

## Discontinuation of Foreclosure Proceedings

The Federal Deposit Insurance Corporation (FDIC) is clarifying supervisory expectations for institutions' policies and practices for decisions to discontinue foreclosure proceedings after initiating such actions, which are commonly referred to as abandoned foreclosures. The FDIC continues to encourage institutions to avoid unnecessary foreclosures by working constructively with borrowers and considering prudent workout arrangements that increase the potential for financially stressed borrowers to keep their properties.<sup>1</sup>

When workout arrangements are unsuccessful or not economically feasible, existing supervisory guidance<sup>2</sup> reminds institutions of the need to establish policies and procedures for acquiring other real estate that mitigate the impact the foreclosure process has on the value of surrounding properties. Institutions that initiate the foreclosure process may subsequently decide to discontinue the proceeding based on financial considerations, such as a determination that the costs to foreclose, rehabilitate, and sell a property exceed its current market value. When such decisions are made after institutions have initiated foreclosure, the borrower(s) may have already abandoned or stopped maintaining the property. Such properties can lead to blight, crime, or an accumulation of trash, causing a negative effect on neighboring properties and the local community.

Institutions should have appropriate policies and practices pertaining to decisions to discontinue the foreclosure process that address:

- ***Obtaining and Assessing Current Information.*** Institutions should obtain the best practicable information on the market value<sup>3</sup> of real estate subject to foreclosure and use current valuation and other relevant information to assess whether to initiate, pursue, or discontinue (abandon) a foreclosure proceeding.<sup>4</sup>
- ***Releasing Liens.*** Because institutions that forego foreclosure due to financial considerations may face, in some instances, potential litigation risk arising from their position as a mortgagee of a now-abandoned property, institutions should implement criteria for determining when their lien(s) should be released.
- ***Notifying Local Authorities.*** Institutions should notify appropriate state or local government authorities, such as tax authorities, courts, or code enforcement departments, of decisions to no longer pursue a foreclosure and must comply with applicable state or local government authorities' notification requirements.

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<sup>1</sup> *Statement on Working with Mortgage Borrowers*, <https://www.fdic.gov/news/news/press/2007/pr07032a.html>.

<sup>2</sup> *Guidance on Other Real Estate* at <https://www.fdic.gov/news/news/financial/2008/fil08062a.html>.

<sup>3</sup> *Interagency Appraisal and Evaluation Guidelines*, <https://www.fdic.gov/news/news/financial/2010/fil10082.html>.

<sup>4</sup> See Section G of the *Operational and Managerial Standards* in **Appendix A to Part 364—Interagency Guidelines Establishing Standards for Safety and Soundness** at [https://www.fdic.gov/regulations/laws/rules/2000-8630.html#fdicfoot1\\_1](https://www.fdic.gov/regulations/laws/rules/2000-8630.html#fdicfoot1_1).

- ***Notifying the Borrower(s)***. Institutions should notify the borrower(s) when a decision is made to discontinue a foreclosure action. The notice should inform the borrower(s) that:
  - (1) The mortgage holder is no longer pursuing foreclosure,
  - (2) The mortgage holder has or has not released the lien,
  - (3) The borrower has the right to occupy the property until a sale or other title transfer action occurs,
  - (4) The borrower remains financially obligated for the outstanding loan balance, real estate and other applicable taxes, homeowner association dues, and insurance premiums, and
  - (5) The borrower is responsible for maintaining the property in accordance with all state and local laws, codes, and ordinances.
- ***Contacting the Borrower(s)***. Institutions should use reasonable means, including methods similar to those used to contact the borrower(s) in connection with payment collection activities, to provide the notice described above, particularly to borrowers who vacated their property based on the institutions' communications regarding the initiation of foreclosure action.

### **Supervisory Process**

The FDIC's supervisory activities will include a review of institutions' policies and practices related to foreclosure proceedings, including determinations to discontinue such actions. During safety and soundness examinations, examiners will review institutions' analyses for supporting decisions to initiate, pursue, or discontinue foreclosure actions; decisions to release liens; and management reports on these activities. During consumer protection examinations, examiners will review the actions taken by institutions to contact the borrower(s) and whether notices to the borrower(s) and local authorities regarding their decision to discontinue a foreclosure proceeding include the information described above and were provided in a manner that complies with applicable state or local government authorities' notification requirements. Consumer protection examiners also will review whether institutions' consumer inquiry and complaint process adequately address concerns raised regarding abandoned foreclosures.