

CUYAHOGA COUNTY

PROPOSED FORECLOSURE

MEDIATION PROGRAM

MISSION STATEMENT

MEDIATE FORECLOSURE CASES IN A TIMELY AND COST-EFFICIENT MANNER IN ORDER TO:

- MINIMIZE CASE PROCESSING TIME
- SAVE COSTS AND EXPENSES FOR THE PARTIES IN WORKING OUT NEW MORTGAGE TERMS, WHERE POSSIBLE, OR OTHER AGREEMENTS MUTUALLY ACCEPTABLE TO BOTH PARTIES
- PREVENT THE ADVERSE SOCIAL CONSEQUENCES OF VACANT AND ABANDONED HOUSES

PROPOSED CUYAHOGA COUNTY
FORECLOSURE MEDIATION PROGRAM

STEP ONE:

- COMPLAINT FILED AT THE CLERK OF COURT'S OFFICE

STEP TWO:

- SUMMONS SENT WITH THE COMPLAINT TO THE BORROWER

- INCLUDED WITH THE SUMMONS WILL BE:
 - THE REQUEST FOR FORECLOSURE MEDIATION

 - MOTION FOR EXTENSION OF TIME TO ANSWER OR
OTHERWISE PLEAD

(ADDITIONAL COPIES OF THESE FORMS WILL BE
LOCATED IN THE CLERK'S OFFICE)

- AT ANY TIME IN THE FORECLOSURE PROCESS, IF THE
MAGISTRATE OR ONE/BOTH PARTIES REQUEST MEDIATION,
THEY MAY BE CONSIDERED.

STEP THREE:

- WITHIN 28 DAYS AFTER SERVICE OF THE SUMMONS, BORROWER
MUST FILE AN ANSWER OR MOTION FOR EXTENSION OF TIME
TO ANSWER OR OTHERWISE PLEAD
 - THE REQUEST FOR FORECLOSURE MEDIATION IS
SENT BY THE BORROWER TO THE ADR DEPARTMENT

- REQUEST FOR MEDIATION SHOULD NOT BE SENT OR FILED
WITH THE CLERK'S OFFICE

STEP FOUR:

- BORROWER MAKES REQUEST FOR MEDIATION

- COURT ISSUES AN ORDER REQUIRING LENDER TO COMPLETE
WITHIN 14 CALENDAR DAYS THE PLAINTIFF/
LENDER MEDIATION QUESTIONNAIRE FOR FORECLOSURE
CASES

- FORM WILL BE AVAILABLE ON THE COUNTY WEB SITE AS WELL
AS IN THE CLERK'S OFFICE. ADDITIONAL ITEMS REQUIRED:
 - CURRENT PAYOFF AMOUNT
 - CURRENT REINSTATED AMOUNT

- FORM RETURNED TO ADR DEPARTMENT

STEP FIVE:

- MEDIATION DEPARTMENT REVIEWS BOTH THE REQUEST FOR FORECLOSURE MEDIATION FROM THE BORROWER AND THE PLAINTIFF/LENDER'S MEDIATION QUESTIONNAIRE TO DETERMINE IF MEDIATION IS APPROPRIATE

- NOT APPROPRIATE FOR MEDIATION
 - NOTICE WILL GO OUT INFORMING THE PARTIES AND THE CASE WILL CONTINUE ON THE FORECLOSURE DOCKET

- APPROPRIATE FOR MEDIATION
 - JUDGE WILL BE NOTIFIED AND AN ORDER WILL BE SENT OUT REFERRING THE PARTIES TO MEDIATION
 - CASE IS STAYED WHILE PENDING SIMILAR TO ALL OTHER ADR CASES
 - ONCE REFERRED TO MEDIATION, THE CASE WILL BE MEDIATED WITHIN 60 DAYS OR SOONER

STEP SIX:

- TWO MEETINGS WILL BE HELD WITH THE MEDIATOR PRIOR TO
MEDIATION
 - PURPOSE IS TO ENSURE THE PARTIES ARE FULLY
PREPARED AND THAT THERE WILL BE GOOD FAITH
NEGOTIATIONS

STEP SIX (cont.):

• FIRST MEETING:

GOAL: PROVIDING APPROPRIATE PAPERWORK AND
EDUCATION

- LENDER WILL BE REQUIRED TO BRING PAPERWORK FOR
LOAN MODIFICATION OR FOREBEARANCE AGREEMENT
- TAKEN ALL STEPS NECESSARY TO DETERMINE IF
THE LENDER WOULD ACCEPT A DEED IN LIEU OF
FORECLOSURE
- BORROWER WILL BE REQUIRED TO BRING:
 - ✓ THREE (3) MOST RECENT PAY STUBS
 - ✓ BANK STATEMENTS
 - ✓ MOST RECENT W-2 FORMS
 - ✓ MOST RECENT TAX RETURN
- FINANCIAL COUNSELING INFORMATION AVAILABLE
- COMPLETE MEDIATION INTAKE FORM

STEP SIX (cont.):

• SECOND MEETING:

GOAL: ENSURE ALL PAPERWORK IS IN ORDER AND
PARTIES ARE PREPARED TO MEDIATE

- LENDER WILL BE REQUIRED TO HAVE THE INDIVIDUAL
WITH SETTLEMENT AUTHORITY
PRESENT FOR NEGOTIATIONS
- BOTH LENDER AND BORROWER MUST BE PREPARED TO
NEGOTIATE IN GOOD FAITH DURING MEDIATION

FAILURE TO ATTEND MAY RESULT IN THE IMPOSITION OF
SANCTIONS, INCLUDING, BUT NOT LIMITED TO, MONETARY
PENALTIES, ASSESSMENT OF COSTS, DISMISSAL OR DEFAULT

LACK OF SETTLEMENT AUTHORITY IS NOT A DEFENSE TO THE
IMPOSITION OF SANCTIONS FOR FAILURE TO NEGOTIATE

STEP SEVEN:

- MEDIATION SESSION TAKES PLACE

(UNIFORM MEDIATION ACT R.C. 2710)

- AGREEMENT
 - COMPLY WITH R.C. 2710.05. MEMORIALIZE SIGNED

BY ALL PARTIES AND ON THE RECORD

- NO AGREEMENT
 - CASE CONTINUES ON FORECLOSURE DOCKET

STEP EIGHT:

- MEDIATOR FILES OUTCOME OF MEDIATION REPORT
WITH THE COURT (R.C. 2710.06) COMMUNICATION OR
DISCLOSURE BY MEDIATOR

STEP NINE:

- QUALITY ASSESSMENT ON ON-GOING BASIS
 - EVALUATION/SURVEYS
 - STATISTICAL COMPILATION AND ANALYSIS
 - REPORTING

STEP TEN:

- COMMUNITY OUTREACH
 - EDUCATION
 - WEBSITE
 - BULLETIN BOARDS/TABLES WITH FORECLOSURE
INFORMATION
 - ENCOURAGE SETTLEMENT OF CASES PRIOR TO
FILING THE FORECLOSURE CASE