

# Investor ordered to give up property

Advocates: Ruling could force other investors to sell homes with affordable covenants



Monica Villela and her family live in this home in Denver's Green Valley Ranch. Villela lost ownership of the home in an HOA foreclosure auction, but a judge has ordered the investor who bought it to sell the house. HYOUNG CHANG — THE DENVER POST

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The pressure to save her family's home squeezes Monica Villela's chest, her throat and her heart.

All that pressure caused tears to flow as she spoke last week about the looming May deadline that will determine whether she and an army of affordable-housing advocates can save the house where she has raised four children.

"I'm so scared," she said through those tears.

For three years, Villela and her four children have lived in a house in Green Valley Ranch, in far northeast Denver, that her family bought but no longer owns.



The home is now owned by an investor who bought it at auction for \$23,524 after the neighborhood homeowners association foreclosed over unpaid fines for overgrown weeds and other minor violations.

But a ruling this month by a Denver district judge gives Villela a chance to buy the home back.

Other qualified buyers also could make offers, depending on what kind of agreement is made between the city and the investor during ongoing court proceedings.

Meanwhile, that investor is trying to evict the family.

It's a tense situation in an ongoing fight in Colorado over the power that HOAs have to foreclose on homeowners over unpaid fines and fees. Judge Mark T. Bailey ruled April 5 that Welcome to Realty LLC 401K PSP, an investment company owned by Christophe Attard, must sell the house it bought at the foreclosure auction in December 2021 because the company does not meet the conditions of Denver's inclusionary housing ordinance, which sets affordability covenants on some homes. Those covenants prevent homes from being owned by investors.

Bailey's order also placed an injunction prohibiting Attard from leasing the house and, because affordability covenants eventually expire, the judge demanded the clock reset to account for the three years Welcome to Realty has owned the house.

Housing advocates believe the ruling will set a new precedent in Denver and could force other investors to sell homes with affordable housing covenants that they bought at foreclosure auctions forced by HOAs.

The judge's order "would also suggest that every sale at auction of every home in Green Valley Ranch was probably not legal because the auction house, or the county sheriff who's running the auctions, were not qualifying buyers," said Zach Neumann, co-founder of the Community Economic Defense Project, a housing equity nonprofit. "And as far as we can tell, most of the purchasers are real estate investors who, by definition, are not qualified buyers. And there's a lot of potential that all of these sales have been invalid and are potentially reversible."

Villela's family bought their home on Netherland Place in 2005 and made regular mortgage payments and kept up with their HOA's rules and fees. But the family began struggling when Villela and her husband, Gilardo Gonzalez Jr., separated.

Gonzalez continued to pay the mortgage, but Villela, who was living in their house with the couple's four children, could not keep up with the maintenance required by the Town Center Homeowners Association.

Fines over weeds and leaving a garbage can on the curb multiplied as late fees stacked up. Villela said she knew the family was in arrears but put those expenses on the back burner because of other struggles connected to her and her husband's separation.

She said she wasn't aware that the HOA had put a lien on her house and that a judge had ordered it to be sold at a foreclosure auction.

Then Attard showed up in her driveway in March 2022 with documents showing he had purchased the house. "As soon as he left, I started crying," Villela said. "I remember exactly that day started my nightmare."

Since then, Villela has assembled a team of housing advocates, friends and neighbors to support her fight to get her home back.

Her ex-husband continues to pay the mortgage, taxes and homeowner insurance so his family has a place to live. Neumann said Villela reached an agreement with Attard that allowed her family to stay in the house without paying rent to Welcome to Realty, although Attard has now moved to evict the family.

The Denver Post contacted Attard to ask about how he plans to comply with the judge's order to sell the property or whether he will appeal. He said, "It's too early to tell. I appreciate your time. Thank you," before ending the phone call.

## **Residents rise up**

The ability of homeowners associations to place liens on houses for unpaid fines in Colorado has been an ongoing issue since 2022, when residents in Green Valley Ranch began speaking out against the high number of foreclosures instigated by their HOAs.



In 2021, the Master Homeowners Association of Green Valley Ranch filed 50 foreclosures, accounting for nearly half of all HOA-initiated foreclosures in Denver that year.

The Master HOA represents about 4,600 homes, all south of 48th Avenue.

From Jan. 1, 2022, to Dec. 31, 2024, HOAs in Denver foreclosed on 94 homes, according to data from Denver's Department of Housing Stability. Sixty of those cases were filed in 2022, with 28 of the properties in Green Valley Ranch. There were zero HOA foreclosures in Green Valley Ranch in 2023 and 2024 after the public protests.

The Department of Housing Stability could not provide the number of houses with affordability covenants that had been sold at foreclosure sales.

Homeowners associations have so much power in Colorado that they can place liens on people's homes that supersede even the banks that hold their mortgages. That means an HOA could sell a property to collect the money it's owed and the owners still would be left with mortgage debt and none of the equity they had built.

The foreclosure auctions cause homeowners to lose thousands of dollars in equity. Villela's family, for example, bought their house in 2005 for \$164,200. It was valued at more than \$300,000 when it was sold at the January 2022 auction.

In Colorado, homeowners associations operate with little oversight from any state regulatory agency, including the Colorado Department of Regulatory Agencies, whose real estate division oversees agents, brokers, developers, mortgage lenders and appraisers. More than 2.3 million Coloradans — about 40% of the population and about 61% of homeowners — live in communities with HOAs.

The legislature has tackled HOAs' unbridled power by requiring written notices about violations in a homeowner's preferred language, capping fees and limiting the amount an HOA can charge a resident for reimbursing attorneys' fees.

This year, the legislature is considering two bills: one that intends to protect homeowner equity and avoid courthouse foreclosure auctions, and one that would create an alternative dispute resolution process. Time is running out in the legislative session, and both bills appear to be stalled.

### **'This is still happening'**

Critics say there is more to do, though, to rein in the associations' ability to foreclose on homes for unpaid fines and fees.

"We've found it is still happening even with the laws passing," said Lydia Flynn, a Green Valley Ranch resident who has become an advocate for HOA reform and one of Villela's allies. "The HOAs have found ways to skirt them."

As of Monday, the Denver Sheriff Department listed seven houses on its foreclosure auction list. Five were initiated by homeowners associations.

That's exactly what happened to Villela, whose Green Valley Ranch home is part of the Town Center Metro District.

Since Welcome to Realty bought her house, Villela has become an outspoken critic of how HOAs operate. She has told her story to news outlets and testified before the legislature. She has surrounded herself with a support network that includes the Colorado Economic Defense Project and the Redress Movement, a racial justice organization that fights for fair housing policies across the United States.

The fight over the house has taken a toll on the Villela family, and it escalated in March when Attard left an eviction notice on the family's front door. It was discovered by Villela's 14-year-old daughter. They have until 10 a.m. May 31 to buy the house or move.

"The girl was devastated," Villela said. "She couldn't even talk because she was crying so hard."

Neumann, the economic defense project's founder, is helping Villela fill out applications so she can apply to buy the house back from Welcome to Realty. She most likely will meet the income restrictions that will make her an eligible buyer. But she hopes no one else competes for the house.

A group of supporters has come up with \$30,000 to offer, Neumann said. That would give Attard a \$7,000 profit.

"We want to get this house back," he said.