



Appendix B: Examples of Homeowners Struggling with HELOC Mortgages

Zombie Second Mortgage HELOCs

A. East Hartford, Connecticut

Example provided by: Theresa Dudek-Rolon, Connecticut Fair Housing Center

A first-generation American, working-class couple took out a HELOC in the late 2000s. Their business was hit badly by the recession and in 2010 they fell behind on the loan payments. Shortly after that, they stopped receiving statements on their HELOC. They did not receive a statement for over ten years. In 2022, they suddenly began to receive statements again. They had never heard of the servicer, Planet Lending, sending the statements and thought the communications were a scam. They were then served with a foreclosure notice on their home. The servicer claimed that the couple owed over \$135,000 at an interest rate of 14.9% on a loan from which they initially drew about \$40,000. They have limited income as one of the homeowners is retired. The other has had to take time off work to fight this foreclosure, and their entire family has been mired in stress. They are current on their first mortgage and have equity in the home. The couple has had to ask their children for support. They were able to connect a legal aid attorney at the Connecticut Fair Housing Center who will help them defend the foreclosure.

B. Brooklyn, New York

Example provided by: Arthur Burkle, Neighborhood Economic Justice Project (Brooklyn, NY)

Another homeowner, from a primarily Black neighborhood in Brooklyn took out a HELOC in 2007 to help finance repairs to his home. Similarly affected by the financial crisis, he fell behind on the loan around 2008 and stopped hearing from the lender shortly after. He modified his first mortgage several years ago, and believed the HELOC to have been modified with it. He had not received any notices or statements for over 10 years when a servicer he had never heard of, FCI Lender Services, Inc. filed a foreclosure against him. The servicer claimed an unpaid principal of \$97,000, and claimed to be owed in total almost \$250,000. With an attorney's help from the Neighborhood Economic Justice Project, the homeowner was able to get the foreclosure dismissed based on the statute of limitations.

C. West Palm Beach, Florida

Example provided by: Malcolm Harrison, MEH Real Property

A couple with two children took out a HELOC in 2005, for home improvement purposes. They made one withdrawal from the HELOC for about \$50,000, and never made additional draws. They made substantial payments on the HELOC until around 2008 and the couple lost their livelihood. They stopped receiving statements then, for over a decade. In the meantime, they struggled with their first mortgage but managed to modify it and save their home from foreclosure. They assumed the HELOC had been modified along with their first mortgage.

In 2020, the current investor of the loan, 1 Oak Richland LLC, filed a foreclosure lawsuit demanding \$120,000, \$53,000 of which was interest and fees. In conversations, the investor offered an unsustainable loan modification at 10% interest that had to be accepted within 7 days. The investor/debt collector texted the homeowner threatening messages, and after he learned that the couple had sought legal counsel, told the homeowner over the phone that he would “bury him” and take his house. The loan has been transferred between different servicers including Value-add Mortgage Fund and CTF Asset Management four times. The couple and their attorneys are currently fighting the lawsuit.

D. Los Angeles, California

Example provided by: Jumana Bambot, Public Counsel, Los Angeles

A 60-year-old Black homeowner took out a HELOC in 2006 as part of an 80/20 mortgage. After the economic crisis, he filed for bankruptcy in 2010, and stopped receiving HELOC statements. In 2020, he unexpectedly heard from a new servicer, who sent him a notice and offered him a loan modification. However, he had just lost his job and was not in a position to take on an additional financial burden. Two years later the servicer recorded a notice of default. The homeowner reached out to the servicer, who offered a loan modification provided that he pay a large deposit and even larger balloon payment. The homeowner was afraid to lose his home and felt he had no other options, so he agreed to the terms and managed to scrape together the deposit. Though he has now modified the loan, he has no idea how he will pay the balloon payment. He has contacted Public Counsel, Los Angeles for help.

E. Los Angeles, California

Example provided by: Jumana Bambot, Public Counsel, Los Angeles

A 62-year-old Latinx homeowner, who speaks only Spanish, took out a HELOC for about \$130,000 for an 80/20 mortgage in 2006. She has diligently kept up with her first mortgage, but filed for bankruptcy in 2013 and was informed by her bankruptcy attorney—who is now disbarred—that filing for bankruptcy had discharged her HELOC, among other debts. She did not hear anything from any servicer after she filed for bankruptcy. But in 2022, she received a letter demanding \$223,000 under threat of foreclosing her home. The letter claimed that \$136,000 of that amount was unpaid principal.

The homeowner did not understand the situation, or how she could possibly owe on a debt that an attorney had assured her had been discharged. She was unable to put any money toward this repayment, since most of her income goes toward her first mortgage payments. Her case has not been settled but she has connected with Public Counsel, Los Angeles for help.

F. Stockton, California

Example provided by: Johanna Torres, California Rural Legal Assistance

A disabled, elderly homeowner with limited English proficiency took out a HELOC for \$95,000 in 2006 to help pay for home repairs. She remained current on payments for six or seven years, until the interest payments grew so high that she became unable to keep up. She filed for bankruptcy, and believed the loan had been discharged. She stopped hearing from her servicer after she filed for bankruptcy.

She did not hear from the investor for about a decade. She then received a notice of foreclosure on her home in 2022. After contacting the HELOC servicer, Specialized Loan Servicing, the homeowner was offered a loan modification with a \$27,000 down payment and a \$700 monthly payment, plus a final balloon payment of over \$4,000. Afraid to dispute the amount or request more information given the active notice of sale, she borrowed from friends and family to accept the loan modification and save her home.

G. Delano, California

Example provided by: Johanna Torres, California Rural Legal Assistance

A limited-English-proficiency homeowner bought a home in 2006 under the terms of an 80/20 mortgage, but was not informed that 20%, \$60,000, of her debt was tied to a HELOC. The broker told her that this was the only way she could get this kind of loan.

She initially fell behind on her mortgage (and HELOC) payments in 2007–08, at the time of the economic crisis. She eventually managed to modify the interest on her first mortgage, and was informed that the secondary loan was no longer a problem.

She had no reason to doubt this until 2022, when Specialized Loan Servicing contacted her demanding over \$100,000, including a non-negotiable down payment of \$29,000, to stop the servicer from filing for foreclosure. Unable to afford \$29,000, the homeowner was forced to contact bankruptcy attorneys.

H. Salinas, California

Example provided by: Johanna Torres, California Rural Legal Assistance

An elderly homeowner with limited English proficiency bought a home in 2007 with an 80/20 mortgage. He was not aware that his 20% loan, for \$100,000, had been filed as a HELOC. He never received statements regarding the HELOC, either from the servicer or anyone else, from 2007 through 2021. The original servicer went out of business and dissolved, and the

homeowner had modified his first mortgage successfully, so he assumed that the HELOC had dissolved with the servicer.

In 2021, the homeowner began to receive calls and collection letters from Real Time Resolutions regarding the HELOC. He had never heard of Real Time Resolutions. They claimed he owed \$123,000. He believed it to be a scam until a notice of default was filed against his home. The servicer told him that to save his home, he would need to pay \$14,000 to secure a temporary loan modification. He wanted more information and doubted the legitimacy of the servicer, but they would not provide it. He had no way to know if even the amount claimed was correct or dispute the amounts before having to make a decision on the loan mod.

Afraid to wait and possibly lose his home, the homeowner agreed to the loan modification. He, his wife, and his brother-in-law have been burdened with fighting to save this home and pulling together thousands of dollars without warning. The homeowner is currently making payments to the new servicer. Though he is not in foreclosure now, he is at risk.

I. Montgomery County, Maryland

Example provided by: Phillip Robinson, Consumer Law Center, Maryland

Another homeowner originated a HELOC in 2007 with a credit limit of \$140,000. She fell behind on payments in 2011 and did not hear from the owner or servicer of the loan for many years. The loan was transferred between servicers multiple times, but there was no significant activity on the HELOC until 2020, when a foreclosure was filed against the homeowner. By that time, the homeowner had accumulated significant equity in the property. The foreclosure was delayed because of the pandemic. As of 2021, the servicer, SCI was asking for over \$229,000 to satisfy the debt. The homeowner was able to retain an attorney on a contingency basis and the foreclosure action is on appeal.

J. Baltimore County, Maryland

Example provided by: Phillip Robinson, Consumer Law Center, Maryland

A homeowner who was very sick took out a HELOC in 2006 for \$88,500 to help pay for his living and medical expenses. He fell behind on payments after two years. Eventually, the creditor sued him personally for nonpayment and obtained a default judgment in 2014. The following year, he passed away.

The homeowner's brother and mother still live in the house subject to the HELOC. Though all creditors should have come forward with claims within six months of the homeowner's death, no one filed for the HELOC debt. The occupants did not know about the debt because they did not receive any communications. Years later, however, the servicer, Specialized Loan Servicing, came forward and attempted to foreclose on the original homeowner's brother and mother. They are claiming \$180,500 is owed. The current occupants were able to retain an attorney and are currently fighting this foreclosure.

HELOC Successor in Interest/ Loss Mitigation Problems

K. Atlanta, Georgia

Example provided by: Rachel Scott, Atlanta Legal Aid Society

A 74-year-old African American homeowner had purchased his home in the 1970s, lived there for more than 40 years, and paid off his mortgage. In 2005, he and his then-wife (who was never on title to the home) took out a Home Equity Line of Credit primarily for payment of some of her debts. The couple divorced later that year, and the court awarded the home to the husband/homeowner, and ordered his ex-wife to pay the HELOC. He did not receive any statements on the loan, because the statements were apparently being sent to his ex-wife. He did not realize the loan was in default until he received notice of foreclosure in 2019 or 2020.

The homeowner filed Chapter 13 bankruptcy to stop the foreclosure sale, and then attempted to apply for a loan modification. Specialized Loan Servicing provided conflicting/confusing information about the application status. Representatives would confirm that they received everything, but then say they still needed a signed application form (which had already been provided). SLS finally provided a letter stating that the ex-wife was required to be included as a co-applicant and provide all of her financial information. The legal services attorney provided the divorce decree and explanation letter as to why her participation was not required, since the homeowner was the sole person on title and had been awarded all interest in the home in the divorce. SLS continued to demand that the ex-wife either had to be on the application, or she needed to sign a quitclaim deed to our client (which should not have been necessary because she had no ownership interest to deed to him). Nonetheless, the ex-wife cooperated in signing a deed and SLS finally confirmed in writing that the application was complete. However, for several months, the homeowner did not receive a decision or any further communication about his application. SLS ultimately denied the application, and still included the ex-wife's information on the decision letter. The homeowner had no other option than to take out a reverse mortgage to pay off the HELOC and save his long-time home.

L. Washington County, Minnesota

Example provided by: Sheila Hawthorne, HUD Certified Housing Counselor, Washington County Community Development Agency

A recently divorced woman was awarded the marital home in the property settlement, but her ex-husband failed to make the required payments on the HELOC and US Bank initiated foreclosure. The bank refused to communicate with her because she was not named on the promissory note. She reports that the CFPB also refused to address her complaint for the same reason--the CFPB forwards the complaint to the servicer, who responds that the borrower is not on the loan and the complaint is closed.¹ After getting help from a housing counselor and a state emergency fund, she was able to reinstate the loan and stop the foreclosure.

But, when she tried to contact the servicer to ask what the monthly payment was, so she could keep the loan current, they again refused to talk to her despite accepting the reinstatement

funds in her name along with proof that she is the successor in interest. She and her housing counselor continue to receive conflicting responses and information from the US Bank but are unable to compel cooperation because they have been told that HELOCs are not subject to the successor-in-interest rule.

ⁱ This client filed CFPB Complaint # CFPB #221221-9997648 (Dec. 21, 2022).