

## Title firm ready to do battle Suit over Chicago house could set up national showdown

By Susan Chandler | Chicago Tribune reporter  
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It could be the tip of an iceberg.

Ticor Title, one of the largest title insurance firms in the country, is suing Countrywide Home Loans, the nation's largest home lender, saying it shouldn't have to pay out on a title policy because of Countrywide's gross negligence.

The suit, filed last month in Cook County Chancery Court, concerns just one Chicago mortgage made by Countrywide in 2007, but the implications are enormous, say real estate and title insurance experts.

If title insurers refuse to honor their policies, "You would have chaos," predicts Chicago real estate attorney Tom McNulty of Neal, Gerber & Eisenberg. The fate of tens of thousands of troubled properties around the country would be thrown into limbo while lenders and title insurers duke it out. Other deals would be held up because buyers and sellers would be reluctant to move forward without title insurance to protect their investment.

When it works smoothly, title insurance protects lenders and borrowers against losses arising from flaws in the property's title, which traces the chain of ownership. Problems can arise from forged signatures, unpaid taxes or liens. **When fraud is involved and a clean title never passes to the new owner, the title insurer may be on the hook for the entire amount of the mortgage loan plus legal fees.**

The case that Ticor has drawn a line in the sand over concerns a \$360,000 first mortgage on a graystone Victorian in the Kenwood neighborhood on the South Side. The story of that loan was told in a front-page Tribune story in February, several weeks after a clothed, mummified male corpse was discovered in the boarded-up house by a real estate speculator who had purchased the property from Countrywide in a foreclosure auction.

The corpse was later identified as Randy Johnson, who had grown up in the house and continued to live there until he disappeared in late 2005.

The gruesome discovery prompted Cook County Public Administrator Michael Bender to look into the case. Bender's staff quickly determined the backdated deed that had transferred the home from Johnson's deceased mother, Arrellia Johnson, to a woman named Rhonda Evans was a fake, and not all that hard to spot.

Arrellia Johnson's name was spelled two ways and the alleged 1996 warranty deed was created on the stationery of Recorder of Deeds Eugene Moore, who did not take office

until 1999. Another warning sign: The deed was notarized by Mae Evans, who is the mother of Rhonda Evans.

Three months after the fraudulent deed was recorded, Evans sold the house to Donald Franklin of Harvey for \$450,000. Franklin borrowed the entire amount in two simultaneous mortgages from Countrywide.

The public administrator, who handles the affairs of people with assets who die without wills, moved to intervene in Countrywide's foreclosure case and asked the court to restore the property's title to Arrellia Johnson's heirs. Four days later, Countrywide asked its title insurer, Ticor, to represent its interest in the case.

Ticor refused.

In the suit, Ticor argues **Countrywide was "reckless and grossly negligent in its underwriting of the Franklin mortgage." That carelessness is the only cause of any loss suffered by the lender, Ticor alleges.**

Its claims go further: Ticor alleges that Countrywide "adopted corporate policies that resulted in the abandonment of proper underwriting standards as part of its effort to increase market share, and in the short term, profits."

Ticor's allegations

**Because the Franklin loan never should have gotten out of Countrywide's underwriting department, the suit says, Ticor "has no duty to defend Countrywide in connection with this matter and owes no other duties to Countrywide under the policy."**

The lawsuit reveals some details the Tribune did not have in February that show the Evans family was even more deeply involved in the transaction than was previously known.

For instance, Franklin didn't apply directly to Countrywide. His application was made to E&I Funding, a mortgage broker owned by Rhonda Evans' brother, Edwin Evans, and his wife, Iva. The loan was transferred to Countrywide the same day and Countrywide immediately confirmed a "lock" on Franklin's package.

On his application, Franklin described himself as a 28-year-old single man earning almost \$12,000 a month as an excavator for Class Act Construction. A quick search of Class Act would have shown that firm also was owned by Edwin Evans.

Four days after it received the application, Countrywide issued an underwriting report noting Franklin's credit was "acceptable" and his ability to repay was "good," according to the lawsuit. It also called out several things that had to be resolved before the loan would go through, including verification of Franklin's employment and an explanation of where \$14,500 in a savings had come from.

Meanwhile, Countrywide hired Ticor Title to do a title search of the property. The housing market was still going great guns at this point, and Ticor was so busy, it subcontracted the title search to a Lombard firm called Tri-Star Title.