

Lawsuits say banks changing locks of distressed homes before foreclosures are filed

By **KIMBERLY MILLER**

Palm Beach Post Staff Writer

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The home repo business is booming as lenders break records this year to take back properties from delinquent borrowers.

But some homeowners and attorneys complain the banks, and the property preservation companies hired to change door locks and clean homes, are overzealous in their work.

In a handful of recent lawsuits statewide, homeowners say their locks were changed before a foreclosure had even been filed, that personal property and financial papers were rifled through or taken, and that charges are being levied for lawn maintenance and trash removal when HOAs already take care of those services.

Often, homeowners say they can't even figure out who has been in their home as banks contract with nationwide property preservation groups that subcontract to local companies, which are not state regulated or required to receive special licensing.

In one suit, a man with a criminal record of drug and burglary charges who is working for a property preservation company is alleged to have taken a laptop computer, several bottles of wine and a cordless drill from a Punta Gorda home while there to change the locks.

He also helped himself to a cold beer from the refrigerator, leaving it, along with his fingerprints, on a counter top, the suit says.

"They are emboldened because they are getting away with it," said St. Petersburg attorney Matt Weidner, who is representing the Punta Gorda homeowner.

Mortgage contracts typically contain a clause allowing banks to enter and secure an abandoned or vacant property when the loan is in default. In doing so, the banks hope to maintain the property's appearance, prevent vandalism and avoid stolen appliances.

While a local real estate company or bank representative is supposed to make the initial determination if a property is vacant, the final judgment often falls to property preservation companies, which look for clues such as knee-high grass, moldering phone books on the front porch, and a trashed interior as signs they can enter.

"We're the eyes and ears for the bank," said Craig Davis, owner of the 2-year-old Jupiter-based Field Service Experts, which is not named in any of the lawsuits referenced in this story and has no state complaints against it.

By the very nature of their work, property preservation companies are bound to draw homeowner ire, owners say. Davis, who did architectural and computer work before turning to property preservation, is careful not to enter homes that appear occupied. He takes pictures of the interior of homes he does enter to protect himself from accusations of theft.

Still, Davis acknowledged that new companies taking advantage of the foreclosure explosion may make mistakes in their eagerness to impress the banks.

"Sometimes they can be pretty gung-ho," Davis said.

The locks on Jillian Winterberg's Vero Beach home were changed in February, a full month before Wells Fargo filed for foreclosure.

Although Winterberg isn't living in the home full time, she has a lawn service, pays the utility bills, and has all of her belongings there.

After the February lockout, she got an attorney and got back into the home.

Then, the locks were changed again Aug. 21.

"They've authorized complete strangers to go into my home and do this," said Winterberg, who filed a lawsuit in Indian River County against her mortgage servicer Wells Fargo and the preservation company First American Real Estate Information Services Inc.

Fannie Mae, the owner of Winterberg's house, said it is looking into the case and couldn't comment late Friday afternoon.

First American Real Estate Information Services Inc., which was once part of Santa Ana, Calif.-based First American Financial Corp., has since separated and is now under the national company CoreLogic, which acknowledged the receipt of e-mail messages from The Palm Beach Post, but did not respond to a request for comment.

"It was quite difficult for me to find out who was locking my client out of her property," said Winterberg's attorney Kevin Rollin. "They'd put a sticker on her door, but the contact information wasn't filled out."

Attorney Matt Weidner's lawsuit names Sarasota-based First Property Preservation Inc., which is doing business as Good Choice Preservation, as the company that used a screwdriver to break into his client's Punta Gorda home. The home was in foreclosure, but occupied by renters.

The suit claims that not only were things stolen, but that the employee with the criminal record returned a second time and threatened the renters saying he was going to take all of their belongings.

Good Choice Preservation President Jim Good said he does criminal background checks on all of his contractors. The man in question, Good said, was likely helping one of the contractors.

"Lawsuits don't even phase me anymore," he said. "People always say something's missing. Usually, it's a flat-screen TV."

Anthony DiMarco, executive vice president for government affairs for the Florida Bankers Association, acknowledged lockout mistakes happen.

"At the same time," he added, "you have a home in trouble and the bank is trying to work with the customer and protect the investment."

Maria Ronda, whose Palm Beach Gardens home went into foreclosure a year ago, said although empty, it is cared for by an HOA and hasn't been abandoned.

The bank changed her locks soon after the foreclosure was served. Ronda changed them back.

"Until a judge rules differently, that place is mine," she said. "The dynamic is to intimidate people and, unfortunately, a lot of people are intimidated."

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