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Many Bay Area homeowners in real estate limbo

By Sue McAllister and Eve Mitchell
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Tens of thousands of Bay Area homeowners are trapped in a bizarre real estate limbo, living in houses but no longer paying for them, waiting and wondering if someone will help them — or throw them out.

Some are victims of their own economic circumstances, unable to afford their mortgage and expecting to lose their homes if they can't get a break from their bank. Others are opportunists, choosing not to spend on a house worth less than they owe. Instead, they can live rent-free until their lender makes a move.

The limbo phenomenon is a radical departure from previous real estate crashes, when there were far fewer troubled loans and banks moved speedily on those who fell behind on payments. Now many lenders

simply can't keep up, and others appear reluctant to

flood a weakened market with foreclosed homes.

It all adds up to lingering instability for the Bay Area housing market, as lenders slowly work through the backlog while homeowners endure uncertainty that could last months or even years.

"It's bad all the way around, for the neighbor, the community, the city, state, nation," said Chris George, founder and CEO of CMG Mortgage, based in San Ramon. "It's a continued indication that there are a lot of people in trouble, particularly with their job situations."

Some homeowners say ignoring the mortgage is the only option they have.

"I stopped paying payments about 12 months ago," said Jeff Dunkin, who has twice sought

to modify the loan on his San Jose condo near Branham High School, and twice been denied. The 25-year-old construction worker has been employed only sporadically since early 2009, and the unemployment checks he's collected are less than half what he used to make. He knows some people may think living mortgage-free sounds like a cushy deal. But that's not how it feels to him.

"It's a lot of anxiety, a lot of stress," Dunkin said.

'On the edge'

Dunkin has plenty of company. An estimated 40,283 homeowners across a seven-county region spanning the South Bay, East Bay and the San Francisco metro area were at least three months behind on their mortgages but not yet in foreclosure as of April, according to CoreLogic, which tracks mortgage performance data. That's

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about 4.5 percent of total mortgages in those areas, and a drastic increase from 0.25 percent in January 2007. In the San Jose metro area in January 2007, only 513 loans were more than 90 days late but not in foreclosure. In April of this year there were 11,558. In the East Bay, the total grew from 1,435 in early 2007 to 23,155 in April.

"We have all these people who are really kind of on the edge," said Kevin Stein, associate director of the California Reinvestment Coalition, which fights for homeowners seeking loan modifications. "They're anxious because they know they're behind, and they know all these foreclosures are happening, and they know they could be next."

Dunkin, for example, bought his two-bedroom condo in September 2007 for \$355,000. His fiancée and a roommate helped him pay the mortgage. But in early 2009 the relationship with his fiancée crumbled, and construction business in the valley plunged. As he scrimped to keep up with his \$2,486 monthly mortgage payments, he let his homeowner association dues lapse, and the association sued him for the overdue amount. He spent months paying it, but let his mortgage slide.

Dunkin has yet to receive a notice of default, but he did receive letters this spring from his lender about the possibility of a short sale — selling the condo for less than he owes.

"I have not responded to that," he said. For now, he's sitting tight, saving money so he can rent a place after foreclosure, which he considers nearly inevitable.

Nationwide "roughly 3.5 million loans are in this limbo land, and are not proceeding through very quickly. It could take years," said Sam Khater, an economist with CoreLogic, which tracks mortgage

performance. "I have a feeling it's going to follow the path of unemployment and have a long tail."

Part of the reason homeowners wind up staying in their homes so long lies with the lending industry, Stein said. Many companies are overloaded with people who are behind in payments, and financial institutions are hesitant to process thousands of foreclosures at once, because dumping all those properties on the market would lower prices even more.

Khater said many lenders are moving slowly because they hope the government will eventually step up to help cover their losses. They also may be hoping an economic recovery will allow many borrowers to catch up with their payments, but "they're going to be waiting a while," he said.

Too slow, critics say

Critics of loan modification programs say the housing market would be better served if foreclosures moved more quickly, and that any resulting drop in home prices is necessary to reset housing values to their pre-bubble levels. Allowing delinquent homeowners to remain in their homes for months or years means many of the owners will stop maintaining their properties, which hurts their neighborhoods, and their own delinquency may even encourage neighbors to default, prolonging the housing market's pain, some say.

But Kenneth Rosen, chair of the Fisher Center for Real Estate and Urban Economics at UC Berkeley, said banks and the government "are being quite rational" in stretching out the foreclosure process to avoid displacing homeowners and depressing prices. He estimated that fewer than 15 percent of Bay Area mortgage-holders who are 90 days overdue will get foreclosed on. "Most people will

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catch up if they can get a job" or a loan modification, he said. In the San Jose metro area, about 1.9 percent of mortgages were in foreclosure in May, or about 4,900 loans, CoreLogic said. In the East Bay, the rate was 2.5 percent, or about 10,090 loans. Bay Area median home prices, though rebounding from lows reached last year, are down 38 percent from their peak in July 2007.

Foreclosure is certainly taking longer than it used to.

According to figures from ForeclosureRadar, for the California homes that were foreclosed on in June, it took an average of 234 days from the "notice of default" to the time the property was foreclosed. That's nearly eight months on average — meaning some homeowners stay in their homes much longer. In January 2007, the average time to foreclose was a little more than four months. New state laws have built more time into the foreclosure process, adding a requirement that lenders try to contact borrowers in person before they are allowed to file a notice of default, for example. Between legislated timelines, delays because lenders are swamped with loan modification cases, and possible strategic delays on the part of banks, many homeowners can stay put, payment-free, for months on end.

Jobs aren't enough

There's another unfamiliar wrinkle in delinquency trends now, said Hans Johnson, who studies housing at the Public Policy Institute of California. Any time unemployment rises, mortgage delinquency does too, he said, just as it has in the past few years. But this time around "even people who are employed are debating whether to keep paying the mortgage because they're so far underwater," he said.

New research from consulting firm Oliver Wyman found among borrowers nationwide who defaulted in the first half of 2009 and remained in default at the end of last year, 19 percent could have afforded to keep paying. In June, mortgage financing company Fannie Mae said it would punish such strategic defaulters by prohibiting them from getting a Fannie-backed loan for seven years after their foreclosure, instead of the typical five.

Pinole resident Charles Rinne, 63, is no longer employed, but the retired postal worker says he could keep paying the \$1,300-a-month mortgage on his two-bedroom condominium. Instead, in February, he stopped.

He considers defaulting a way to live more affordably after years of racking up debt.

Rinne purchased his condo for \$26,500 in 1973 and over the years refinanced it several times. He said he ran up credit card debt and had some dental surgery that was not fully covered by insurance.

"All of a sudden late last year I just could not pay all the bills down to zero," he said. So he plans to file for bankruptcy, which will delay foreclosure proceedings.

"That will allow me to save as much money as possible so I have the money to move," he said.

There's no survey data on the demographics of nonpaying homeowners. But with unemployment and recession affecting all socioeconomic levels, the nonpaying phenomenon spans poor neighborhoods and rich ones, from tiny condos to multimillion-dollar houses, said Jon Maddux, CEO of YouWalkAway.com. The company provides legal and financial advice to homeowners who've stopped paying.

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Maddux said defaulting is one way owners have of "lashing back" at lenders when they've been frustrated by a lack of response or denial of their loan modification. He rejects the notion that borrowers have an ethical obligation to keep paying, saying mortgages are contracts that specifically include language about what happens if the borrower stops paying.

"We've made it so sacred to pay your mortgage, when it shouldn't be that way. People shouldn't make their families suffer to pay a mortgage that has an exit strategy in the contract," he said, referring to foreclosure.

S.J. man fights back

San Jose homeowner and Santa Clara Valley Transportation Authority bus driver Darrell Thomas stopped paying his mortgage in late 2008 after he lost overtime pay and while he was seeking a loan modification. He was offered a trial modification in April last year, but as he was about to start making the new payments, he learned he'd been foreclosed on. With help from an attorney, he successfully sued to get back his triplex, where he lives and has tenants.

But he's still pursuing legal action against his lender, Wells Fargo, because he feels he was improperly denied a loan modification under the Home Affordable Modification Program. In May he began making mortgage payments for the first time in almost a year and a half, as part of an agreement with Wells Fargo to ensure the bank would not foreclose on him during litigation.

While some might find relief in walking away from their homes after prolonged struggle, "I don't look

at it that way," said Thomas, 46. "That's home. I'm established, that's where my family's at, and it's hard to start over."

With unemployment still high in the Bay Area and home price stability not yet assured, San Jose condo owner Jeff Dunkin puts his own situation — in default, working infrequently and bracing to move out of his first home — in perspective. "I'm just one person in a sea of problems," he said.

Contact Sue McAllister at 408-920-5833.

RESOURCES FOR HOMEOWNERS

Homeowners seeking loan modifications or refinancing for underwater loans can get information at:

www.makinghome

affordable.gov

www.keepyourhome

california.com


To find Bay Area

agencies approved by the U.S. Department of Housing and Urban Development to do foreclosure-prevention counseling, go to www.hud.gov, and click on "talk to a housing counselor."

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