



The Star-Ledger

Bankruptcy judge clears sale of listings held by Foxtons Rahway brokerage gets thousands of N.J. contracts

Saturday, October 27, 2007

BY SAM ALI
Star-Ledger Staff

For thousands of Foxtons customers, the wait is finally over.

More than 3,400 New Jersey real estate listings that had been in limbo since the discount brokerage filed for bankruptcy protection last month will be sold to another brokerage, a federal judge in Trenton ruled yesterday.

The New Jersey listings were bought by Rahway-based Maplewood Homes for \$100,000. Hundreds more Foxtons listings in New York were sold to Fillmore Real Estate, a Brooklyn-based brokerage, for \$110,000. The proceeds of the sale will be used to pay Foxtons creditors.

Maplewood Homes, started by Lakewood investor and developer Glen Fishman, is the same firm that recently bailed out another victim of the housing market slowdown, Kara Homes, an East Brunswick-based homebuilder that filed for bankruptcy last year.

During yesterday's hearing, Joseph DePasquale, an attorney representing Maplewood Homes, said the developer had formed a joint venture with Century 21 Atlantic Realty, a brokerage based in Roselle Park, to service the Foxtons listings.

Michael Holt, an attorney who represents Foxtons in the bankruptcy case, said Century 21 and Fillmore real estate agents could start contacting Foxtons homeowners as soon as Monday.

The judge's decision means Foxtons customers who signed three- or six-month contracts with Foxtons will now become customers of Century 21 Atlantic or Fillmore under the same terms, including a discounted commission of 4 percent.

Judge Michael Kaplan said homeowners are free to cancel their contracts at any time, but would be prohibited from listing with another agency for the length of their Foxtons contract, and would also be bound by any cancellation clauses.

More than 30 homeowners sent letters to the bankruptcy court objecting to the sale of the listings to another brokerage and asking the judge to void their contracts because Foxtons had not performed its contractual duties.

The judge's decision was a particular blow for homeowners like 63-year-old Judith Street, a Burlington resident who is locked in a six-month listing agreement with Foxtons to sell her four-bedroom home for \$279,000. She signed her listing agreement one week before Foxtons filed for bankruptcy.

As such, there was no time for the real estate agent she hired to take any pictures of her home and post them on Foxtons Web site.

"My home was never even put on the multiple listing service," Street told the judge.

~~page 4~~

After the hearing, a disappointed Street shook her head.

"It didn't go our way, that's for sure," she said. "The least (the judge) could have done was erase the 30 people who objected to the sale in writing. He could have at least excluded us."

In making his ruling, Kaplan said the listing agreements did not fall under the law's definition of "personal contracts," meaning they were not unique to each individual homeowner. As such, they could be assigned to another brokerage without anything of real import getting lost in the transfer.

Kaplan acknowledged Foxtons was "derelict in its obligations" to homeowners, but said that he was satisfied the large network of real estate agents at Century 21 and Fillmore would handle the volume of listings and provide services to stranded homeowners far better than Foxtons ever did.

George Castro, the president and founder of the brokerage, described Century 21 Atlantic Realty, which employs about 120 agents, as "the No. 1 Century 21 franchise in New Jersey and Delaware."

Still, Kaplan sought assurances from Century 21 and Fillmore that their agents would treat Foxtons homeowners the same as their other customers, even though they are technically earning a lower commission -- 4 percent instead of the standard 5 percent or 6 percent.

"What incentive is there for brokers to market these properties at 4 percent?" Kaplan asked Castro.

"If I may be honest, it is the volume of the listings being dealt with," Castro said.

In addition to the upfront payments for the listings, Maplewood/Century 21 and Fillmore must also pay Foxtons' bankruptcy estate a 10 percent referral fee for any listings that actually close. The money eventually will be used to pay off Foxtons creditors.

Maplewood Homes and Fillmore won the listings in a bidding process that concluded Thursday. Holt, the bankruptcy attorney, said eight parties had presented offers to buy the Foxtons listings, including one bid as low as \$500.

Foxtons, a pioneer in offering discount real estate brokerage services, last month laid off 350 of its 380 employees and announced it was shutting its doors. It filed for bankruptcy one week later.

© 2007 The Star Ledger

© 2007 NJ.com All Rights Reserved.