Lowered property value leads to court fight

Foreclosure expert says lowered values, tough economy are leading to more disputes as borrowers seek options

BY KERRI PANCHUK | STAFF WRITER

The development company that created the Mansfield Pointe retail shopping center in Tarrant County two years ago is now fending off foreclosure.

Mansfield Pointe opened at the corner of U.S 287 and Debbie Lane in Mansfield in late 2008 after construction was financed by a $23.1 million loan. Developer Mansfield SEQ 287 & Debbie Ltd. took out the loan from Citibank, securing it with a lien against the 14.5-acre development.

The 148,000-square-foot retail center, currently 80 percent occupied, quickly wooed large anchor tenants, including Sports Authority, Bed Bath & Beyond, Party City, PetSmart and Half Price Books, court records say.

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President, Foreclosure Listing Service

Two years later, however, the development company behind Mansfield Pointe has filed a suit against Citibank, claiming the lender is trying to force the developer's loan into a distressed state by preventing Mansfield SEQ 287 from using a provision in its loan contract to extend the original maturity date, which is scheduled for the last week of November.

In court records, the developer claims Citibank is using a clause in the loan's contract to block the extension of the maturity date by claiming the property's appraisal value is now lower than the original loan amount, creating a material breach that prevents the lender from granting an extension on the loan maturity date.

Mansfield SEQ 287 has asked a Dallas County court to ensure that the developer gets the extension. In addition, the developer is fighting Citibank's assertion that the extension hinges on the property's decline in appraisal value.

Attorneys for both sides declined to comment on the lawsuit, including whether the development company may file for bankruptcy protection as a last resort.

Squabbles between borrowers and lenders are common in times when commercial loans rapidly lose value, said George Roddy Sr., president of Addison-based Foreclosure Listing Service.

"I think that is the reason we have such a high increase in foreclosure postings on commercial properties," Roddy said. "The fact that property has lost its value or could be below the balance of the loan — or there could be a conflict of terms on the condition of the loan. The lender in effect is seeing the handwriting on the wall and if values continue to decline, depending on what the language is in their deed, trust or note ... they may make some type of action."

Roddy added that it's always possible some type of resolution will be reached between the parties.

Stephanie Curtis with The Curtis Law Firm says a "developer is not protected from a lender accelerating a loan and placing them in foreclosure" if the maturity date passes without a payment made.

"Without an injunction in place or without a bankruptcy filing to protect them (if the maturity payment is not made), a bank could push them (the borrower) into foreclosure and fight about it later," Curtis said.

kerripanchuk@bizjournals.com | 214-706-7106