

April 21, 2011



Honorable Bob Buster
Chairman, Riverside Board of Supervisors
County Administration Center
4080 Lemon Street, 5th Floor
Riverside, CA 92501

Re: Potential Ordinance Prohibiting Solicitation on County Property

Dear Supervisor Buster:

The United Trustees Association ("UTA") is a trade association whose members are trustees, substitute trustees, foreclosure agents, posting and publishing companies, and others in the default services industry.

Our members have grave concerns about the policy set forth by a potential ordinance that would prohibit solicitation on County property. While no one wants to be foreclosed upon, the California State Legislature has created comprehensive statutes regulating nonjudicial foreclosures. Part of this comprehensive legislative system is the requirement that the Notice of Sale be posted and that the sale be conducted in a public place.

The unintended consequence of prohibiting sales on County property will inevitably be the spreading of trustee's sales throughout various public/private locations in the County causing a reduction in competitive bidding. The State and County have an interest in having a centralized public location where most trustees conduct their nonjudicial foreclosures. While third-party bidders may create some clutter or interference (which can be taken care of through other means), having a central location encourages them to attend and bid against each other generating the highest proceeds at the foreclosure sale. The result of this competitive bidding is that prices at trustee's sales tend to rise. Higher trustee sale values in turn keep the real estate market in Riverside from being further depressed. In addition, these higher sales values result in higher property taxes, not only from the properties being sold, but from properties that are affected by the valuations that are the result of trustee's sales. Lastly, higher bids result in surplus proceeds (beyond that owed to the foreclosing lender) which become the property of the homeowner or junior lien holders who are likely also to be individuals or businesses in Riverside County.

Our conclusion is not speculative, but rather based on the fact that approximately 25 years ago some trustees experimented with sales outside their offices or in other public locations. The result was that bidders could not attend all of the different trustee's sales and therefore compete against each other to purchase properties. Having a central location, like a Courthouse Administration Building is critical to the benefits of homeowners, lenders and third-party purchasers at trustees' sales.

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The inability of trustees to conduct sales on County property will have a negative impact on lenders and servicers desires to enter modifications. This is particularly true of the smaller private lenders who generally are happy to enter into modification postponements or forbearance agreements as long as it does not eventually cost them more than what is given to the borrower in those agreements. At a minimum, sales that are currently set or subject to postponements should be allowed to continue at the noticed location until republication of notice of sale for other reasons, trustees sale or reinstatement or redemption (payoff) of the secured obligation.

Additionally, should notices have to be re-published to a new sales location, surplus funds due to Riverside homeowners from a third-party sale will be reduced. The costs to the borrowers, should they try to reinstate, will be increased.

Considering that sales have been conducted at the County Courthouse for over 42 years, we would appreciate it if you could give us more information on precisely what property you recommend as an alternative. Our members have a history of moving the sale and bidding process to various locations around the courthouse. Several of our members' companies have conducted research already for an alternative location to the County courthouse and have determined that holding auctions in parks, other locations are problematic in terms of safety, size, and providing specific directions to interested parties to actually find the location. We believe that holding sales in the public space to the immediate South side of the County Courthouse would provide a suitable alternative.

We respectfully request that the County not consider the ordinance or do so with a caveat that nonjudicial foreclosure sales/bidding be permitted on the South side of the County Courthouse. We would like to meet with representatives of the County along with other interested parties to resolve this issue. I am sure that we can address the issue of access to public buildings and other problems that may have arisen due to increased volume of foreclosure sales. Sometimes these problems can be resolved by rules regarding moving the sales to one side or another of a particular public location and posting reasonable rules related thereto. Our Association has always attempted to first work through all problems with cities and counties in an amicable fashion that is beneficial for all members of the public. We recognize that many times the foreclosure process is not well understood. We believe the potential ordinance, particularly if followed by other Counties, will have a negative effect on the comprehensive legislative scheme set forth by the California Legislature as well as on property taxes and the ability of homeowners and others to reinstate or redeem their properties.

Your earliest response would be appreciated.

Very truly yours,

Robert Finlay

T. Robert Finlay, Esq.

President