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Robert Levins / Daily Journal

Prospective buyers gather at the Riverside County Courthouse for a foreclosure auction.

Riverside County Considers Banning Courthouse Auctions

Judges Raise Concerns Over Beach Party-Like Gatherings At Foreclosure Sales

By Jason W. Armstrong

Daily Journal Staff Writer

RIVERSIDE — The atmosphere could be a beach party: Dozens of sunglasses-wearing, striped-umbrella-toting people parked in lawn chairs, holding tall water bottles, Thermoses and paperback books.

But they're not on the sand — they're clustered in front of the downtown Riverside civil courthouse, trying to capture the winning bid in a defaulted property auction in one the nation's most foreclosure-rich counties.

While courthouse-steps trustee sales have been a mainstay for more than a century, on Tuesday Riverside County's Board of Supervisors will consider becoming one of just a handful of counties statewide to bar solicitation on county property without approval — a measure officials are looking at using to outlaw such auctions from the courthouse entrance. The crackdown comes at the urging of local judges, who told county officials they were concerned the events impeded courthouse access and presented safety and security issues.

Auction houses have come out swinging against the action, saying that moving the assemblies or spreading them out among other locations could lower attendance and stifle bidding for properties, potentially lowering sales and prices. In California, a nonjudicial foreclosure state, default notices must by law be posted at properties, and foreclosure auctions must be conducted in public places. It's not a legal requirement to hold them in front of courthouses, however.

The county is considering alternate locations in which to allow the events, said Ray Smith, spokesman for Riverside County.

"The county is well aware there needs to be a place for these to occur," Smith said Thursday. "The board members have said that one of their tasks will be to find out where they should occur."

In a recent letter to the board, Riverside County Presiding Judge Sherrill A. Ellsworth said auction participants regularly crowd the courthouse walkway.

'The number of people coming to these auctions has literally quadrupled since 2007.'

— Riverside County Presiding Judge Sherrill A. Ellsworth

"The business of the court is often contentious. Litigants are typically unhappy or frustrated with the process and the reasons they are at the court in the first place," Ellsworth wrote. "Large crowds outside the courthouse, unrelated to the business of the court, hinder the security efforts of law enforcement and that cannot be overlooked."

The crowds have steadily grown as Riverside County's foreclosure crisis has worsened, Ellsworth wrote. With a population of two million, the county saw one of the nation's biggest building booms just before the market crashed five years ago and now has one of the country's heaviest concentrations of defaulted properties. One in every 146 homes received a foreclosure notice in April, according to real estate research group RealtyTrac.

"The number of people coming to these auctions has literally quadrupled since 2007," Ellsworth wrote, "with crowds sometimes totaling up to 80 people at a time."

The anti-solicitation ordinance would ban any marketing or revenue-producing activity from county property or any action that

"announces the sale of any product, service or property," among other things. The board has the power to make exceptions, and the measure contains exemptions for solicitations regarding employee benefits or charitable programs approved by the county. Breachers of the ordinance could get hit with an infraction or a misdemeanor and face fines or jail time.

Phillip M. Adleson, counsel for the Irvine-based United Trustees Association, a trade group whose members include trustees, foreclosure agents and publishing companies, said that only a handful of other California counties and cities have adopted ordinances aimed at moving foreclosure auctions from courthouse property and other locations.

"These come up very infrequently," Adleson said of efforts to move the sales. He said the concerns tend to ebb and flow based on foreclosure activity.

"Most of the time, the concerns are worked out among people in the industry."

Trustee sales regularly occur in front of courthouses in several other large counties statewide, including Los Angeles and Orange. The state court system has no policy governing whether trustee sales can occur at courthouses, according to officials with the Administrative Office of the Courts, and rules on where they can happen vary from county to county.

Adleson, a partner with Adleson, Hess & Kelly APC in Campbell, said his group would push to get Riverside County's board to amend the ordinance to allow courthouse auctions. He said forcing them to move "chases that type of conduct off the public square."

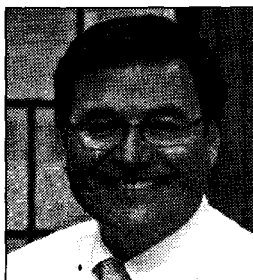
"People in the industry want the process to be transparent," he said, adding that it's less so if people must travel to "16 or 20 less-public locations."

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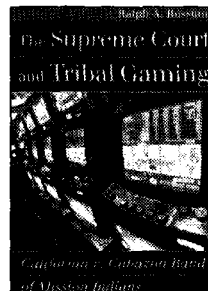


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