Foreclosure Settlement Program

- Eleventh Judicial District Court
- San Juan County

Who Are We?

- Ashley Lucero & Jamie Herrera : Program Managers. They provide daily program management and administration. They are also the primary contact for parties, attorneys and facilitators
- Contact Information:
- Office Number: 505-326-2256
- Ashley's email: aztdael@nmcourts.gov
- Jamie's email: aztdjxh@nmcourts.gov

We have several Settlement Facilitators who work within our program. They will conduct the status conferences and meetings. After this workshop, one will be assigned to your case if you choose to participate in the program.

Objective of the Program

- Work towards a solution to the foreclosure lawsuit that helps both the homeowner and the bank.
- Reduce the amount of unnecessary court filings and hearings.
- Help the lender and the homeowner communicate in a meaningful way.
- Reduce the confusion regarding the foreclosure process.

What is Facilitation?

- Settlement facilitation is a way to resolve a lawsuit without having the judge make a decision.
- The Settlement Facilitator will help the parties assess the strengths and weaknesses of their case, and will also help the parties try and find a solution they can both agree to.
- The Plaintiff and Defendant will ultimately decide whether to settle and on what terms.
- The Settlement Facilitator cannot force either party to settle.

Program Steps

1. Your bank or lender has filed a Complaint alleging that you are in default on your payments.
2. You should have received the Complaint for foreclosure accompanied by a summons.
3. The Court entered an order referring the Plaintiff (lender) and Defendant (homeowner) to the Foreclosure Settlement Program.
4. The Court's Order puts your case into a stayed status during your time in the Foreclosure Settlement Program.
   - A stayed status means there will be no litigation of the foreclosure case until the stay has been lifted
   - The stay can be lifted if:
     1. You choose not to participate in the program
     2. The settlement facilitation is successful, a stipulated order will be entered which will outline your agreement and dismiss the case.
     3. The settlement facilitation is unsuccessful. The case will then be removed from the program and placed back on the Judge's active docket. The homeowner then has 30 days to file an answer or responsive pleading after the order lifting stay.

Program Steps (Continued)

5. After the defendant homeowner attends the workshop, the Program Manager will certify that the defendant homeowner was present, and will assign a Settlement Facilitator to their case. The Settlement Facilitator assigned to your case will contact you to schedule a telephonic status conference
6. The telephonic status conference will see if the parties are ready to attend a settlement facilitation. If not, additional status conferences will be scheduled.
7. Settlement Facilitation will be conducted by phone, video appearance or other telecommunication means at the Facilitator's discretion.
   - The parties are responsible for the costs of the settlement facilitation. Both parties are responsible for depositing $405.70 into the court registry. Each eligible party shall be allowed to utilize the NM Supreme Court sliding scale where appropriate. This payment must be paid before facilitation can begin.

Facilitation Fees

Eleventh Judicial District and Magistrate Courts **Civil ADR Program** **Sliding Fee Scale**		
SERVICE:		**Settlement Facilitation**
		Hourly Cost per Party (calculated based on full hourly rate of $125/hour)
PARTY'S INCOME	**% OF FULL RATE**	**$ 125.00**
0-$14,472	10%	$12.50
$14,473-18,090	20%	$25.00
$18,091-24,120	30%	$37.50
$24,121-36,180	40%	$50.00
$36,181-42,210	50%	$62.50
$42,211-48,240	60%	$75.00
$48,241-60,300	80%	$100.00
Above $60,300	100%	$125.00
		Additional 10% discount applies to families of five (5) and above (no party pays less than 10% of the full fee without the judge's approval)
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$24,121-36,180	30%	$37.50
$36,181-42,210	40%	$50.00
$42,211-48,240	50%	$62.50
$48,241-60,300	70%	$87.50
Above $60,300	90%	$112.50

What Do You (The Homeowner) Have to Do

- Complete the Homeowner Information Form
- The attorney for the Plaintiff should have sent you an application for loss mitigation. If you have not already received the packet you must call the bank's attorney and request that it be sent to you.
- You will fill out the application and return it along with any other required paperwork to the bank's attorney within 30 days or sooner.
- The Plaintiff may request additional information or paperwork if necessary, you will provide it to their attorney as soon as possible.

You Will Be Asked To Participate In "Loss Mitigation"

- "Loss mitigation" is a term your lender uses to describe programs to reduce its losses. This could mean that you keep your house or avoid a judgment against you.
  - Reinstatement & Payoff – You may make your loan current or pay of the entirety of your mortgage at any point during your foreclosure case. In order to do so you will need a formal reinstatement and payoff quotes.
  - Forbearance – a 6 to 12 month period during which you make little or no payments, with the unpaid amount being added to the back end of the loan or repaid through a repayment agreement.
  - Loan Modification – a restructuring of your mortgage payments, often reducing the interest rate and extending the term of the loan.
  - Short Sale – the bank agrees to let you sell your house for less than what you owe.
  - Deed in lieu – you give your house to the bank and do not owe a remaining balance.
  - Judgment in rem (also called a deficiency waiver) – the Plaintiff gets a judgment in which you agree to let the bank foreclose on the house but you do not owe a remaining balance.
  - Cash for keys – when you agree to move out by a certain date and the bank pays you an agreed-upon amount of money.

How Do You Apply For Loss Mitigation?

- You will complete the application for Loss Mitigation
- The application will ask about your income and your expenses.
- You will have to sign several attached forms, including a tax form called a 4506T.
- You will have to provide pay stubs, bank statements, Social Security Award Letters or Profit and Loss Statements.
- You may also have to provide your income tax returns.
- You will have to write a Hardship Letter or Affidavit explaining why you defaulted, for example:
  - "I fell behind on my payments because my daughter got sick and we didn't have health insurance. I had to pay doctor and hospital bills and couldn't pay the mortgage."
  - Or, "I lost my job and it took me nine months to find another job. I wasn't able to get unemployment benefits and so I just didn't have any way to pay the mortgage."

The Settlement Facilitation

- A meeting of the plaintiff's attorney, an authorized representative from the lender, the defendant homeowner(s), and the settlement facilitator.
- Other people may attend the meeting with permission from the settlement facilitator. Examples of such people may include a housing counselor, a spouse not listed on the loan, a lawyer, or other family members.
- Good Faith participation for the entire process
  - Adequately preparing for conferences (both telephonic, and in person).
  - Exchanging documents on time.
  - Engaging in meaningful negotiations.

You Can Get Help: Legal Resources

- Housing Counselor/attorney:
  - United South Broadway Corporation- 505-764-8867
  - Senior Citizens' Law Office- 505-265-2300 (55+)
  - New Mexico Legal Aid- 1-866-416-1922
- U.S. Dept of Housing and Urban Development
  - Keep Your Home New Mexico
    - 1-800-220-0350; www.keepyourhomenewmexico.com
    - At www.hud.gov, click on Audiences, then Homeowners, then Housing Counseling, then Help for Homeowners
    - Or call 1-888-995-4673
- Federal Government Foreclosure Prevention

  website:- www.makinghomeaffordable.gov
- Neighbor Works America – www.nw.org

Homeowner's Assistance Fund

The New Mexico Homeowner Assistance Fund (HAF) (https://nmhomefund.org/)program provides housing grants to income-eligible households experiencing financial hardship associated with the COVID-19 health crisis.

What can it help pay for?

- Past due payments, including payments in forbearance.
- Property taxes
- Home insurance
- The program can also assist homeowners achieve housing cost affordability through a possible decrease in the amount owed on a mortgage or other steps to prevent foreclosure.

Learn more and apply for Mortgage Assistance online https://housingnm.org/new-mexico-homeowner-assistance-fund.

You can also download the paper application https://nmhomefund.org/wp-content/uploads/2023/01/nmhf-1024-en-Updated-1523pdf.pdf.

Beware Of Scams

- Be careful of any person or group that:
  - Is not your mortgage lender or mortgage servicer.
  - Asks for money up front. It is generally illegal for anyone to require fees or up front payment for loss mitigation programs.
  - Asks you to sign over your deed for a small payment.
  - Applies high pressure tactics.
- If you are not sure if an offer is legitimate, double check before agreeing to anything.
  - Check with your attorney or housing counselor.
  - Check with the bank attorney to see if the offer really comes from your lender.
- To report a scam call the NM Attorney General at 505-222-9000 and the Consumer Financial Protection Bureau (CFPB) at 1-855-411-2372

Beware Of Scams (Continued)

- Beware of:
  - Silent partner – Someone who says they are a real estate agent or lawyer who will help, but you "shouldn't tell anyone about them"
  - Out of state law firms – ask you to pay them fees to "represent you." Remember only attorneys licensed in New Mexico can represent you. Check the out of state lawyers name and see if they are licensed with the New Mexico State Bar www.nmbar.org – Click "Find an Attorney" on the top of the page.
  - Fake mortgage modification paperwork – paperwork arrives by mail that looks legitimate and asks you to send a trial payment to start the modification. Check with the attorney for the bank whether your bank has really made you an offer.

Next Steps

- Get a housing counselor if you don't already have one
- Make sure that the Program Manager has a good phone number for you as well as your current mailing address.
  - If at any time while you are in the program, you change any of your contact information, make sure to update it with one of the program managers
- Complete the application for Loss Mitigation and return it to the Plaintiff's Attorney. ***Keep a copy for yourself!*** Turn in any other documents the Plaintiff asks for and keep copies.
- Be ready for the Conference Call. Make sure you are in a quiet place for the Conference Call and that you have all your paperwork. Think about what YOU want.
- Complete the Homeowner Information Form and provide it to your facilitator

Reminders

- If you hire an attorney they must file an entry of appearance and they must notify the program that they will be representing you.
- If you are already in the process of loss mitigation you are ahead of the game, but you are still able to participate in the program.
- Please make sure we have good contact information for you, a number you can be reached at, an e-mail address you check daily, and a mailing address where you regularly receive mail.
- Keep in mind we are a neutral party; we do not represent you, we are not your advocate and we cannot give you legal advice.
- If you need an interpreter, please let us know after the presentation.
- You must be proactive with your foreclosure, you have the most to lose and this is a good opportunity to help yourself move forward.

QUESTIONS?