's savings on the home and was disabled, but received no leniency.

"The homeowners associations are just heartless," Murray said. "They don't communicate directly with the owners. They don't try to work anything out."

The couple, she said, found a pro bono attorney who filed suit against the debt collector, the property owners association and the person who purchased the home. Nearly a year after they were asked to vacate their home, the lawsuit is still pending.

For three years, Murray has been working to change the laws that govern homeowners associations. Advocates fought hard for a bill that required them to allow people to be put on a payment plan and not put a lien on a property without a 30-day notice.

But a lot must still be done, Murray said.

Another recent bill, AB 2598, she said, that was recently vetoed by Gov. Arnold Schwarzenegger, would have required associations to personally inform owners of their debts and to use small claims courts to collect debts of less than \$2,500.

This would have made all the difference in Harrington's case, she said.

"This shouldn't be happening," Murray said. "It's morally wrong."