

The plan to help homeowners in need

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Indiana's mortgage foreclosure rates are among the highest in the country, largely due to the decline of the automotive and manufacturing industries. In 2008, the state saw 45,934 foreclosures – a more than 50 percent increase since 2003. Foreclosure leads to higher personal bankruptcy rates and depreciates the surrounding neighborhoods, resulting in economic losses for more than just the homeowner. Foreclosure negatively affects creditors, as well. Houses which have been abandoned for an extended period of time are rarely able to recoup the amount owed to the lender.

In January 2009, Chief Justice Randall T. Shepard addressed the foreclosure crisis, vowing to train more judges, mediators and lawyers than any other state on how to deal with foreclosure cases. The “Back Home In Indiana – Guiding Homeowners Through Foreclosure” training program began in March with sessions all across the state. Sponsored by the Supreme Court, the Indiana Commission for Continuing Legal Education and the Pro Bono Commission, the program also had the support of the State Bar and the Indiana Continuing Legal Education Forum. All 14 District Plan Administrators worked to encourage local attorneys to serve their community by taking part in the effort to stem foreclosures.

By September 2009, Chief Justice Randall T. Shepard, Court of Appeals Judge Melissa May, Attorney General Greg Zoeller and State Senator Karen Tallian travelled to one of the final training sessions in Evansville organized by District 13 Plan Administrator Beverly Corn. Pro Bono Commission Chair Judge Melissa May explained, “The interest shown by our panel of experts and from attorneys and mediators across the state has been heartwarming. It shows the willingness of Indiana attorneys to help their fellow Hoosiers who are facing the loss of their homes.”



Chief Justice Randall Shepard speaking about foreclosure prevention initiatives with Attorney General Greg Zoeller, Judge Melissa May, and State Senator Karen Tallian in Evansville

The announcement that more than 1,000 attorneys, judges, and mediators were trained through the program made headlines across the state. However, the Supreme Court and the Pro Bono Commission made it clear there was more work to be done.

New state legislation requires a creditor to notify a homeowner facing foreclosure of the homeowner's right to participate in a settlement conference. Senate Enrolled Act 492, authored by Senator Tallian, levies a \$50 filing fee on all mortgage foreclosure cases and requires that the homeowner be notified of his or her right to request a settlement conference with the lender. A portion of this filing fee will be remitted to the Indiana Supreme Court to conduct training and hire coordinators to organize and assist with these settlement conferences.

Very few homeowners have taken advantage of the settlement conference provision. Many individuals who have already received foreclosure documents simply don't open or read any mail they receive from the lender. Others don't know precisely what a settlement conference entails or believe that they need to hire an attorney and are unable to afford one. Nearly half of the 400 letters sent to homeowners facing foreclosure

in Fort Wayne “bounced back” because the homes had already been abandoned. “A settlement conference can be daunting for borrowers during the foreclosure process, especially to face alone,” said Indiana Attorney General Greg Zoeller.

The Indiana Housing and Community Development Authority (IHCDA) reports many of the requested settlement conferences were unsuccessful because one or both parties were not prepared. Homeowners failed to bring the necessary documents, or had not prepared a budget and were unaware of the maximum monthly amount they were able to pay. Lenders sent entry-level employees who had no real authority to agree to any mortgage changes. A clear need existed for more organization between the parties—there was no standard process coordinating the local pro bono districts, courts, lenders, and homeowners.

After discussing the situation with a number of trial judges, the Division of State Court Administration (STAD) has partnered with the Indiana Housing and Community Development Authority to create a system for coordinating all settlement conferences on a county or district-wide basis.

This program was launched on a pilot

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basis in January 2010 in Allen, Marion, and St. Joseph counties. A project manager oversees local logistical coordinators, who coordinate with pro bono attorneys, facilitators, homeowners, and lenders to schedule and take part in settlement conferences.

The local coordinator's duties include scheduling the conferences, ensuring that the logistical requirements of the conference area are met (e.g., telephone and fax services), checking that the homeowner has completed all necessary paperwork and gathered the required documents, and collecting data to assist the project manager in compiling

statistics regarding the conferences' successes and failures. The local coordinator is also required to reach out to all homeowners in newly-filed foreclosure cases, ensuring that they have been personally contacted about their rights within the first two weeks of a foreclosure filing.

Pro bono attorneys and facilitators who have received training through the "Back Home In Indiana" program are encouraged to take part in this project. Through funding from the IHCDA, pro bono attorneys are reimbursed up to \$25 per conference for reasonable expenses (parking, meals, and office supplies, for example), while facilitators receive \$150 per every four settlement conferences conducted. A completion incentive of

\$150 is also available to attorneys and logistical coordinators if the settlement conference is "successful" – that is, if an agreement is reached that will prevent the lender from filing foreclosure proceedings for at least six months.

If the pilot projects in Allen, Marion, and St. Joseph counties are successful, the system will be implemented on a state-wide basis beginning in early 2011.

Any attorneys, judges, or licensed mediators who wish to assist with this project should contact David Remondini, Chief Deputy Executive Director of the Division of State Court Administration, dremondi@courts.state.in.us. More information can be found at the Mortgage Foreclosure Task Force website, www.courts.in.gov/home. ■