

The Garden Island, Changes to public notice law may impact community (8.10.12)

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8 hours ago • Jane Esaki - The Garden Island(0) CommentsLIHU‘E — Foreclosure ads can be a significant revenue source for an area’s largest daily print newspaper and also arguably provides the broadest possible audience to advertise an auction for a property in that county.

A change in the state’s mortgage foreclosure law that took effect in June, however, may have an impact on such publications as well as the community it serves.

Previously, foreclosure ads had to run in the largest daily newspaper of general circulation in the county of the foreclosure.

Act 182, which went into effect on June 28, is less stringent. It allows foreclosure ads to run in any newspaper containing news of a general nature and is distributed within the county where the unit is located at least weekly for a minimum of one year and to at least 3 percent of the county’s population.

In the state, it affects each county’s largest paper and its broad audience. On Kaua‘i, The Garden Island has been the sole publisher of the public notices, including the foreclosure ads. Ads include information about the subject property and the scheduled auction and other legal details.

“The intent of the law was to reach the widest audience,” said Ron Margolis, realtor, certified distressed property expert and chair of the Kaua‘i Foreclosure Assistance Task Force. “It benefits the homeowner who is often unaware that their home is being foreclosed on because the bank cannot find them to serve them. It provides them details of the foreclosure. And it informs investors.”

Act 182 also suggests that it would allow publication of the notice on a state website at the discretion of the agency that maintains that website, providing that it has been printed once in the classified section of a newspaper of general circulation as confirmed by the court.

Margolis said officials from the Department of Commerce and Consumer Affairs, which would take on that task, have said that it is “not authorized at this time” to maintain such a website.

While The Garden Island’s revenue from foreclosure ads at this time may not be at its highest, according to TGI publisher Casey Quel Fitchett, current ads do reach a broad population on Kaua‘i. The Garden Island’s six-day-a-week print circulation on Kaua‘i is about 9,000 daily and is still a seven-day source of information with a Saturday online edition.

“The issue should not be who is benefiting from advertising dollars,” said Quel Fitchett. “It is the public’s right to know and the broader the audience, the more the law accomplishes its intent.”

If the foreclosure law remains intact, a weekly would only have to distribute 2,013 copies, 3 percent of Kaua‘i’s 2010 decennial census population of 67,091.

On Kaua‘i, weeklies include Kaua‘i MidWeek, published by O‘ahu Publications Inc., which also publishes the Honolulu Star-Advertiser. According to its website, MidWeek is delivered to every Kaua‘i home via second-class mail.

Dennis Francis, president and publisher of the Honolulu paper, and Ron Nagasawa, publisher of MidWeek, were contacted by The Garden Island but did not respond by press time.

The Honolulu paper is bringing to attention potential conflict of interest issues related to the act. The paper has published a three-part series of articles, the latest on Aug. 6, which focused on how the act is not actually creating competition, which proponents of the act said it was intended to do.

Francis says in the article that the act allows attorneys with financial incentives to direct auction ads to an affiliated company. “They’ll just be feeding from their own trough,” he says in the article.

Francis is referring to a company that owns The Island Sun Weekly. The owners also own Northwest Trustee Services and Foreclosure Expeditors/Intitiators LLC, which services most of Hawai'i's nonjudicial foreclosures, the article states.

The Island Sun Weekly is owned by RIM Publications, a privately held company based in Bellevue, Wash., according to its website. It owns and publishes papers in Washington, Oregon, Idaho and Hawai'i. In Hawai'i, the weekly is distributed on Maui, Hawai'i, Oahu and Kaua'i, the site states. RIM was contacted but did not respond by press time.

State Rep. Bob Herkes (D-Puna), chairman of the house Consumer Protection Committee, the main architect of the reform, wants to revisit the legislation to address the publishing requirements, the article states.

The article says that Herkes would like to reconsider the frequency and reach of newspaper publishing public notices, what qualifies as a newspaper, and whether foreclosure notices should be printed in newspapers and/or posted on a state website.

The article also says that he acknowledges that lawmakers should go back and add conflict of interest language to keep entities with a stake in the foreclosure process from profiting from the publication of auction notices.

Herkes said he was not able to comment at this time because "I am in the middle of a tough campaign with the election," he said in an email to The Garden Island.

∫ Jane Esaki, business writer, can be reached at 245-3681 (ext 257) or by emailing