

Bank owns part of Trinitas after zero bid auction

By Dana M. Nichols

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SAN ANDREAS - Part of the Trinitas golf course property went up for sale at a foreclosure auction Friday on the Calaveras County Superior Court plaza in San Andreas.

There were no bidders, which means that Community Bank of San Joaquin now owns a 160-acre chunk of the golf course. The parcel claimed by the bank also includes both a home and a maintenance building with converted living quarters where Trinitas developers Mike and Michelle Nemees live.

An auction for one of the two notes on the remaining 120 acres of the course as well as for a different deed of trust on the 160-acre parcel was postponed to next Friday.

Mike Nemees did not respond to inquiries for comment. A staffer answering phones at the course said it remains open.

The Trinitas golf course near Wallace in western Calaveras County was built without permits. After it was built, the Nemees applied for permits to operate the course legally and also to build a luxury home development.

In 2009, the Calaveras County Board of Supervisors twice voted against measures that would have granted the Trinitas projects legal standing.

Also in 2009, Community Bank of San Joaquin foreclosed and the Nemees filed for bankruptcy.

Since then, the Nemees have fought years of court battles with Calaveras County. Because of the bankruptcy, one key lawsuit over the county's agritourism law was tried in U.S. Eastern District California Bankruptcy Court. The Nemees lost that case and are now appealing it to the U.S. District Court branch in Fresno. A last-minute motion this week by the Nemees asking to block the foreclosure sale apparently failed to stop the proceedings.

What happens next is not clear.

Dennis Hauser, an attorney representing Community Bank of San Joaquin, did not respond Friday to an interview request.

Malcolm Gross, an attorney representing the Nemees, also did not respond Friday to a phone message.

But several legal experts said the slow foreclosure auction process the bank is using is not unusual, nor is the fact that nobody wanted to buy the property.

"It is somewhat rare to have third-party bidding," said John Sprankling, a professor at University of the Pacific's McGeorge School of Law in Sacramento. "In a troubled project like that, I would expect the only bidder to be the lender."

The bank set the opening bid at \$1,280,000. That's just a portion of the approximately \$2.3 million in bank loans secured on that piece of land.

Both Sprankling and attorney John Connolly of Tracy, who has represented a group that's critical of Trinitas, said banks often proceed cautiously on foreclosures involving multiple deeds of trust and don't auction all of them at the same time.

It's possible that foreclosing on the other portion of land used for the golf course, a 120-acre parcel, won't yield much for Community Bank of San Joaquin. That's because the bank holds a second mortgage on that parcel.

Mark B. Rishwain and Michelle Rishwain of Stockton, who lent the Nemees \$600,000, hold the first mortgage on that land and would get paid first from the proceeds of any sale. They are not foreclosing on their note.

It is also not clear if the Nemees have backers who may still offer some kind of settlement to the bank in an effort to keep the golf course in operation.

U.S. bankruptcy Judge Ronald Sargis suggested that was a possibility when he issued the ruling allowing the foreclosure auction.

Connolly said it is unlikely that a buyer other than the bank would step up to take the second parcel.

"Who is going to buy half a golf course next week?"

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