

COMMONWEALTH OF PENNSYLVANIA - THIRD JUDICIAL DISTRICT
NORTHAMPTON COUNTY COURT OF COMMON PLEAS

NORTHAMPTON COUNTY MORTGAGE FORECLOSURE DIVERSION
PROGRAM

This Court takes judicial notice that a mortgage foreclosure crisis, caused by "sub prime" and "predatory" lending practices and rising interest rates has caused an increasing number of residential mortgage foreclosure actions being filed in the Court of Common Pleas of Northampton County. In an attempt to simplify the process for both litigants and to maintain a case management program, the Court of Common Pleas of Northampton County adopts the within Mortgage Foreclosure Diversion Program, designed to aid residential owners in foreclosure cases to procure a timely determination of eligibility under federal and local programs established to facilitate possible workout plans for homeowners and where possible to allow homeowners to retain their properties.

1. Cases subject to the program
 - (a) All mortgage foreclosure cases involving owner-occupied properties which are subject to execution must be scheduled for conciliation conference before the property can be sold. The term "residential premises" means real property located within the County of Northampton.
 - (b) Non Owner-occupied non-residential properties which are not exposed to judicial sale to enforce a residential mortgage are not subject to the conciliation conference and may be scheduled for Sheriff Sale and sold by the Sheriff unless said sales are otherwise stayed or postponed. All cases filed after the effective date of this Order shall be subject to the Administrative Order and its contents.

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY,
PENNSYLVANIA

: In Re: Administrative Order
: Residential Mortgage Foreclosure
: Program
:

ORDER OF COURT

AND NOW, this ____ day of _____, 2009, in order to permit the implementation and execution of the Residential Mortgage Foreclosure Diversion Program, effective _____, 2009, it is hereby ORDERED and DECREED that:

1. All Complaints for mortgage foreclosure of residential owner-occupied properties shall be accompanied by the following:

- (a) A **Certification Cover Sheet**, certifying real estate location, occupancy status and contact information of the representative of the lending institution (or counsel for Plaintiff) shall be provided to the Civil Clerk and filed with the Complaint before the Complaint will be accepted by the Civil Clerk's Office. (The Certification Cover Sheet is attached as Exhibit "A".)
- (b) An **Urgent Notice** shall be affixed to any Complaint at the time of filing and shall be served on the Defendant along with the Complaint. (A copy of said "Urgent Notice" is attached hereto as

Exhibit "B".)

- (c) A **Certificate of Service**, in the form attached hereto as Exhibit "C", shall accompany each Complaint.

2. Upon filing of the Complaint and all attachments (see Exhibits "A"-"C"), a Case Management Order shall be generated by the Court. (A sample copy of a Case Management Order is attached hereto at Exhibit "D".) The Case Management Order will be attached to and served with the Complaint upon the filing of the Complaint for service. The Case Management Order will schedule a conciliation conference within ninety (90) days after the filing of the Complaint for cases subject to owner-occupied residential mortgage foreclosures. Said Case Management Order shall:

- (a) Schedule a conciliation conference for a specific date, time and place;
- (b) Require the attendance of the Defendant and the Plaintiff-lender servicer;
- (c) Require the Defendant, upon receipt of the Case Management Order and Complaint, to call the housing counselor and schedule a conference with them or pro bono legal services within ten (10) days of said receipt;
- (d) Require the Defendant to cooperate with the housing counseling agency, provide financial and employment information and

complete loan resolution proposals and applications, as appropriate. (See Exhibit "F");

(1) Failure to cooperate with the housing counselor shall result in the cancellation of the conciliation conference.

(e) Failure of the Defendant to attend the conciliation conference shall result in the matter proceeding to judicial disposition, whether by default judgment, Sheriff sale or trial. Further, the failure of the Defendant to attend shall result in the lifting of any applicable stay.

(f) Provide such other terms as may be necessary and appropriate;

3. Participation in the procedures outlined above and hereafter shall result in a stay of procedural mandate for filing of answers to any Complaint in mortgage foreclosure of an owner-occupied residential property. No answer shall be required until after attendance and generation of a conciliation conference order. No default judgment may be taken or Sheriff sale held prior to the conciliation conference and the filing of the conciliation conference order.
4. Documents certifying participation in housing counselor proceedings shall be filed with the Civil Clerk two weeks prior to the conciliation conference. (The Certification of Participation form is attached as Exhibit "E".) No continuances will be granted from the date of the conciliation conference.

5. As appropriate, any conciliation conference scheduled by the Court shall be conducted by a person designated by the Court which shall be a judge pro tem, or one who possesses experience in the subject matter and will address the following issues with the parties:
 - (a) Whether the Defendant is represented, and, if not, whether volunteer counsel may be available;
 - (b) Whether Defendant met with the housing counseling agency;
 - (c) Whether the housing counseling agency has prepared an assessment or report proving an available loan workout for the Defendant;
 - (d) The Defendant's income and expense information;
 - (e) The Defendant's employment status;
 - (f) Assistance with preparation of workout plans and required Court Orders;
 - (g) The necessity of any subsequent conciliation conference;
 - (h) Whether the case may proceed to Sheriff sale if no prospect of amicable resolution exists; and
 - (i) Any other relevant issues
6. Conciliation conference Order: At the conclusion of the conciliation conference, an appropriate Order shall issue memorializing the results of the conference and scheduling future deadlines where appropriate.

7. This Administrative Order shall be in effect from March ____, 2009 until December 31, 2010, or upon earlier determination by the Court.

BY THE COURT,

By: _____
F. P. Kimberly McFadden,
President Judge

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY,
PENNSYLVANIA
CIVIL DIVISION - LAW

Plaintiff) No. -
)
v.)
)
Defendant)

CERTIFICATION REGARDING STATUS OF FORECLOSED PREMISES AS
RESIDENTIAL AND OWNER OCCUPIED

Pursuant to the Administrative Order dated _____, 2009, issued by
The Honorable F. P. Kimberly McFadden, P.J., I hereby certify that the premises at issue
in this action known and numbered as:

Premises Address: _____
_____, PA _____

Prothy Code: (Check applicable box or boxes)

- is an owner occupied residential premises exposed to judicial sale to enforce a residential mortgage;
- is not a residential premises within the meaning of the aforementioned order;
- is not owner occupied as of this date;
- is not exposed to judicial sale to enforce a residential mortgage;
- is vacant

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Plaintiff or Counsel for
Plaintiff
(Address of Counsel or Plaintiff)

Exhibit A

URGENT NOTICE

Under a new Pilot Project of the Court of Common
Pleas of Northampton County,

You May Be Able to Get Help to Save Your Home

Call the Save Your Home Hotline

Immediately at:

1-800-755-1563

or

610-691-2876

You will be put in touch with a Housing Counselor from the Community Action Committee of the Lehigh Valley, a non-profit agency, to help you try to work out arrangements with your mortgage company, **FREE OF CHARGE**.

The Housing Counselor will assist you in getting free legal assistance to attend a court-approved conference to determine whether a work-out of your existing loan can be arranged.

To get help, you must call the Hotline within the next **TEN (10) days**. They will tell you what to do next. Call the Hotline **immediately**. If you do not call the Hotline, you will not be able to get help to save your home.

**MAKE THIS CALL TO
SAVE YOUR HOME!
THIS PROJECT IS FREE**

Exhibit B

AVISO URGENTE

Bajo nuevo Proyecto Experimental de la Corte de Súplicas
Comunes del Condado de Northampton,

Usted Puede Conseguir Ayuda Para Salvar Su Hogar

Llame la línea directa de Salvar Su Hogar al:

1-800-755-1563

O

610-691-2876

Le pondrán en contacto con Consejeros de Viviendas del Community Action Committee del Valle de Lehigh, una agencia sin fines lucro, para intentar llegar a un arreglo con su compañía de hipoteca, **GRATUITAMENTE.**

El Consejero de Viviendas le asistirá en conseguir ayuda gratuita legal para que pueda presentarse en una conferencia tribunal aprobado, para determinar si se puede hacer un arreglo con su préstamo actual.

Para conseguir ayuda, usted debe llamar al teléfono directo en el plazo de los próximos **diez días**. Le dirán qué hacer después. Llame el teléfono directo **inmediatamente**. Si usted no llama el teléfono directo, usted no podrá conseguir ayuda para salvar su hogar.

**¡HAGA ESTA LLAMADA
PARA PROTEGER SU HOGAR!
ESTE SERVICIO ES
GRATUITA**

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY,
PENNSYLVANIA
CIVIL DIVISION - LAW

Plaintiff) No. MFDP -
)
v.)
)
Defendant)

CERTIFICATE OF SERVICE

The undersigned verifies, subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, that the attached Certification and Urgent Notice were mailed to the Defendant(s) at their last known address and, if different, to the address of the premises subject to sale and to counsel of record, if any, and to the owners of the noted premises via first class mail, as noted below:

NAME(S)

ADDRESS(ES)

Date: _____

Counsel for Plaintiff
(Address, Telephone number)

Exhibit C

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY,
PENNSYLVANIA

: In Re: MFDP -
:
:
:
:

CASE MANAGEMENT ORDER

AND NOW, this _____ day of _____, 2009, pursuant to the terms of
of the Residential Mortgage Foreclosure Diversion Program, it is hereby ORDERED
and DECREED as follows:

- (1) The Defendant shall file with the Prothonotary's Office a **Certification of Participation** form (attached as Exhibit "E") no later than two weeks prior to the Conciliation Conference. No continuances will be granted from the date of the Conciliation Conference;
- (2) The Housing Counselor and the Defendant, in conjunction with assistance from Pro Bono Legal Services, if available, will explore options which may include: bringing the mortgage current, paying off the mortgage, a repayment plan to bring the account current over time, vacating the premises in the near future in exchange for not contesting the matter, a monetary payment, offering the lender a deed in lieu of foreclosure, filing bankruptcy proceedings, paying the mortgage default over sixty months, request a loan modification, filing an answer or motion

Exhibit D

to open or strike the judgment. At Defendant's request, the Housing Counselor and/or Pro Bono Legal Services shall promptly prepare and submit a written proposal for addressing the mortgage delinquency, payment plan, together with the **Work out Options and Counseling Form** (Exhibit "F") and any and all supporting financial information to Plaintiff's attorney at least ten (10) days before the date of any scheduled Conciliation Conference.

- (3) The Plaintiff shall evaluate and respond to Defendant's proposal at the Conciliation Conference.
- (4) A representative of the Plaintiff or investor who has actual authority to modify mortgages, to enter into alternative payment agreements with the Defendant, or otherwise resolve the action shall be present at the Conciliation Conference. The failure of the Plaintiff or of a representative of the Plaintiff or investor with such authority to appear for the Conciliation Conference may result in the rescheduling of the Conciliation Conference and/or the further postponement of the Sheriff Sale of property upon proper application for stay by Defendant.
- (5) A Conciliation Conference is scheduled for _____, 2009, at _____ A.M./P.M. in Mediation Room _____, Northampton County Government Center, 669 Washington Street, Easton, Pennsylvania.

- (6) The failure of the Defendant to attend the Conciliation Conference shall result in the matter proceeding to judicial disposition whether by default judgment, Sheriff Sale or trial. Furthermore, the failure of the Defendant to attend the Conciliation Conference shall result in the lifting of any applicable stay.

BY THE COURT,

By: _____

J.

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY,
PENNSYLVANIA
CIVIL DIVISION - LAW

Plaintiff) No. MFDP -
v.)
Defendant)

CERTIFICATION OF PARTICIPATION

(Defendant Must file in Room # _____ and MUST send a copy to Plaintiff's Attorney)

I represent that I am the owner of the property listed below, which is my primary residence, and certify that as required by the Residential Mortgage Foreclosure Diversion Pilot Program adopted by Administrative Order dated _____, I have met with the housing counselor identified below and a proposal will be submitted (by phone or in person) before the date of the Conciliation Conference:

Premises Address: _____, PA _____

(Name of Housing Counselor - Agency)

Date(s) of Meeting(s): _____

I verify that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Defendant's legal counsel

Exhibit E

Work Out Options & Counseling Form

BORROWER REQUEST FOR HARDSHIP ASSISTANCE

To complete your request for hardship assistance, your lender must consider your circumstances to determine possible options while working with your counseling agency. Please provide the following information to the best of your knowledge.

CUSTOMER/PRIMARY APPLICANT

Please print clearly

Borrower name(s) _____
Loan Number _____
Property Address _____
City _____ State _____ Zip Code _____
Is the property for Sale? _____ Listing date _____ Price \$ _____
Realtor Name _____ Realtor Phone _____
Borrower Occupied? Yes / No _____
Mailing Address (if different) _____
City _____ State _____ Zip Code _____
Phone Numbers Home _____ Office _____
Cell _____ Other _____
Email _____
Number of People in Household _____ How Long? _____

CO-BORROWER

Mailing address _____
Phone Numbers Home _____ Office _____
Cell _____ Other _____
Email _____
Number of People in Household _____ How Long? _____

COUNSELING INFORMATION

First Mortgage Lender: _____ Type of Loan: _____
Loan Number: _____ Date You Closed Your Loan: _____
Second Mortgage Lender: _____ Type of Loan: _____
Loan Number: _____
Total Mortgage payments amount \$ _____ Includes Taxes & Insurance: _____
Date of Last Payment: _____

Exhibit F

Primary Reason for Default:

Is the loan in Bankruptcy? Y / N If yes, provide the names, location of court, case number & attorney: _____

<u>Assets:</u>	<u>Amount owed</u>	<u>Value</u>
Home	\$	\$
Other Real Estate	\$	\$
Retirement Funds	\$	\$
Investments	\$	\$
Checking	\$	\$
Savings	\$	\$
Other	\$	\$

Automobile #1 Model _____	Year _____	Amount Owed _____	Value _____
Automobile #2 Model _____	Year _____	Amount Owed _____	Value _____
Other transportation (automobiles, boats, motorcycles...)			
Model _____	Year _____	Amount Owed _____	Value _____

Monthly Income:

Name(s) of Employer(s)	Net Monthly Wage
1. _____	
2. _____	
3. _____	

Additional Income Description (not wages)

Monthly Amount

1. _____	
2. _____	
Borrower Pay Days _____	Co Borrower Pay Days _____

Monthly Expenses: (Please only include expenses you are currently paying)

EXPENSE	AMOUNT	EXPENSE	AMOUNT
Mortgage		Food	
2 nd Mortgage		Utilities	
Automobile Payment(s)		Condominium/ Neighborhood Fees	
Auto Insurance		Medical (not covered by insurance)	
Auto Fuel/Repairs		Other property pmts	
Credit Card Pmts		Telephone/Cell Phone	
Installment loan pmts		Cable TV	
Child support/ Alimony		Spending Money	
Day Care/Child Care/Tuition		Other Expenses	

Counseling Agency: _____ Counselor: _____

Office: _____ Fax: _____ Email: _____

Amount Available for Monthly Mortgage Payments Based on Income and Expenses: _____