

Idaho Business & Law

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Foreclosure mediation adding a third party



Mediators use negotiating skills to get homeowners, mortgage-holders talking

What are options for homeowners facing foreclosure?

- Temporary indulgence
- Partial claim
(insurance company lend money)
- Loan modification
- Forbearance
(lump sum plus higher monthly payments)
- Permanent hardship
(delay foreclosure to give time to sell)
- Pre-foreclosure sale
(short sale)
- Deed in lieu of foreclosure

SOURCE: RICHARD STRUTHERS, CERTIFIED PROFESSIONAL MEDIATOR



By Simon Shifrin

If mediation is a way to encourage people on opposite sides of a dispute to talk about their differences, foreclosure mediation is like shuttle diplomacy.

"Sometimes it's best to leave the homeowner not on the phone with you," said Richard Struthers, who started Idaho's first foreclosure mediation program in Idaho Falls in mid-May. "They introduce an emotional element that sometimes is not good."

Struthers, president of the Greater Teton Mediation Association, decided to step into the fragile dialogue at the heart of the country's housing and credit crisis earlier this year because he thought he could help more homeowners find a way to stay in their houses with his specialized dispute resolution skills.

He helped start a free program through the Eastern Idaho Community Action Partnership, working with housing counselors at the agency.

"Sometimes it's overwhelming, and the burnout rate for housing counselors is really high," said Struthers, who has worked as a mediator eight years since retiring

from the Idaho National Laboratory and a prior career in university management. "As volunteers we take some of the workload off of their shoulders."

Stopping the deluge of foreclosures nationwide has been at the center of efforts to stop falling housing prices. The wave of loan defaults has hit Idaho hard, especially the Treasure Valley. The Boise metropolitan area, with one in every 85 properties in foreclosure in the first quarter of 2009, ranked 27th on the list of areas with the highest foreclosure rates. The national

average is one foreclosure for every 159 properties.

Struthers hopes, in particular, to spread the word about foreclosure mediation to other parts of the state, such as the Treasure Valley. He plans to organize a panel discussion at the Idaho Mediation Association's annual conference this fall to try to prompt a similar program in the southwest, noting that it's a great way for mediators to exercise their skills.

Mediation typically works by allowing each side in a dispute to vent, express their interests and

then work together to find a resolution.

In foreclosure mediation, a large part of the process is examining homeowners' finances to understand their situation and then helping them understand what their options are.

The mediator, with the help of a housing counselor, can then put together a plan to present to the loan servicer or loss mitigation specialist.

The process may not sound difficult, but without a mediator to bridge differences, a loan servicer may have no interest in talking to a homeowner who has no concrete plan to start paying their mortgage again.

"They don't want to spend a whole lot of time talking to somebody that doesn't know what they're talking about," he said. "If (homeowners) try and contact themselves, they really end up going around in circles."

Dawn Justice, president and CEO of the Idaho Bankers Association, said it "sounds like an excellent program" that could make it easier for banks servicing mortgages talk to homeowners in trouble.

"What they're doing is helping to facilitate the communication," she said. "They're helping to facilitate on the front end with the homeowner to evaluate what they

want, where they're at, what their options are and distilling it down to something that's clear."

Susan Semba, homeownership lending director at the Idaho Housing and Finance Association, said any program that helps homeowners understand their options and opens dialogue with the loan servicer is good.

"The sooner you get in contact with your mortgage lender, the more opportunity you have to keep your situation from worsening," she said. "It's helpful because some homeowners don't understand the processes, and they're confused in some of the information they receive."

IHFA services the 19,000 loans in its own portfolio and has a full-time staff of four people to counsel other homeowners in distress. She said mediators may be best suited to fostering discussion early in the process, whereas a housing counselor with specialized knowledge may be able to handle a complex transaction like a short sale.

"The mediator may be trying to bring the parties together and get them to communicate, whereas the housing counselor is really just counseling the homeowner about their situation," she said.

Struthers said one of his most important tasks is giving both sides "reality checks."

Often, homeowners don't want to admit that they could lose their houses.

"The reaction of people that are faced with foreclosure is most often denial," he said. "It's embarrassing. They don't want to admit it. They don't want to admit it to family and friends, and they do nothing, which is the worst thing you can possibly do."

