

CITIZENS ADVISORY COUNCIL FOR HOUSING MATTERS

Reply to: 44 Capitol Ave., Suite 301
Hartford, CT 06106
860-278-5688 x203

NEXT MEETING

2:00 p.m.

Wednesday, September 16, 2009

Connecticut Bar Association
30 Bank St., New Britain
(860-223-4400 for directions)

Minutes of June 17, 2009 Citizens Advisory Council meeting

Persons present: Richard DeParle, Sonja Devitt, Sharon Levy, Carl Lupinacci, David Pels, Raphael Podolsky, Richard Tenenbaum, Pat Walker

(1) PRELIMINARY MATTERS

(a) Call to order: The meeting was called to order at 2:15 p.m. at the Burroughs Community Center, 2470 Fairfield Ave., Bridgeport.

(b) Approval of agenda: The agenda was approved.

(c) Approval of minutes: The minutes of the March 18, 2009, meeting were approved.

(2) REPORT OF MEETING WITH JUDGE QUINN AND JUDGE CARROLL

On June 2, 2009, representatives of the Advisory Council met with Chief Court Administrator Barbara Quinn and Deputy Chief Court Administrator Patrick Carroll to discuss the recommendations contained in the Advisory Council's 2009 Biennial Report.

(a) Restoration of Bridgeport/Norwalk assignment and notice to the Council: Judge Quinn was receptive to the Advisory Council's recommendations on judicial assignments. These included (i) reestablishing the assignment of a single judge to the Bridgeport and Norwalk locations of the housing court, (ii) generally retaining housing court judges for more than one term and not transferring them out mid-term, and (iii) providing the Council with a reasonable amount of time before assignments are made so that the Council can prepare comments. No assignments for the term beginning September 2009 have yet been posted. Council response: The Council is hopeful that the September assignments will reflect those principles.

(b) Housing small claims: The principal cause of the slow movement of small claims cases is lack of staff, but little can be done because of fiscal limitations. More than 250 Judicial Branch employees are expected to take early retirement, and the Branch is also under a hiring freeze. As a result, many vacancies will not be filled at all and those that are will be filled by transfers of Judicial Branch employees, creating new vacancies in the process. The lack of staff also precludes returning housing small claims to the housing courts. The Judicial Branch will, however, look at scheduling hearings of housing small claims cases for the same building in which the housing court is located in Bridgeport and New Haven, where housing small claims cases are currently heard in a different building. It will also consider ways to separate housing cases from other small claims cases and accelerate hearings on them. Both of these proposals were also made by the Judicial Branch's own Bench/Bar Small Claims Committee.

(c) Bridgeport courtroom and space: The Judicial Branch will take a new look at the courtroom and office situation in Bridgeport, probably in the fall. Council response: In the interim, the Bridgeport members of the Council will meet with Judge Moore and Judge Gilardi, probably in July, to seek their support for consolidating housing court functions on the 5th floor of the courthouse.

(d) Housing specialist staffing: The Judicial Branch has no plan to replace housing specialists during the hiring freeze. The two housing specialists who became foreclosure mediators have not been replaced. The Council is not aware of any housing specialists taking early retirement, but the General Assembly has passed legislation expected to expand the number of homeowners using foreclosure mediation, which may result in new foreclosure mediator positions, which in turn could lead to the transfer of one or more housing specialists. Council response: If any additional housing specialists are lost, the Council will again press for an exception to the hiring freeze.

(e) Advisory Council webpage: The Judicial Branch will not host a webpage for the Council because the Advisory Council is not a Judicial Branch agency. Council response: The chairperson was directed to contact the Department of Information Technology to explore other hosts for its website and also to contact the Ethics Commission about whether a private entity (non-profit or for-profit) can host the website.

(f) Consultation with the Advisory Council on matters that affect the housing courts indirectly: The Judicial Branch will make efforts to inform Judicial Branch employees whose activities indirectly affect the housing courts (e.g., courthouse relocations) to contact the Advisory Council for input. The need for consultation could be triggered if the Governor's proposal to close the Norwalk courthouse were to be approved by the General Assembly. Council response: The Council will try to initiate contact if there are any courthouse closings that affect the hearing of housing cases.

(g) Computerization of housing cases: Computerization is on hold because of lack of funds. When it does go forward, it is not likely to use the present housing court computer system because its software is no longer supported.

(h) Coverage of Meriden: There is no present plan to have the New Haven Housing Court judge cover Meriden. It should be noted, however, that the Governor has proposed

closing of the Meriden courthouse as an economy measure.

(3) POTENTIAL IMPACT OF STATE BUDGET CRISIS

(a) Retirements: Judy Hayes, the Bridgeport-Norwalk housing prosecutor, is retiring on July 1. It is not clear how the Chief State's Attorney intends to cover those prosecutions after she leaves. [Post-meeting note: Judy Dicine reports that, for the time being, she will be covering Norwalk and Mary Card, a former housing prosecutor, will be covering Bridgeport.]

(b) Existence of the Advisory Council: The Government Administration and Elections Committee rejected the Governor's proposal to abolish the Advisory Council, and the bill died. The Governor, however, included the proposal in her most recent budget proposal for 2009-2011, so that it may be part of the current round of negotiations between the Governor and the General Assembly over the state budget. It is not known what is happening in these negotiations.

(4) TABLED MATTERS: The following matters were tabled to the September meeting:

- (a) Explanation of proceedings at the call of the housing calendar
- (b) Use of non-law school interns in mediation programs
- (c) Status of police training manual and police training. It was noted that Atty. David Pels is in the process of being certified as a trainer.
- (d) Eastern Connecticut prosecutor
- (e) Number of prosecutions by town and variations in number of case initiations by prosecutor.
- (f) Follow-up from March meeting with Kevin Kane on issues he agreed to examine further: (i) prosecutor supervision, (ii) new prosecutor training, and (iii) referral of G.A. housing cases to the housing prosecutor.

(5) LEGISLATIVE REPORT

(a) Eviction: All eviction bills died. It was reported that Bridgeport is looking at permitting marshals who carry out evictions to bring the possessions of the tenant directly to the city's storage facility. This could make it unnecessary for the city to provide a truck to pick up the goods at the site of the eviction.

(b) Vacant buildings: The General Assembly approved S.B. 951 (Public Act 09-144) (not yet signed by the Governor). The bill requires lenders who take title to property that is vacant at the time of foreclosure, or that becomes vacant within 120 days after the end of the foreclosure, to register the name and contact information for the owner (and for the property manager, if there is one) with the town or with a bank title registry service known as MERS. The bill allows towns to use this contact information to serve notices on such lenders if they fail to comply with the town's anti-bligh and building maintenance ordinances.

(c) Foreclosure: The General Assembly approved S.B. 948 (P.A. 09-209) (not yet signed by the Governor), which expands the Foreclosure Mediation Program and which makes it easier for homeowners to receive financial assistance from CHFA's Emergency Mortgage Assistance Program (EMAP).

(d) Assessment appeals: The General Assembly approved H.B. 6041 (P.A. 09-196) (not yet signed by the Governor), which makes changes in the law concerning property tax assessments and appeals.

(e) Federal Protection of Tenants at Foreclosure Act of 2009: This new federal law took effect May 20, 2009. It prohibits the entity taking title after a foreclosure from forcing the tenants living in the property to vacate, without first giving at least 90 days' notice to vacate. If the tenant has a lease that extends beyond 90 days, then the tenant can stay until the end of the lease, unless the new owner intends to move into the unit as his or her own primary residence. For Section 8 tenants, the law also requires the new owner to honor the Section 8 contract until it expires. This federal law sunsets on December 31, 2012. A copy of the statute is attached to these minutes.

(6) OTHER BUSINESS

(a) Security Deposit Guarantee Program: Under existing Connecticut law, a landlord's refusal to accept a security deposit guarantee from the state's Security Deposit Guarantee Program is a form of source-of-income discrimination that violates the state Fair Housing Act. Dick Tenenbaum reported on the recent Superior Court decision in Arnold v. Forvil (Bridgeport Housing Court, Docket #H-BR-1007639, June 2, 2009), in which the plaintiff was awarded damages of \$57,688 for violating this law.

(7) ADJOURNMENT

The meeting was adjourned at 3:45 pm.

Respectfully submitted,

Raphael Podolsky, Chairperson

Public Law 111-22, Effective Date May 20, 2009
TITLE VII--PROTECTING TENANTS AT FORECLOSURE ACT
SEC. 701. SHORT TITLE.

This title may be cited as the `Protecting Tenants at Foreclosure Act of 2009'.

SEC. 702. EFFECT OF FORECLOSURE ON PREEXISTING TENANCY.

(a) In General- In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to--

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure--

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) Bona Fide Lease or Tenancy- For purposes of this section, a lease or tenancy shall be considered bona fide only if--

(1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; and

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy.

(c) Definition- For purposes of this section, the term `federally-related mortgage loan' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended--

(1) by inserting before the semicolon in subparagraph (C) the following: `and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner--

`(i) will occupy the unit as a primary residence; and

`(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.'; and

(2) by inserting at the end of subparagraph (F) the following: `In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.'.

SEC. 704. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.