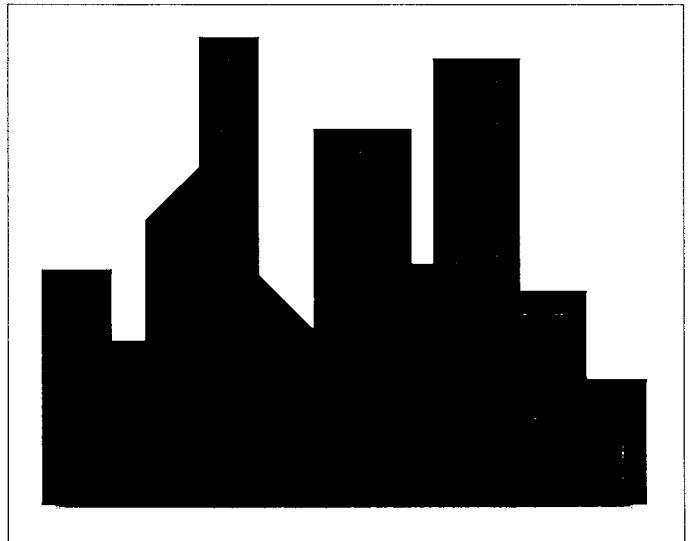


EVICTION INFORMER

MESSAGE FROM THE PRESIDENT:

POST-FORECLOSURE EVICTIONS: NEW

RULES APPLY



The process for evicting a person, whether the former owner or a tenant, from a foreclosed residential property dramatically changed in Summer 2009. Under new federal and state laws, former owners and tenants have been granted significant new rights and the process for evicting them has grown considerably longer. Therefore, it is important for professionals who assist investors acquiring property at the foreclosure auction to understand the uphill battle they face.

The new laws create three separate eviction processes depending on whether the individual in the property is the former owner of the property, a tenant of the former owner who is month-to-month or a tenant of the former owner who has an ongoing lease. Even though the federal and state laws do not require the individual to disclose their status (former owner or tenant) to the new owner, the Courts will often reject the eviction and require that the entire process be

restarted if the wrong procedure is used.

Former Owner

If the individual is a former owner, the first step in the process is to issue a Three Day Post-Foreclosure Notice. Once that expires, a Five Day Unlawful Detainer Notice is issued. Finally, if the owner remains in the property, a civil

eviction is filed with the Justice Court. Note that this is a civil eviction rather than the traditional summary eviction to which property managers are accustomed. The major differences between the two types of the evictions are that the civil eviction must normally be prepared and filed by an attorney (property

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The Eviction Informer is a bi-monthly newsletter produced by Southern Nevada Eviction Services. Please feel free to distribute it to industry professionals who may be interested in learning more about the eviction process.

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ACCURACY IS KEY!

BY: DONNA YOUNG, DIRECTOR OF OPERATIONS

Recently, the Las Vegas Constable's office refused to serve two eviction orders because the zip code for the tenant's address was incorrect on one notice and because the street address was misspelled on the other notice. In addition, if the zip

code is wrong, the court may reject the filing and refuse a refund of the filing fee. Therefore, it is critical that your notices, and subsequently your eviction filings, have the correct address designation (street, avenue, place, etc), zip code,

and that the spelling of the street name is accurate. And, as always, the address must contain the correct city (Las Vegas, North Las Vegas, Henderson) so that the eviction is filed with the correct court.

(Continued on page 2)

POST-FORECLOSURE PROCESS (CONTINUED)

managers cannot file the eviction themselves), the eviction paperwork must be personally served on the owner and there is a mandatory hearing which is usually scheduled for five to six weeks after the eviction is filed. At that hearing, the Court may issue a Temporary Writ of Restitution which directs the Constable to remove the individual from the premises.

Tenant Without Lease

If the tenant does not have a lease, is month-to-month or their lease has expired, the first step would be to issue a Ninety Day Notice. This is followed by a Five Day Unlawful

Detainer Notice and then the filing of the civil eviction. Therefore, this process, at its fastest, will usually take approximately 120 days to complete. The tenant is required to pay rent during this period.

Tenant With Lease

If the tenant has an ongoing lease with the former owner, the new owner must honor the lease. However, if the new owner can show that the lease was not an "arms length" transaction or if the new owner intends to occupy the property, the new owner may issue a Ninety Day Notice. Unless one of these exceptions exists, the

tenancy continues under the same rental terms including rent amount, length of lease and responsibilities for items such as landscaping and utilities. If the tenant fails to pay rent or violates the lease, the owner does have the right to initiate a summary eviction.

VISIT OUR WEBPAGE AT
WWW.VEGAS-EVICTIONS.COM
TO LEARN MORE ABOUT THE
EVICTION PROCESS AND TO
READ OUR BLOG

EVICTION FACT:

The Nevada Revised Statutes define "rent" as including reasonable late charges. Therefore, under the law, tenants should be required to pay both their monthly rent and all late charges to remain in the property. While some judges will award late charges, many will not. Nonetheless, if the tenant requests a hearing on the eviction, ask the judge for rent and late charges.

ACCURACY IS KEY! (CONTINUED)

To complicate matters, the United States Postal Service (USPS) estimates that there are approximately 25,000 ZIP Code changes every month. Sometimes a new ZIP Code is added because population has expanded in a given region. This is a fairly common occurrence in areas of the country that are experiencing high growth. We have seen such changes locally when the 89123 zip code was split with the addition of 89183, and 89109 was split with the addition of 89169.

to the North Las Vegas Justice Court, and properties with Henderson zip codes are assigned to the Henderson Justice Court. However, although the 89115 zip code is a Las Vegas zip code, SOME properties within this zip code are assigned to the Las Vegas Justice Court, and some properties are assigned to the North Las Vegas Justice Court. The only way to know which jurisdiction governs a particular property is to call one of the courts or constables and ask them.

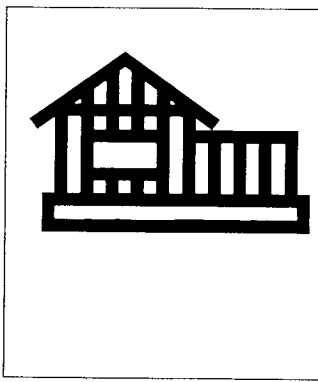
To check a zip code online, go to the U.S. Postal Service website at: <http://zip4.usps.com> and enter the street address. The site will return the current correct zip code.

To check the correct spelling of a street name (including whether the name is shown as one word or two, for example Starfire or Star Fire) go to the Clark County Assessor's website to do a real property record search: <http://redrock.co.clark.nv.us/assrrealprop/site.aspx>.

Pay particular attention to the street suffix: street, avenue, place, etc.

By ensuring that the property addresses are correct starting with the original notice, you will avoid having paperwork rejected by the courts.

So, how can you be sure that the address information is correct on your eviction paperwork? Generally, the court jurisdictions are assigned by city/zip code, i.e., properties with Las Vegas zip codes are assigned to the Las Vegas Justice Court, properties with North Las Vegas zip codes are assigned



Have a story suggestion or a landlord-tenant subject you would like to learn more about? Let us know and we it may be addressed in an upcoming issue!