

Chicago Daily Law Bulletin

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Saving Sarah a complex proplem

By David G. Harding

Several years ago, I met a woman — for the sake of privacy, let's call her Sarah — and her seven daughters and four grandchildren, all of whom lived in a two-bedroom apartment on South Indiana Avenue. The walls and ceiling were falling apart; indispensable parts of the plumbing system did not work; more than half the electrical outlets were dead. So Sarah refused to pay the rent, received a summons and refused to back down. Thus, a quarter-century (and counting) friendship was born.

In December 1983, the apartment building on Indiana was condemned, Sarah's eviction was dismissed, and she and her eldest daughter put \$1,000 down, signed a \$49,000 mortgage and closed on a house on South Perry Avenue, smack dab in the middle of ZIP code 60628. The house was a family project, and everybody chipped in to pay the mortgage or "rent" as Sarah, who had never before owned anything, called it. Sometimes late and sometimes short, they managed to hold on for a long, long time.

Through it all, Sarah has kept in touch. At least six times a year, I am still called to answer three questions: "How's my lawyer?" "How's that pretty little baby of yours?" long after the baby stopped being a baby, and "Have you found yourself a wife yet?" long after my own mother gave up on me. For my part, I have kept up to date as one daughter after another got situated and moved to spaces they could call their own, support for "mama's house" tapering off to nothing when the last daughter left early in 2006.

At age 70, without income, Sarah had to sell. On Aug. 9, 2006, she found a realtor, who told her she would have to do a lot of updates to get her price. Without money and already behind on her mortgage, Sarah accepted a \$92,000 offer from a rehabber. His lawyer quickly came up with a formal excuse to cancel, but shared, orally, the real reason — that they would be unable to resell the property, in the 60628 ZIP code, due to the soon-to-be-implemented HB 4050, codified at 770 ILCS 77/72, et seq.

Federal statutes and regulations have, for years, loosened mortgage rules, and we all fell in line behind increased liquidity, a fresh class of buyers and increasing real estate values. What was not to like? But more was not enough for some, and mortgage brokers started putting people with no prayer of making regular payments together with lenders who saw residential real estate mortgages as relatively risk-free investments. Predictably, mortgage defaults grew at a savage rate.

HB 4050 required, among other things, setting up an area, ultimately 10 zip codes, including 60628, within which, starting Sept. 1, 2006, brokered loan applications had to be reported to the state to determine whether a borrower was at risk, and if so, to require the borrower to submit to credit counseling at the broker's expense. Failure of broker, borrower, credit counselor or title insurer to comply would result in refusal of recording of the mortgage, which could then not be perfected as a lien on the property.

Reliable sources say real estate sales in the pilot area dropped by about half during the short life of the program. Buyers and mortgage brokers moved to greener pastures. For Sarah, this translated to a fellow working on a house across the street offering \$90,000 orally, never written down; a fellow one of the daughters found, willing to offer, again only orally, \$70,000; and a family member who wanted Sarah to quitclaim him the house on the strength of his oral promise to split the proceeds on resale.

Seriously past due on her mortgage, Sarah got one written offer for \$50,000. With no other prospects and time running out, Sarah accepted. A month after Sarah's closing, Gov. [Rod R. Blagojevich](#) emptied the pilot area,

effectively ending the HB 4050 program. With buyers and brokers again willing to work in the area, Sarah's buyer can now slap on a coat of paint, install some new fixtures and double his money. Meantime, Sarah left the closing with \$17,000, her entire retirement fund.

Now there are those who might take a grassy knoll view of this mess, but it is hard to see how anyone could have predicted both the coming and going of the program, and more importantly, controlled the timing of both. It looks more like the media identified a fairly straightforward problem and its simple cause — the rise of bad loans and the resulting boom in foreclosures resulting from too-easy credit — and demanded an easy solution to that problem.

The business of the media is to sell a product and turn a profit. Dividing the world into neat, easily digestible factions — right, wrong; good, bad; part of the solution, part of the problem — sells that product. Woe betide the media outlet that tries to sell complex ideas and woe betide the politician who ends up on the wrong side of one of those clear divides. But the business of government is not the business of the media, and we have the right to expect better than facile solutions to complex problems.

All of this would make for a nice academic discussion, except that the media are now beating the drum for a replacement solution. Maybe this time, we can avoid demanding so great a sacrifice from those we can deem expendable, or worse, ignore. After all, even the most devoted broken-egg-and-omelet apologist can no longer fail to grasp that, of the half-million or so people in ten Chicago zip codes, several thousand will need to sell at any given time for reasons obvious and absolute at ground-zero, even if obscure to outsiders.

Sarah called me again this morning. After getting the same old, boring answers to the same old questions, she hit me with a new one. "When are you going to let me take you to lunch to thank you for all your help?" On a personal level, I would be deeply grateful to the governor and the general assembly if I could accept her offer without reliving this dirty, shameful sensation.

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