



CITY BAR JUSTICE CENTER

REPORT

Foreclosure Project at the City Bar Justice Center

Pro Bono Assistance for Homeowners in Crisis

2009

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Who We Are

The City Bar Justice Center, a part of the City Bar Fund, Inc., is the 501(c)(3) affiliate of the New York City Bar, one of the largest local voluntary bar associations in the country. The City Bar Justice Center uses staff attorneys and pro bono attorneys to assist 25,000 clients each year and operates the largest general free civil legal hotline in New York City. The Justice Center's close relationship with the private bar, and long experience responding to emerging legal needs, gives us a unique ability to leverage civil legal services.

Responding to a Crisis

With foreclosures mounting citywide and disproportionately affecting lower-income New Yorkers, the City Bar Justice Center has risen to the challenge with its Foreclosure Project. The project provides legal assistance to low- and moderate-income homeowners facing foreclosure, with the goal of keeping people in their homes whenever possible. Volunteer lawyers are recruited and trained to negotiate workout arrangements with lenders and, where appropriate, represent the homeowner in litigation.

By the end of 2008, the Foreclosure Project had trained over 300 attorneys and assisted over 76 homeowners representing 188 household members in various stages of foreclosure, including halting several imminent sales at auction. In January the Project expanded by hiring a full-time staff attorney to appear at the new mandatory foreclosure settlement conferences, as well as provide direct representation of clients in what can be very complex cases.

In helping to stem the rising tide of foreclosures, the Foreclosure Project will not only provide valuable services to individual homeowners but will help protect some of New York City's most vulnerable neighborhoods from the economic fallout caused by this crisis.

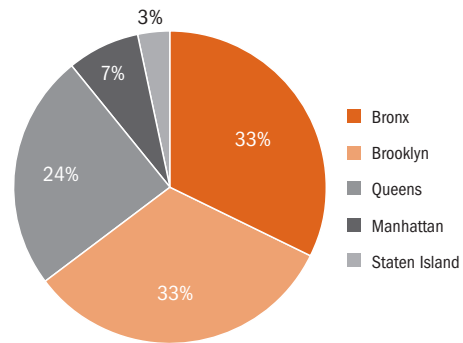
Leveraging the Resources of the Private Bar

The Foreclosure Project has a broad and varied pro bono panel. Members include solo practitioners and small firms seeking to expand their skills and practice areas, attorneys coming out of retirement to help in a crisis, recently unemployed attorneys who want to keep busy, corporate and finance attorneys recently downsized with time on their hands and a desire to help, and attorneys who live and work in the communities hardest hit by predatory lending. It is a big tent, and the members have not been afraid to take on hard cases.

Homeowners Served

While Queens has been the borough hardest hit with foreclosures, our clients come from every borough. The cases fall into two broad categories: (1) homeowners who recently purchased property with 100% financing in what have almost always been shady transactions with abusive loan terms and (2) homeowners who have owned their homes for decades, even generations, whose refinancing has left them with loans they cannot afford. We are also handling a few cases in which homeowners have been victims of foreclosure rescue scams.

Clients Served by Borough



What our volunteers say about the rewards of helping New York families at risk of losing their homes...

"I'm proud to tell my other clients that we are volunteering to help save homes, and they are happy to hear that we are doing something to address this issue."

....

"It feels good to be promoting our new President's agenda."

....

"It's worth it to know you're making a difference."

....

"The clients light up when you call."

....

"I can see how a lack of financial education and available mortgage options, and the inability to afford an attorney, makes clients feel so helpless and frustrated."

....

"Any finance lawyer should be doing something. It's really time to step up."

The Human Face of the Foreclosure Crisis

What we achieved in the early months of the Project was to help stop foreclosure sales and slow down the cases while we waited for the state and federal governments to offer the necessary systemic solution to what is a systemic problem. We succeeded in keeping our clients in their homes, and we hope now for progress in getting them needed relief from their onerous mortgage obligations.

The case patterns paint a troubling picture of what many homeowners are up against. Below are a few examples of how Foreclosure Project volunteer attorneys have helped New Yorkers keep their homes.

Mr. D., an 87-year old blind WWII veteran, was the victim of “deed theft.” Mr. D. had owned his house since 1968 but was divested of title in 2006 in a foreclosure rescue scam. Mr. D. and his wife had refinanced the property several times in order to do some remodeling – each time they were solicited by a contractor, and each loan had onerous terms and came with substantial closing costs. By 2006 Mr. and Mrs. D. had more debt than they could handle and were in default on their mortgage. They went to the mortgage broker who had done their last refinance, who told them they did not qualify and should find a friend with good credit who could do it for them. Mrs. D. reached out to someone she had known in her youth and who agreed to help – using a mortgage broker he knew. The mortgage broker took over from there, and orchestrated a transaction that looked like a refinance but was actually a conveyance. Thinking they were refinancing, Mr. and Mrs. D. attended a closing at which they conveyed their house to this “friend” who, as the scam goes, took out a big mortgage, pocketed the cash, and disappeared. Later, this “friend” conveyed the house to a friend of his for \$10,000. Mr. and Mrs. D. could not pay the new, higher mortgage, and the bank foreclosed. The house was scheduled for auction in August when the homeowner called the Foreclosure Project.

In this case, the Project Director talked Mrs. D. through a pro se order to show cause, which stopped the auction, and from there one of the pro bono attorneys took over. He submitted additional, amplified papers with legal arguments and was talking settlement with the bank when the new “owner” intervened. The parties are currently awaiting the alleged new owner’s submission of papers to the court, arguing why he should get to keep the house. These cases can be complicated but the hope is that this one will settle.

On the other end of the spectrum is Mr. C., who came to the Foreclosure Project early, shortly after receiving the 90-day pre-foreclosure notice mandated by recent State legislation. Mr. C. defies current economic conditions: after a period of unemployment he now has two full-time jobs – one fueling planes at JFK and one paving roads for the DOT. He inherited a house in Queens from his aunt ten years ago. She had owned it since the 1970’s but had not maintained it well, so Mr. C. took out a mortgage in 2002 for renovations. He refinanced twice (all to do work on the house), with enormous closing costs that ate into his equity, and ended up in 2006 with a \$330,000 high-interest adjustable rate mortgage. The broker told him that his monthly payments would be \$1,550 per month and would adjust upward to \$2,700, but not until near the end of the 30-year term. In fact, the change date was two years into the loan. He managed for a while with extra side jobs, but then he lost his full-time job and could no longer make payments. Mr. C. submitted a hardship application to the bank but never received a response. He is in a position to catch up now, with his two full-time jobs and a friend renting a room, but this is a loan that should be modified to more reasonable terms. With the help of a Foreclosure Project volunteer attorney, Mr. C. will be represented in his application to the bank for a loan modification.



Creating Partnerships

The Foreclosure Project originated when the Federal Reserve Bank of New York, together with the City Bar Justice Center, launched the Lawyers' Foreclosure Intervention Network in June, 2008. The Federal Reserve supports the Foreclosure Project through periodic trainings and networking events and assists pro bono attorneys by performing analyses of their clients' loan documents for Truth-in-Lending violations. The Project expanded in the Fall of 2008 when, with a grant from the State Banking Department, it hired an attorney to represent homeowners in Chapter 13 bankruptcy filings. In January, 2009, the Project hired another full-time foreclosure defense attorney with a grant from the New York State Housing Trust Fund, which has funded foreclosure defense efforts throughout the City. Through these collaborative efforts, the Justice Center hopes to increase its pool of volunteer attorneys providing free legal services to homeowners.

Get Involved

The Foreclosure Project will be offering another live training on June 17th and 18th, 2009. In addition to reviewing basic foreclosure defense, the training will focus on handling settlement conferences under the recent State legislation mandating them, and applying for loan modifications under President Obama's new plan, "Making Homes Affordable." We also offer ongoing training in basic civil procedure and other topics as they arise.

For information or to volunteer, contact:

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