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**DO NOT IGNORE A NOTICE FROM YOUR LENDER
REGARDING FORECLOSURE**

Due to the current economic crisis, many Americans are finding it difficult to pay their mortgages leading to a significant rise in the number of foreclosures. Between February 13, 2010 and May 31, 2010, lenders issued foreclosure notices to approximately 60,000 homeowners in New York State. Suffolk and Nassau counties have the highest mortgage default rates in New York with Westchester and Bronx counties coming in seventh and tenth respectively.

In an effort to slow down the foreclosure process, the Governor recently imposed a law which requires lenders to issue a 90-day pre-foreclosure notice to all borrowers with home loans. The pre-foreclosure notice informs homeowners of steps they can take to avoid foreclosure while providing them with an opportunity to try and reach a settlement with the lender before the actual commencement of a foreclosure action in court. Unfortunately, communicating with a lender is often extremely difficult, time-consuming, and frustrating. Generally, homeowners facing foreclosure find the 90-day time limit insufficient to work out their debts. Further, many times lenders are indifferent or unreceptive to working out a deal.

It is very important to defend a foreclosure proceeding as there can be a high degree of success. Because bank foreclosure law firms have become increasingly busy, their work is oftentimes riddled with errors. When a lender fails to follow required legal procedures, such as incorrectly preparing or filing papers with the court, a homeowner has a meritorious defense to the action.

Several years ago when lenders issued loans more freely mistakes often occurred within the supporting documentation; many mortgage papers were lost, signatures misplaced, and documents dated incorrectly. Further, when lenders sold or assigned loans to secondary lenders or investors, assignment papers often went unrecorded. With no official record on file with the county, a lender cannot foreclose as it cannot prove ownership.

If a homeowner ignores a summons and complaint, a court can issue a default judgment against the homeowner and schedule a foreclosure sale – whether or not the lender’s attorney prepared and filed the paperwork correctly with the court or the lender can prove its case. Thus, it is vital that a homeowner defend the action and bring any errors or defenses to the attention of the court immediately. Defending an action can also provide a homeowner with more time to vacate the premises, as the court will take time to review the motions submitted by the homeowner or his/her attorney.

James G. Dibbini & Associates, P.C. has over 17 years of legal experience in real estate and civil litigation fields. Please contact our office today if you are falling behind with your mortgage or to discuss any pending foreclosure actions at jdibbini@dibbinilaw.com.

Please Note: newsletters detailing a general time-line related to the foreclosure process and providing alternatives to foreclosure to follow.

NEWSLETTER

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