

What to Do When Facing a Foreclosure Lawsuit, by Kate Feeks, Courthouse Reporter for CZ Court Reporter at www.czcourtreporter.com



Law Clerk Courtney Bailey Cooper Studying a Foreclosure File

Today, many homeowners are faced with decisions they never dreamed would be a reality when planning for their future.

In 2008 the number of foreclosures filed in the Medina County Courthouse outnumbered civil cases by 250. Many of the cases that are brought to the court are due the unemployment rate which, in Ohio, now tops 11%

According to Ms. Courtney Bailey Cooper, Law Clerk for Judge James L. Kimbler, who works with Judge Kimbler on foreclosure lawsuits, homeowners got their loans based on a two person income, which allows them to make ends meet. Now often faced with one of them losing their jobs, which is completely out of their control, they find themselves looking right at their lender's decision to foreclose on their home. Surprisingly, many homeowners decide to do nothing, which of course, is the absolute wrong thing to do, says Ms. Bailey Cooper. According to Bailey Cooper, what a homeowner needs to do first when facing foreclosure is to come to the court and file an answer to foreclosure complaint. You then need to find a lawyer to help you negotiate a loan modification and get your interest rate lowered.

If you are unable to afford a lawyer, then an option to consider would be to start saving your money. A goal of one month's mortgage can be put towards a lawyer who will help you use programs to re-establish yourself and your new income adjustment to save you and your home. Once you have reviewed and communicated your situation, there are programs you can use to better help make the right solutions for you.

Among these programs is one that lenders refer to as "The Obama Plan". Bailey Cooper says once you are faced with your problem you should take action immediately. In order to negotiate your loan, it is essential that you go to the bank and ask if your loan qualifies for the "Obama Plan." If a homeowner qualifies, under this plan you could reduce your payment to as much as 31% of your gross income.

Another option is the ESOP (Empowering and Strengthening Ohio's People) this organization has direct contact and agreements with many lending companies that allow the homeowner to experience a quick resolution. One such agreement is called the "Hot Spot Card." In this process the homeowner completes documentation and provides their financial information to their lender for a specific resolution to keep that homeowner in their home. In order to be eligible for ESOP, the homeowner must reside in the home in which they are seeking assistance.

Often, people facing foreclosure can negotiate with their lenders at a court-sponsored mediation. According to Ms. Bailey Cooper, lenders are willing to negotiate lower rates. The lowest rates that Bailey Cooper has seen are around 3%, with terms as long as forty years. Homeowners are saving hundred's of dollars a month with these kinds of agreements.

Interestingly, banks today are willing to work with homeowners much more than in the past. In the past, banks were unwilling to change the terms of loans for people facing foreclosure. Today, however, most banks want you to keep your home and will try to do whatever it takes to reduce interest rates for you to make payments.

Today, 30-40% of homeowners, either by themselves or through an attorney, are filing answers to foreclosure complaints. This means, however, that 60-70% of homeowners aren't filing answers and allowing the lenders to obtain a default judgment. According to Judge James Kimbler, Ms. Bailey Cooper's boss, once a default judgment is taken, it is much harder to get the banks to renegotiate the terms of the loan.

When a homeowner is faced with foreclosure the first and most important thing you can do is deal with it right away. Contact your lender. Open lines of communication with your lender. Work to develop a strategy that will help you save your home.