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Avoiding Foreclosure

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(WXYZ) - Three words may be the key to keeping your house out of foreclosure... what are they? Produce the note...produce the note... produce the note. These three words can keep the bank from taking your home and keep you off the street. It worked for one woman and others trying out this same strategy.

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Kathy Lovelace lost her job and was about to lose her home.

"I got a letter they were going to foreclose," says Lovelace

But she found these words to say to the bank and her foreclosure came to a screeching halt: produce the note.

She hasn't heard from the bank since.

"I haven't heard a word from them," she says.

Lovelace and other homeowners around the country are using this tactic to buy time and stay in their house. It's a strategy that reveals the mortgage mess that's been going on in this country the past decade. When real estate was booming, companies sold and resold mortgages over and over again.

"No one really knew who owned what," says consumer attorney

Chris Hoyer. "they were sold and resold so many times..."

In some cases, the original note was lost, stored away or destroyed, says Hoyer whose consumer warning network website helped Lovelace file in court a request that the bank produce her note.

"Our message was simple: make them show who owns the note. And make them show the person who has that note has the authority to take your home away," Hoyer says.

"The burden of proof is on the party that is saying I am going to take you and throw you in the street," adds attorney Rod Dunlap. "They have the burden of proof to come up with the documentation to prove it."

Dunlap is a Farmington Hills attorney who has been handling real estate transactions for 23 years. He says in these hard times where Michigan residents are losing their homes at an alarming rate, asking the bank to produce is definitely worth a try.

"If they can't provide that proof, ultimately there is no foreclosure," Dunlap says.

It can take time for the bank or Mortgage company to find the home owners' records. This can buy them time to find another place to live. In fact, one of Dunlap's clients delayed the foreclosure 60 days by doing this.

So far Lovelace has put off losing her home about four months. After she asked for the note, she has heard nothing from the bank which said it lost or destroyed the note.

"If they can't produce the note, how can they say they own my home...", Lovelace says.

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