



MINUTES

Foreclosure Stakeholder Summit

October 27, 2015

12:00pm – 5:00pm

Bates Technical College – South Campus, Tacoma, WA

Agenda Topics	Presenter	Discussion/Outcome
Opening	Dan McConnon	<ul style="list-style-type: none"> ➤ Welcome and Introductions ➤ Summit Goals ➤ Ground Rules
Legislature's Expectation	Rep. Tina Orwall	<p><u>Legislature's Expectation</u> - "The department must convene a work group of interested stakeholders to review the state's deed of trust act contained in Title 61 RCW. The work group should include, but not be limited to, representatives from financial institutions, loan servicing and trustee service companies, and advocacy groups representing homeowners and borrowers. The work group is tasked to review and make recommendations to ensure that the act remains a workable system for financial institutions, loan servicing companies, trustee, homeowners, and borrowers. A report on the review and recommendations is due to the governor and legislature by December 1, 2015. Up to \$20,000 from the foreclosure fairness account may be used to defray the department's costs for convening and providing administrative and technical support to the work group."</p>
State of the Program	Rep. Tina Orwall & Corina Grigoras	<ul style="list-style-type: none"> ➤ Program received \$19 million in revenue ➤ Counseling was provided to over 26,000 homeowners ➤ Commerce received & processed over 8,000 referrals ➤ 50% of closed mediations ended with agreement reached ➤ More and more agreements are reached before session occurs <p>AG and State of the Program (Ben Roesch): FFA funding for 3 levels of service:</p> <ol style="list-style-type: none"> 1. National: multi-state investigation and monitoring 2. Washington State-specific enforcement actions; for example: filing Amicus Briefs (regarding Trustees and mortgage servicers), investigating foreclosure rescue scams; investigating Not in Good Faith certifications against beneficiaries (in conjunction with Department of Financial Institutions (DFI)). 3. Homeowner-specific referrals from housing counselors and attorneys (direct communication with the services). AG reports the largest number of escalations occurred this year.

		<p>Housing Finance Commission (HFC) and State of the Program (Kim Herman):</p> <ul style="list-style-type: none"> • In SFY 2015, approximately 40% of clients are waiting for resolution of an outcome on any given day. • 36,000 total clients assisted with FFA funds. • Currently 64 housing counselors in Washington (98 at the high point). • Lost 4 or 5 housing counseling agencies. • Approximately 5,500 clients in the last year; of these: <ul style="list-style-type: none"> ○ 2,800 participated in a meet and confer ○ 2,700 have an outcome pending ○ 900 were referred to other services ○ 660 withdrew <p>Office of Civil Legal Aid (OCLA) and Northwest Justice Project (NJP) and State of the Program (Jim Bamberger and Lily Sotello):</p> <ul style="list-style-type: none"> • Approximately 800 phone calls in the last year; represented 660. • Increased number of loans at least 2 years in default. <p>Denny Eliason (Banking Industry Representative):</p> <ul style="list-style-type: none"> • Predicts 10,000-12,000 foreclosures per year as the new normal; approximately 50% of these will be repeat defaults (possibly from older mortgages). <p>Lili Sotello (NJP) and Access to Mediation:</p> <ul style="list-style-type: none"> • Referral <ul style="list-style-type: none"> ○ Setting realistic expectations from the start <ul style="list-style-type: none"> ▪ Can Commerce address this in the Guidelines or in training? ▪ Can mediators reach out to both parties to gauge their expectations? ○ Referrers should not refer if they are not going to represent borrower during mediation process (need to reduce the “adoption” system – people moving to NJP after referral from non-representing referrer). • Pitfalls to Referrals <ul style="list-style-type: none"> ○ Incomplete referrals ○ Not referred within the timeline allowed ○ Exemption form needs to be accurate (Commerce’s Exemption list) ○ Failure to prepare borrower (documents, expectations, etc.) • Wrinkles in the Process
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<p>Mediation Issues</p>	<p>Corina Grigoras/ Mediators</p>	<p><u>Document exchange process</u> –</p> <ul style="list-style-type: none"> ➤ Session time should not be used to request documents, but to discuss options post review. ➤ It’s a game. Borrower supplies requested documentation and at session, new ones are requested. ➤ Servicer changes and new parties request previously supplied documentation. ➤ There is a huge lack of communication between beneficiary/servicers/contact personnel that could streamline the process and affect timelines. <p><u>Mediation Timeline</u></p> <p>FFA Mediation Timeline</p> <ul style="list-style-type: none"> • Are the current (statutory) 70-days to mediation session working? • Program data shows the average number of days between the time a mediation is assigned and a mediation is certified as 257 (with the least number of days 6 and the most 1,300) • Pre-session check-in by mediators: <ul style="list-style-type: none"> ○ The statute requires mediators to ensure the parties are ready to mediate ○ The program guidelines include an expectation that mediators check-in with the parties to ensure readiness. • What is the bottleneck in the time? • Ben rep stated that they are limited to how many mediations they participate in per day because there are fewer attorneys trained to do FFA mediations. • Sheila O’Sullivan (borrower representative; attorney) asked if we should look at more recent data regarding the average time a case is open (instead of historic data from inception). • Lynn Yialelis (mediator, ED; Wenatchee Valley DRC) stated that the average time has actually increased per her recent data. • The actual timeline does include Temporary Payment Plans (TPPs). <ul style="list-style-type: none"> ○ Because of this, it may make sense to increase the timeline. The beneficiary needs 45 days to review the borrower’s file and the borrower needs time to review the documents and any offer. ○ Lengthening the timeline would decrease issues with re-scheduling (including payment of re-scheduling fees). ○ Randy Lowell (borrower representative; housing counselor at Parkview Services): We need mediators to hold the dates accountable.

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		<p>would share what happens when a beneficiary receives a Not in Good Faith certification.</p> <ul style="list-style-type: none"> • Unnamed Trustee Representative: Trustees do not like beneficiary Not in Good Faith certifications. In her experience, servicers would like modifications to happen. The “why” of the Not in Good Faith matters on the certification. • Corina Grigoras (Commerce) asked participants what they think of the pre-session check-in (mediators check with both parties re: readiness to mediate). • Sheila O’Sullivan (borrower representative; attorney): Sheila requires a disclosure from the parties re: readiness within 72 hours of a session. • Lynn Yialelis (mediator): More effective communication is needed. • Terrence Connor (mediator): Terry believes when beneficiary representatives state “Not at this time” in regards to additional documents needed prior to mediation they are just protecting themselves from the fact they will request additional documents right before the session. • Neal McKeaver (borrower representative/housing counselor): Document portals like HLP do not solve the document exchange issues. • Anthony Arrington (mediator): The lag is in the time it takes to review documents. • Sam Gerszonowicz (mediator): There are different sets of standards for different underwriters. It is a “nuance” game. He uses an un-signed certification (during the mediation process the start the parties thinking about how they want the process to unfold; are they going to participate in good faith?). • Jeff Bean (mediator): The question the mediator should ask is “Will you have a decision ready in time for the borrower to have time to review with their representative prior to the session?” The question should not be “Are the documents ready?” • Sam Gerszonowicz (mediator): Sometimes either side will force the mediator to use their continuance. When this happens, the mediator loses his power to use his continuance. • The goal is not to increase Not in Good Faith certifications. • Vivienne Sharples (mediator): Sometimes the first session is used to figure out the map forward, what needs to be exchanged, etc. • Sandy Bartow (mediator): The mediators’ job is to keep people at the table to discuss all options to foreclosure. • Sheila O’Sullivan (borrower advocate; attorney): She would like the mediators to have the ability to make the side “forcing” mediation when the parties are not ready to pay the mediation fee or
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		<p>rescheduling fee.</p> <ul style="list-style-type: none"> • Randy Lowell (borrower representative; housing counselor at Parkview Services): The mediators should know the HAMP guidelines. It is about educating all the parties (mediators, borrower representatives, beneficiary representatives). HAMP/CFPB provides many of the answers. The mediators need a point of reference. If the process is moving forward, don't hinder it; if the process is not moving forward, than use the option to certify as Not in Good Faith. • A Wells Fargo representative informed the group that Wells Fargo tries to provide an underwriter with authority to settle at each mediation session. • Vivienne Sharples (mediator): She belies "authority to settle" is not defined. Having authority to settle may not be the same as lacking the ability to make a decision during the mediation session. <p>Funding-related conversation</p> <ul style="list-style-type: none"> • Denny Eliason (banking industry representative): Stated that Washington has one of the better programs in the country; the basic foundation are sound; the program has the Bankers Association's commitment to continue working with the program. The Association's focus continues to be access to housing counseling for any borrower who needs one. According to Denny, the exemption was meant to protect the smaller community banks because they were already struggling (65 community banks in WA). He asked what the appropriate funding is for the program. He stated that it looks as though foreclosures are now not due to the economic crisis, but a return to the "traditional" reasons for foreclosure (major changes in the lives of homeowners). He asked if the State plays a role in funding (through the General Fund). He also stated that the industry is "solid" with the \$250/NOD and doesn't see going much higher. • Kim Herman (HFC): Kim acknowledged that the bulk of the FFA funding goes to housing counseling. They do receive funding from other sources. HFC spending goes up and down because of the need to spend appropriately from other grants. Federal money will start to decrease, so this means more dependence on the FFA. HFC would need to reduce the number of housing counselors by 50% if f HFC funds were decreased to 45% of its current funding. • Denny Eliason (banking industry representative): What is the macro number we need for appropriate services (to "right size") the program? Is this number defensible to the legislature? What are the essential functions? Denny stated that approximately 45% of the mortgage lending in Washington is by national banks. • Question asked by a participant: Can we increase the revenue by eliminating the exemption? What would it cost community banks if they were not exempt? How much revenue would this bring to the
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		<p>program?</p> <ul style="list-style-type: none"> • Question asked by a participant: Do any of the banking representatives have the number of NODs? Is there a way to find out the true number of NODs? Core Logic only reports on the number of seriously delinquent loans.
Next Steps	Commerce	<p>Next Steps in the Stakeholder Meeting Process per Tony Hansen (Commerce):</p> <ul style="list-style-type: none"> • Synthesize information from the meeting • Send survey to stakeholders • Continue the Deed of Trust Act group • Form small groups with FFA partners to continue discussions • All-Mediator Event November 2 • Commerce presentation posted on website (done) • Continue to work on mediator fees