

TITLE FIGHTER DEFENDS AUCTION TURF

Attorneys' Title boss battles sheriffs for foreclosure sales

BY EDDIE BAEB

At every stage of the housing crisis, Peter Birnbaum has been there.

As president of one of Chicago's largest title insurance companies, Attorneys' Title Guaranty Fund Inc., Mr. Birnbaum rode the real estate boom and saw the bust coming early. Now he has plunged into the foreclosure crisis by launching pro bono mortgage-modification counseling events that have attracted thousands of Chicagoans at risk of losing their homes.

For those who can't hang on, there's Mr. Birnbaum's Judicial Sales Corp., an ATG subsidiary that has become a dominant player in the booming business of sheriff's sales.

"We've had sort of front-row seats to this whole thing," says Mr. Birnbaum, 52, who has headed ATG for almost two decades.

Judicial Sales, which auctions off 100 to 200 properties a day in the Wacker Drive high-rise where ATG is based, is now the company's best business. But it is under assault as some sheriffs and county officials look to take back the auctions—partly to salve their budget woes.

Last fall, Lake County mandated that all such auctions, where fees range from about \$300 to \$500, be handled by the sheriff, following similar moves in years past by DuPage and Kane counties. Cook County is now mulling such a change, which would be a huge blow to Judicial Sales and its competitors.

Mr. Birnbaum, a Roscoe Village resident who has powerful friends in state government and the courts, has been lobbying judges and other public officials to keep the sheriffs out. He contends the counties may be violating the 1987 state law that first opened sheriff's sales to private firms by allowing lenders to choose their sales agents. Mr. Birnbaum says ATG may take the issue to court.

"I would much rather find a peaceful solution to this," he says. "We're looking at all our options. The current status is not acceptable to us."

County officials should take heed. Mr. Birnbaum's tortoise-shell eyeglasses and genial personality belie a history of bruising legal and business battles—many of which he has won.

He joined the Chicago office of ATG, which was founded and first based in Downstate Champaign, as a clerk while attending the Illinois Institute of Technology's Chicago-Kent College of Law. Upon graduation in 1983, he was hired as the office's fifth employee.

Through the 1980s, he led ATG in a vicious fight with Chicago Title & Trust Co., the title insurer that dominated the local market. Chicago Title's historic prominence was so strong that it had employees of the Cook County recorder of deeds working in its office—until



Peter Birnbaum's Judicial Sales Corp. auctions off up to 200 properties a day, but now some sheriffs and county officials want to take the auctions back.

Mr. Birnbaum and others persuaded then-Recorder Jesse White to remove them.

Mr. Birnbaum also rallied ATG members during a years-long price war Chicago Title initiated in the late '80s, a move Mr. Birnbaum says was aimed at driving ATG out of business.

But ATG survived and is now the second-largest attorney-owned title insurer in the country.

"He's been remarkably successful over the years in turf wars," says Illinois Appellate Court Judge Terrence Lavin, former head of the state bar association who was in Mr. Birnbaum's study group at Kent along with now-Illinois Supreme Court Justice Anne Burke. "What Birnbaum has in spades is the perfect alchemy of brains, ambition and personality."

Mr. Birnbaum's Chicago friends also include actors Bill Murray and Brian Doyle-Murray. The brothers grew up near him in north suburban Wilmette, where he moved from the South Side with his parents when he was in grade school. Brian Doyle-Murray helped plan Mr. Birnbaum's bachelor party in 2001. And Mr. Birnbaum represented Bill Murray—successfully—about two years ago when he was sued by a neighbor in California over a property dispute.

'MONEY-GRAB'

In the fight over sheriff's sales, Mr. Birnbaum argues private auctioneers are better equipped to handle the unprecedented volume of foreclosure sales. Taking the business back to the public sphere will lead to delays and ultimately result in homes and commercial buildings languishing longer, he warns.

"It's a money-grab," says Frederick Lappe, an attorney at Mr. Birnbaum's main rival, Chicago-based Intercounty Judicial Sales Corp. "The counties are trying to balance their budgets on the backs of the homeowners and the backs of property owners."

County officials acknowledge that revenue is a motive. They also say they can handle the volume and do a better job publicizing the sales via their Web sites.

"If the volume were to increase, we would put on additional staffing," says Lt. Mike Gregory of the Lake County sheriff's office, who heads the new division. "I can't see how we can't keep up with demand. As fast as the judges can sign the orders, we can conduct the auctions."

Lake County started its division last fall and is charging a fee of \$500 for the auction; while Messrs. Birnbaum and Lappe's firm used to charge \$400 and \$300, respectively. Mr. Gregory says at the current pace in Lake County, the sales will generate gross revenue of \$1.6 million.

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