

Name of agency/organization: Barbara L Franklin, Esq., Attorney at Law

Contact person/phone/email: [REDACTED] _____

Thank you for taking the time to answer these questions.

1. In your experience, how prevalent is the issue of squatting and adverse possession?

It is prevalent. I represent bankruptcy clients who, often times, file bankruptcy to avoid a deficiency judgment in a foreclosure. I also represent clients in foreclosure matters. Once the client has moved from the property, I have had clients call me saying that they found squatters, or they have been approached by people who want to occupy the premises for no rent. I had one client tell me the police would do nothing about it. I advise my clients to stay in the house if possible, keep it up, and pay utilities and association dues, until the foreclosure is complete. Some may stay, not able to pay for repairs, but no foreclosure has been completed, or if it had been, no notice of eviction. The former owners have no incentive to paint, fix or even landscape if they know they will be asked to leave on a moment's notice.

2. In what communities and districts do squatting and adverse possession appear most prominent?

Kona, Keaau. Adverse possession was misrepresented by the West Hawaii Today article of July 14. It takes more than mere possession for 20 years to establish adverse possession.

3. When you receive notice or a complaint about these situations, what is your normal course of action?

If the complaint is from a client, I evaluate whether the mortgage servicer needs to be contacted, whether the foreclosure is completed, or whether the lender has violated the permanent injunction in bankruptcy. If it is a Dept. Of Health concern, I tell my clients to cooperate fully. I have one instance where the lender's contractor is checking the property, but leaving the doors open allowing critters in. The property is not occupied.

4. What kinds of complications have arisen in the past that have prevented a successful resolution of the situation?

Junior liens, leased land (green well or Kam schools), lender neglect or disinterest. Overloaded attorneys who only get flat fees,

5. For those situations that have been successfully resolved, please describe what happened.

Foreclosure mediation is very successful, but I had an instance today where the owner is in California for medical treatment and is renting out the property, the judge did not allow mediation because she had renters.

Some of the mediations become protracted. The best cases are where the owner had a temporary setback, is able to provide the intermitable paperwork required by the lender, and can afford a modification,

6. What happens when you contact or try to contact the owner of record?

I usually represent the owner.

7. What solutions would you recommend?

Allow nonjudicial foreclosures that satisfy due process and the lenders desire to deliver clear title, which is not the case under the 2010 laws. My clients want out from under! Or pass antideficiency legislation. The lenders are not chasing borrowers anyway.

8. Are there any other comments you would like to make?

The real problem lies in the securitization of the loans and the lack of communication with the holder of the note. There are so many layers of bureaucracy between borrowers and lenders that the lines of communication are nonexistent.