



State of Illinois
Circuit Court of Cook County
Chancery Division

Dorothy Kirie Kinnaird
Presiding Judge

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September 14, 2010

To: The President and Members of the Cook County Board of Commissioners

From: Presiding Judge Dorothy Kirie Kinnaird, Chancery Division *DKK*

Re: Mortgage Foreclosure Mediation Program

I am pleased to give you this third update on the Circuit Court of Cook County's Mortgage Foreclosure Mediation Program (Program). Below you will find information on the housing counseling and attorney appointments, referrals to mediation and mediation sessions, and expenditures to date. I have also enclosed five separate documents: 1) "The Mortgage Foreclosure Explosion: One Court's Response," which explains the development and expansion of the Mortgage Foreclosure/Mechanics Lien Section of the Circuit Court of Cook County; 2) a flow chart outlining the basic framework of the Mortgage Foreclosure Mediation Program; 3) a July 2010 map from the Woodstock Institute, showing the six-county residential foreclosure filings from January 1, 2010 to June 30, 2010; 4) the foreclosure case pending statistics and graphs which we update on a monthly basis; and 5) a sample postcard that will be mailed to defendants whose foreclosures were filed in 2010.

Housing Counseling and Attorney Appointments

Since the launch of the Program in early April, the hotline operated by the Illinois Housing Development Authority (IHDA) has received 11,531 calls (from April 12, 2010 through August 31, 2010). There were 717 calls in April; 1,477 calls in May; 3,093 calls in June; 2,637 calls in July; and 3,607 calls in August. Since April 26, 2010, the on-site housing counselors and attorneys have met with nearly 2,800 people who made appointments through IHDA's hotline or the Court's on-line appointment request form. Approximately 2,500, or 88%, of those individuals have received further off-site housing counseling to assist with follow-up on loan modification applications that have been submitted to lenders, general credit counseling for debt management, and/or alternative housing assistance, among other help that the housing counselors provide.

In addition to the appointments through the IHDA hotline, the Chicago Legal Clinic (CLC) attorneys are providing legal assistance on a walk-in basis at the Chancery Division Advice Desk

(Room 1303 in the Richard J. Daley Center) and on the 28th Floor of the Daley Center (where mortgage foreclosure cases are heard). The Chancery Division Advice Desk has seen a substantial increase in the individuals seeking assistance. The Advice Desk now receives an average of 61 people per day seeking assistance in mortgage foreclosure cases. Beginning on June 11, 2010, one of the six CLC attorneys has been stationed on the 28th floor of the Daley Center from 8:30 A.M. until 4:30 P.M. each day to provide legal assistance and guidance to self-represented litigants before and after they appear for court in their mortgage foreclosure cases. Since June 11, 2010, the attorneys on the 28th Floor of the Daley Center have assisted 2,084 people who request help when they are there for a court hearing.

Approximately half of the individuals meeting with the CLC attorneys request mediation and are completing motions for referral to mediation. Approximately 4% (112) of all individuals meeting with the attorneys may have a defense to the foreclosure proceeding and request a referral and appointment of an Access to Justice lawyer who may take the case on a pro bono representation. These attorneys are provided by the Chicago Volunteer Legal Services (CVLS).

The internet appointment request form went live on the Program's website (www.cookcountyforeclosurehelp.org) on August 2, 2010. Since that time there have been over 150 appointment requests through the website. The appointment request form is available in English, Spanish, and Polish and is accessible 24 hours a day, seven days a week.

Referrals to Mediation and Mediation Sessions

As of August 31, 2010, there were 66,136 mortgage foreclosure cases pending in the Circuit Court of Cook County. Approximately 85% of those cases involve the types of properties for which the Mortgage Foreclosure Mediation Program is designed. Many of the pending cases have already gone to judgment and some have gone to sale. Under the Program, we are primarily attempting to help those defendants whose cases have not yet gone to judgment, with the main focus on those who have received the new Summons.

Defendants who have received assistance through the Program began coming to court on June 11, 2010, and the first mediation orders were entered by the mortgage foreclosure judges. The Center for Conflict Resolution (CCR) is providing mediation services at no cost to either side in the case. Each self-represented defendant is assigned a pro bono attorney from the Chicago Volunteer Legal Services (CVLS) to represent him/her during the mediation sessions.

When a judge enters an order referring a case to mediation, the judge sets a post-mediation status date for 12 weeks after the date of entry of the order. The parties are to complete the mediation process by that 12-week date and report back to the Court if the case settled. When an order is entered, CCR schedules two mediation sessions. The first mediation sessions began on July 13, 2010 and the sessions have continued throughout August and September for the orders that have been entered thus far.

As of September 10, 2010, there have been 412 mediation referral orders entered by the judges. There have also been 28 completed mediations. Of those completed, 13 borrowers retained their home, 5 borrowers voluntarily relinquished their property, 9 were unable to reach an agreement, and 1 reached a partial agreement.

Outreach Efforts

Two avenues for community outreach are underway: (1) media, website, and local organizations such as churches and schools; and (2) door-to-door outreach and variances thereon for the different areas of Cook County.

The first outreach effort is being handled by Carolyn Grisko & Associates. Their focus is an on-going effort to maintain a relationship with the print and televised media to keep awareness of the Program in the Chicago news system. The Program has received attention from the *Chicago Tribune*, the *Chicago Reporter*, *The New York Times*, and NBC Chicago news. Additionally, several radio stations will be airing a public service announcement informing listeners about the Program, and several local neighborhood papers have run additional stories reminding people about the Program. A postcard is being mailed to homes in foreclosure and we are planning on running an advertising campaign on specific CTA and PACE rail and bus lines to inform riders.

The second outreach effort that is occurring is the door-to-door (or face-to-face) outreach. This component is being overseen by The Chicago Community Trust (CCT). CCT issued an RFP to over 400 organizations in mid-April for groups to submit proposals for outreach plans. By mid-June, CCT's selection process was complete and ten agencies were selected to provide door-to-door outreach in all neighborhoods in Cook County. Door-to-door outreach began on July 1, 2010.

Expenditures

The following expenses have been incurred by the partner organizations through August 31, 2010. (See next page.)

Organization	Total Contract Amount	Expense Distributed	Explanation
The Chicago Bar Foundation	\$600,713.00	\$600,713.00	Funding went to: <ul style="list-style-type: none"> • Salaries for 6 CLC attorneys to provide no cost legal advice to defendants (\$262,286.98) • The Center for Conflict Resolution for Program staff to coordinate and manage scheduling, reporting, and volunteer mediators (\$99,675.52) • CVLS for one full time attorney to go to mediation sessions and to oversee volunteer pool of attorneys to represent defendants during mediation sessions, as well as to provide representation through Access to Justice (\$213,747.90) • Legal Assistance Foundation to provide foreclosure trainings to staff and volunteers for the Mediation Program (\$25,000.00)
Illinois Housing Development Authority	\$1,500,000.00	\$750,000.00	Funding went to: <ul style="list-style-type: none"> • Housing counselor salaries (\$600,000.00) • Hotline costs and expenses (\$94,194.00) • IHDA Overhead (\$55,806.00) (Includes postcards that are mailed with appointment information, initial program development, supplies, etc.)
The Chicago Community Trust	\$250,000	\$250,000.00	Funding went to: <ul style="list-style-type: none"> • 10 outreach groups for initial door-to-door outreach (\$225,000.00) • CCT for selection, training, and oversight of agencies (\$25,000.00)
Carolyn Grisko & Associates	\$160,000.00	\$49,167.55	Expenses include: <ul style="list-style-type: none"> • Continual outreach efforts to press, website design and maintenance, postcard design, coordination with churches, schools, community groups, CAPS leaders, etc. to notify residents about the Program

If you have any questions about the Program, please feel free to contact me at the above number or to contact Carina Segalini, the Court's Mortgage Foreclosure Case Management Coordinator at (312) 603-3291 or Carina.Segalini@cookcountyil.gov. Both Ms. Segalini and I will be available at the September 15, 2010 Board Meeting and Law Enforcement Committee meeting to answer any questions pertaining to the Program.

Thank you.

CMCS/s

Enclosures

cc: Chief Judge Timothy C. Evans

The Mortgage Foreclosure Explosion: One Court's Response

The Circuit Court of Cook County, Illinois Chancery Division

Chief Judge Timothy C. Evans

Presiding Judge Dorothy Kirie Kinnaird, Chancery Division

History of Mortgage Foreclosure Cases in the Chancery Division

Mortgage foreclosure cases in the Circuit Court of Cook County were traditionally heard in the General Chancery Section of the Chancery Division along with major civil cases involving complex issues. Mechanics lien cases were heard by three judges in the Mechanics Lien Section. Beginning in 1997, the number of mortgage foreclosure filings began to increase to such an extent that additional calendars (judges) needed to be added. The number of calendars in the General Chancery Section rose from 12 to 13 in 1998, to 14 in 1999, and to 16 in 2002. Significant increases in mortgage foreclosure filings occurred in the years 2001, 2002, 2006, 2007, and 2008. Total foreclosure filings for the year 2009 were 47,049.

<u>Year</u>	<u>Foreclosure Filings</u>
1996	8,101
1997	10,631
1998	11,937
1999	12,931
2000	12,705
2001	16,228
2002	17,450
2003	15,815
2004	15,632
2005	16,494
2006	22,248
2007	32,651
2008	43,876
2009	47,049
2010	52,505 – 55,351 (est.)

Mortgage Foreclosure Task Force

In 2002, a Mortgage Foreclosure Task Force of four Chancery Division judges was created to explore how best to address the burgeoning foreclosure caseload, so that lenders could get better access to the courts, homeowners in foreclosure could receive legal and financial assistance, and judges could better manage their dockets. Meeting regularly with the Presiding Judge, the Task Force judges reviewed all statutory and rule provisions relating to foreclosures and compared the courtroom procedures of the 16 judges hearing foreclosure cases. Meetings were then held with attorneys for lenders and defendants as the Task Force solicited input from the bar and developed standardized procedures for foreclosure cases. When the creation of default mortgage foreclosure calls was suggested, separate additional meetings were held with members of the defense bar and representatives of legal service agencies to address their concerns.

Creation of Default Mortgage Foreclosure Calls

It was estimated in the year 2002 that approximately 70% of all mortgage foreclosures cases go to judgment and sale by default. When only one side, the lender, is before the Court, it is particularly important that all documents be in order and be carefully examined. The Court must be confident that service was proper, that the defendant is not in the military, that the lender has a right to foreclose (i.e., owns the note and mortgage), that the loan is actually in default, that the amount of the alleged default is accurate, that the lender's attorneys fees and costs are reasonable, that all notices were properly given, and that the foreclosure sale was held according to law.

Default foreclosure cases were causing significant backlogs for the daily motion calls of the General Chancery Division judges. Attorneys and litigants in non-foreclosure cases were finding that they could not schedule their motions promptly because the calls were already filled with foreclosure cases. Attorneys for lenders were complaining that there were not enough spaces for their cases on the motion calls. Homeowners who appeared in court in response to a motion for judgment or a motion to approve sale were finding themselves in packed courtrooms listening to default prove-ups or to motions involving class actions, corporation and partnership break-ups, constitutional issues, local government issues, insurance coverage, administrative review, injunctions and other equitable remedies. The atmosphere was not one conducive for a homeowner to tell his or her story and for the judge to explain all of the options available for refinancing and legal representation.

In October of 2002, default foreclosure calls were created to alleviate these problems. Seven judges assigned to the First Municipal District from the Housing Court and the Traffic Court were dually assigned to the Chancery Division to hear default foreclosures in the afternoons in four courtrooms on one floor in the Richard J. Daley Center. When homeowners appeared in court, the judges were able to take the necessary time with them to explain their options. The cases would then be continued before the assigned General Chancery judge, usually for thirty days, to allow the homeowners time to consult with counsel or to attempt to reinstate, refinance, or work out a payment plan.

Access to Justice Program

Defending a foreclosure case involves expertise -- an understanding of a multitude of federal and state statutes, such as the Truth in Lending Act, and an understanding of a growing body of federal and state case law. There are issues of fraud, rescue fraud, and identity theft. Counsel must also have knowledge of available remedies, such as rescission and actions to quiet title. Foreclosure cases in which defenses are present are not cases in which homeowners should represent themselves.

It was for that reason that the Chancery Division and the Chicago Bar Association, with the assistance of the Chicago Bar Foundation, created the Access to Justice Program in July of 2003. Volunteer attorneys were recruited and trained in foreclosure and other issues so that they could represent litigants in Chancery Division cases who would otherwise be self-represented. When a judge identifies a case in which possible defenses to the foreclosure proceeding exist and in which the homeowner meets the financial guidelines, a referral order to the Access to Justice Program is entered. An Access to Justice attorney then reviews the case and returns in approximately 30 days to inform the judge if the Access to Justice Program will accept the case for representation.

In March of 2006, the Chancery Division partnered with Chicago Volunteer Legal Services (CVLS) to expand the Access to Justice Program. CVLS now runs the Access to Justice Program and provides the court with a larger pool of trained volunteer attorneys. Monthly reports are given to the Presiding Judge about the number of referrals, types of cases accepted, reasons for non-acceptance, and resolution rate.

Chancery Division Advice Desk

The Chancery Division Advice Desk, staffed by the Chicago Legal Clinic, opened in February of 2004. Self-represented litigants in all types of Chancery Division cases receive free assistance in filling out Appearances and simple court forms. Staff and volunteer attorneys also screen litigants to determine if they qualify for the appointment of counsel through the Access to Justice Program. Lists of bar association and legal service organizations are available, as is information on alternative financing options. In mortgage foreclosure surplus cases, Advice Desk attorneys prepare all necessary papers, such as notices of motion, petitions for turnover of surplus funds, affidavits of heirship, and small estate affidavits.

Creation of Mortgage Foreclosure/Mechanics Lien Section

In February of 2005, three of the judges hearing the default foreclosure calls were transferred into the Chancery Division, mortgage foreclosure cases were transferred out of the General Chancery Section, and the Mortgage Foreclosure/Mechanics Lien Section (MF/ML Section) was created. One-fourth of all foreclosure cases were randomly assigned to the three mechanics lien judges, Calendars 52-54, and each of the three new judges, Calendars 55-57, received one-fourth of all foreclosure cases. Default foreclosure calls were set up for each calendar as well as regular motion calls. In May of 2006, an additional calendar, Calendar 58, was added.

Mortgage foreclosure cases are now heard on the 28th Floor of the Richard J. Daley Center where the judges hearing foreclosure cases are chambered. The judges of the MF/ML Section have a common Standing Order and require courtesy copies in advance for both default and contested

matters. Throughout the year, a large group of local law students in cooperation with area law schools, work in the MF/ML Section reviewing the courtesy copies in default foreclosure cases and doing legal research. The judges in the MF/ML Section have established an internal “Lunch and Learn” program to discuss changes in the law and current issues involving commercial and residential foreclosures.

Chancery Division Mediation Rule

A mediation rule applicable to all Chancery Division cases, including mortgage foreclosure cases, became effective in January of 2007. In situations where litigants cannot afford to pay for the services of a Court-appointed mediator, mediators can be appointed from the Center for Conflict Resolution (CCR). CCR mediators have been serving the Circuit Court of Cook County for more than two decades. Mediations can be conducted in English, Spanish, and other languages as needed. Mediations through CCR are provided at no cost to the litigants.

Expansion of Mortgage Foreclosure/Mechanics Lien Section

In response to the staggering increase in mortgage foreclosure filings beginning in 2006, the Mortgage Foreclosure/Mechanics Lien Section was expanded in 2007. Three additional judges were assigned to the Section in the Spring of 2007, and a new calendar, Calendar 59, was added in July of 2007. Four additional judges were assigned to the Section in September of 2008, and four new calendars, Calendars 60-63 were added on October 20, 2008. On November 9, 2009, an additional calendar, Calendar 64, was added comprised of the mortgage foreclosures from Calendars 52 through 54. There are currently 14 judges assigned full time to the MF/ML Section. Thirteen of the judges are Calendar Judges (three hearing mechanics lien cases and ten hearing mortgage foreclosure cases), and one of the judges is a Back-Up Judge. The Back-Up Judge hears certain default foreclosure calls and contested motions for the Calendar Judges and covers the calls of the Calendar Judges when necessary.

Mortgage Foreclosure Mediation Program

In September of 2008, the Presiding Judge of the Chancery Division commissioned a study by the Center for Conflict Resolution of mortgage foreclosure mediation programs throughout the United States. Based upon that study, the Chief Judge of the Circuit Court applied to the Cook County Board in November of 2008 for funding of a Mortgage Foreclosure Mediation Program. Such funding was not approved.

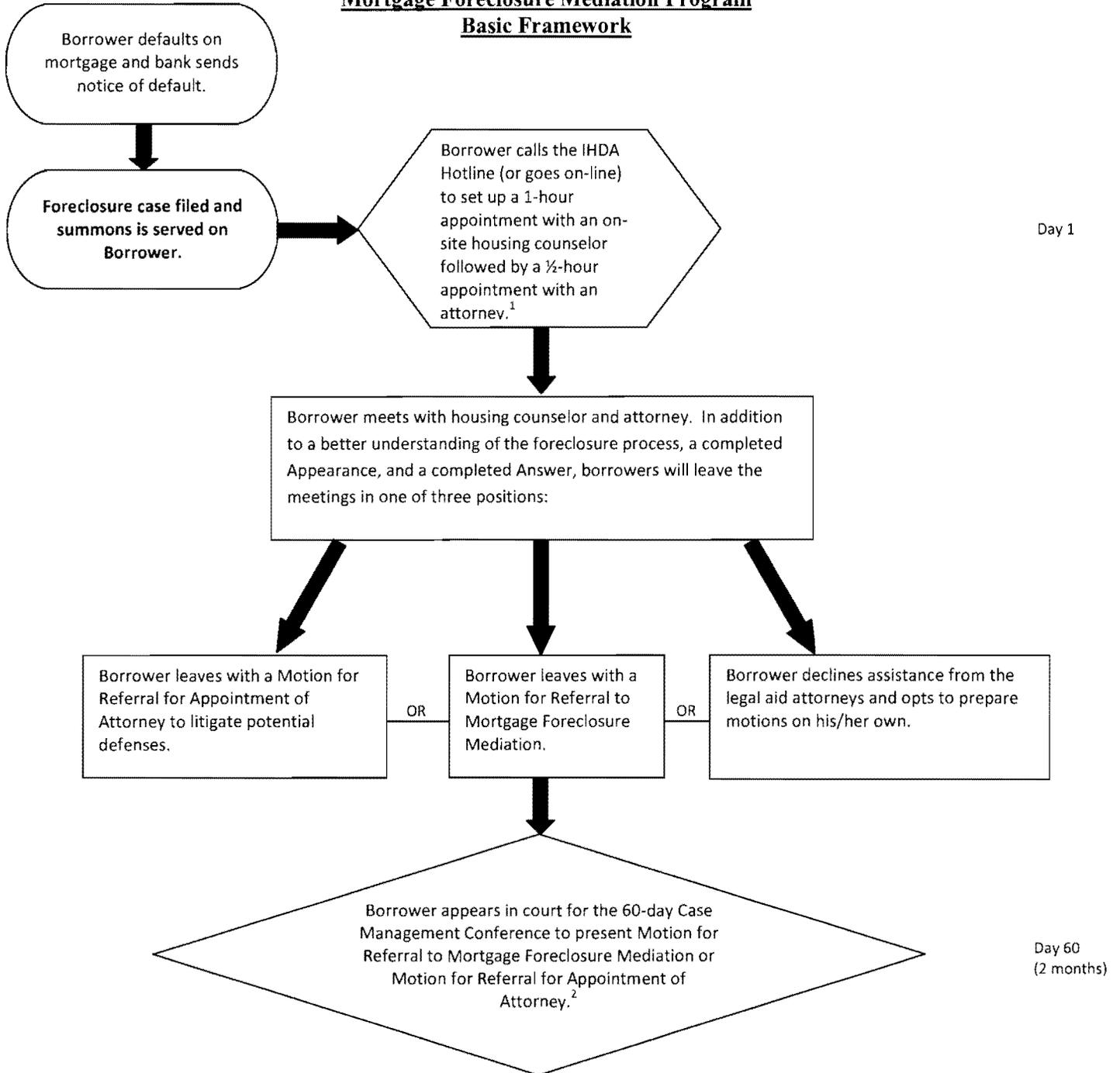
Despite the lack of funding, the Chancery Division continued throughout 2009 to monitor mortgage foreclosure mediation programs throughout the United States. In July of 2009, the Presiding Judge of the Chancery Division established a Mortgage Foreclosure Case Management Advisory Committee of leaders in the mortgage foreclosure field. These leaders included representatives from the Circuit Court, local government agencies, plaintiffs’ bar (large firms, small firms, commercial firms, and lenders), defendants’ bar (including legal service agencies), the private bar, selling officers, and housing counseling agencies. The purpose of the Advisory Committee was to advise the Court regarding issues relating to: long- and short-range planning regarding the Court resources needed for mortgage foreclosure cases; the new case management

system that went into effect on September 1, 2009; assignment of commercial mortgage foreclosure cases; judicial sales procedures; notification of borrowers in foreclosure of their various options and the services available to them, with a special emphasis on disabled/mentally challenged, elderly, and non-English speaking defendants; expansion of mediation to mortgage foreclosure cases, including housing counseling services; and case scheduling issues and coordination with the U.S. District Court.

The Mediation and Housing Counseling Subcommittee of the Advisory Committee has worked with the Presiding Judge of the Chancery Division to develop an expanded Mortgage Foreclosure Mediation Program, based on Local Rule 21, Chancery Court-Annexed Mediation, to assist owners who are occupants of one-to-four family residential properties and condominium units. The Program has the following components: (1) legal aid and mediation; (2) housing counseling; and (3) community outreach. The Legal Aid and Mediation Component offers pro bono legal aid assistance to homeowners on-site at the courthouse and provides mediation services for the Program. The housing counseling component provides on-site and off-site housing counseling services by HUD-certified agencies. The community outreach component is designed to inform the communities throughout Cook County about the Program through door-to-door campaigns, radio, print, CTA/PACE, and neighborhood collaborations. Individuals who qualify can access Program resources by calling a toll-free number on the summons or by requesting an appointment on-line. In November of 2009, the Board approved funding for such a Mortgage Foreclosure Mediation Program. The Program was launched on April 12, 2010, with the use of the new Mortgage Foreclosure Summons.

In order to participate in the Program, homeowners must be residents of Cook County, have received a foreclosure summons from the Circuit Court of Cook County, and live in the building in foreclosure – which may be a single-family home, single-family condominium, or apartment building with four or fewer units. The Program is designed to require a 60-day Initial Case Management Conference for all residential properties. The revised Mortgage Foreclosure Summons includes a Notice to Homeowners about the Mortgage Foreclosure Mediation Program. In addition to serving the revised Mortgage Foreclosure Summons, Plaintiffs' counsel is required under the Program to serve a revised Notice of Initial Case Management Conference. Homeowners who have received a summons and want to participate, can schedule an appointment with a housing counselor, followed by a meeting with an attorney, by calling the toll-free number on the summons (1-877-895-2444) or requesting an appointment through the on-line form at www.cookcountyforeclosurehelp.org.

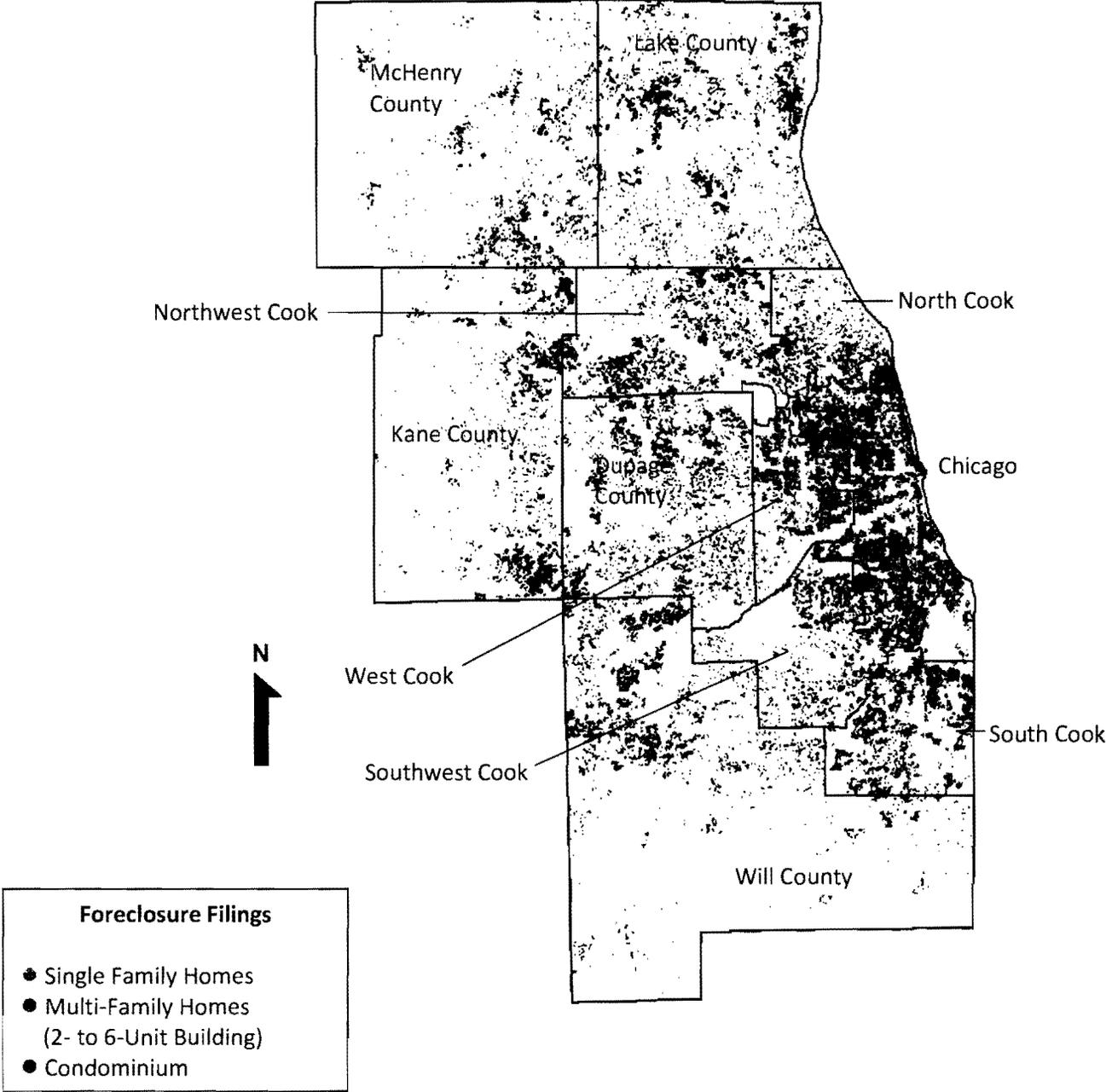
Circuit Court of Cook County
Mortgage Foreclosure Mediation Program
Basic Framework



¹ On-site housing counselors and attorneys are located on the 14th Floor of 69 W. Washington Street, and 1303 Richard J. Daley Center. When an appointment is scheduled through the IHDA Hotline or through the on-line form, individuals are directed to the proper location for their appointment. Any additional housing counseling that a client may need is done off-site at a facility located near the client's home.

² Three things can happen at the Case Management Conference: (1) the court strikes the case off the call until Plaintiff (the Bank) is ready to proceed with the foreclosure; (2) the court refers the case to mediation by entering a Mortgage Foreclosure Mediation Referral Order; or (3) the court appoints an attorney through the Access to Justice Program. If a case is referred to mediation, a 12-week Post Mediation Status date is given. During that 12-week period, a minimum of two mediation are scheduled where all parties are required to be present.

**SIX-COUNTY RESIDENTIAL FORECLOSURE FILINGS
BY PROPERTY TYPE
January 1, 2010 – June 30, 2010**



FORECLOSURE CASES PENDING/FILINGS AT END OF CALENDAR QUARTERS 2006-2010
Chancery Division, Circuit Court of Cook County

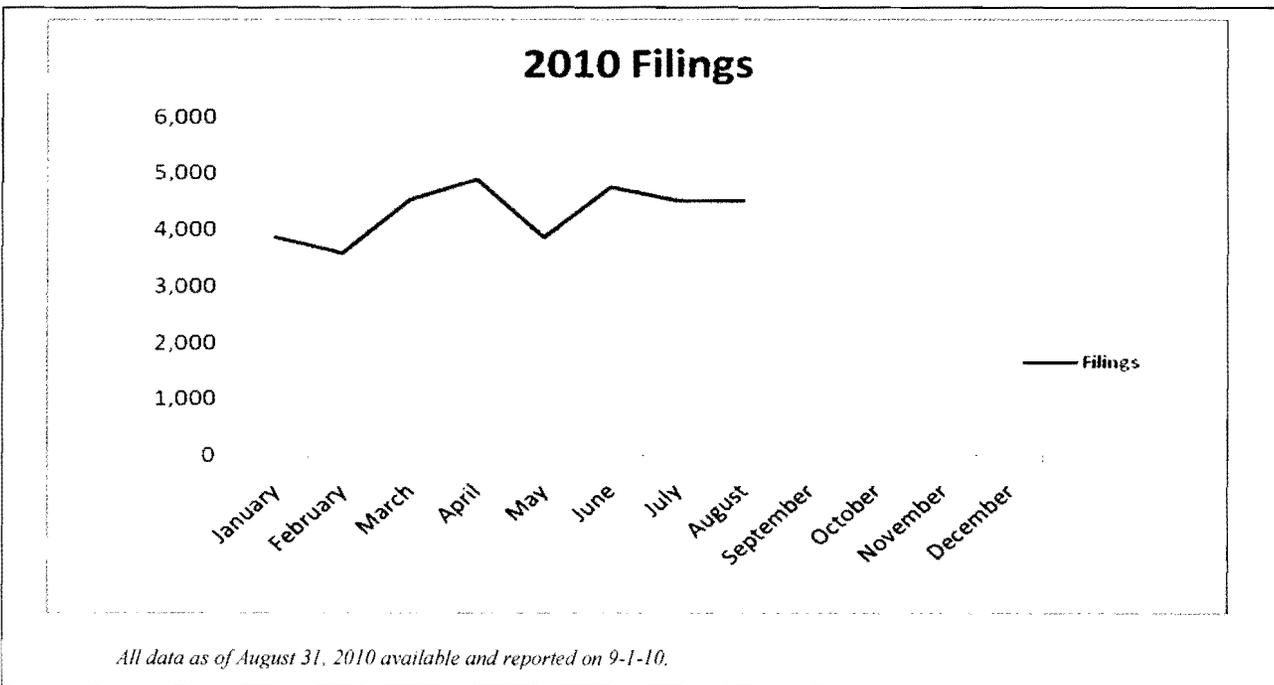
There have been 34,510 mortgage foreclosure cases filed during the first eight months of 2010. The range of third and fourth quarter filings for 2010 is estimated based on the average of known months and the extension of the third and fourth quarters with an historic adjustment for quarterly trends established over preceding years. As of August 31, 2010, there are 66,136 mortgage foreclosure cases currently pending.

As a result, the anticipated filings in the second half of 2010 may be within the range of 27,029 to 29,875. This would produce a year end, total estimated range for filings of between 52,505 and 55,351. As with previous attempts to estimate filings, it is appropriate to note that many external factors (social, economic, political, legislative, judicial, *et cetera*) may significantly impact the actual number of filings.

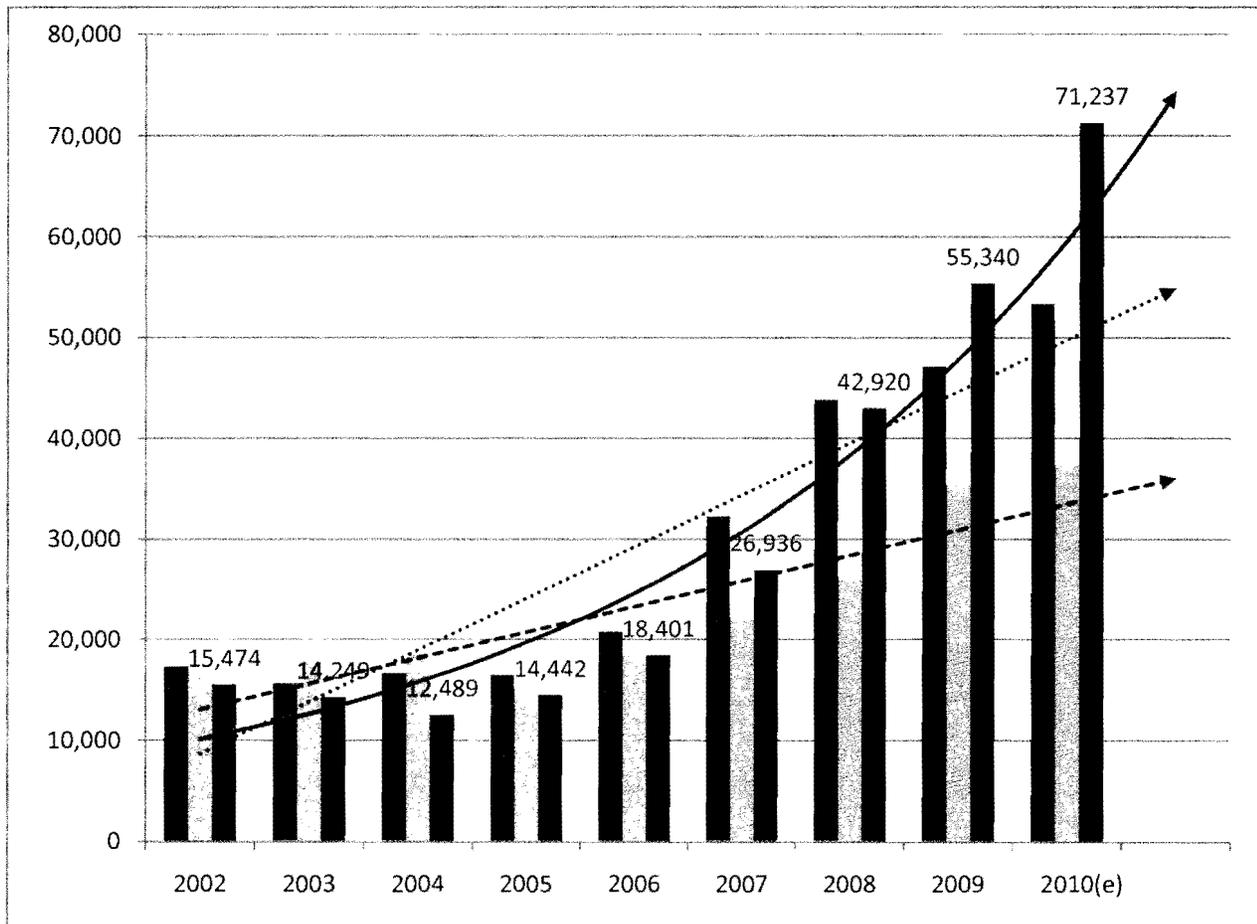
The table to the right displays the number of cases pending and the total filings for each quarter from 2006 through 2010. Blue italics indicate that values for the quarter have been estimated. The number of pending cases may also be significantly effected by the introduction of the MF Mediation Program and other factors effecting the number dispositions.

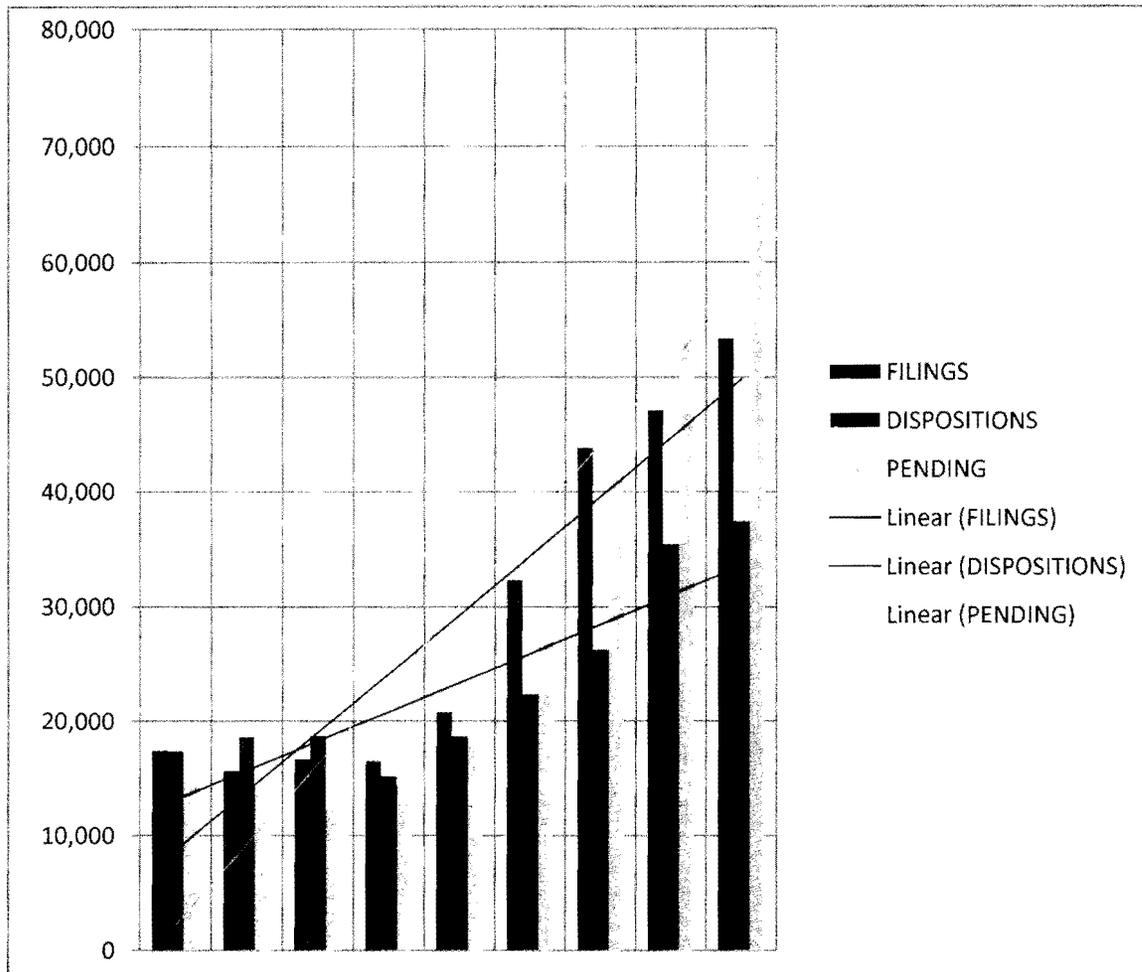
<u>QUARTER</u>	<u>CASES PENDING</u>	<u>FILINGS</u>
Q1 - 06	16,031	4,829
Q2 - 06	13,198	4,510
Q3 - 06	12,539	5,434
Q4 - 06	17,774	5,988
Q1 - 07	20,389	7,496
Q2 - 07	18,611	6,635
Q3 - 07	25,511	8,323
Q4 - 07	26,936	9,815
Q1 - 08	32,044	10,833
Q2 - 08	35,570	10,367
Q3 - 08	37,627	11,382
Q4 - 08	42,920	11,191
Q1 - 09	45,331	13,296
Q2 - 09	43,136	5,647
Q3 - 09	46,231	14,102
Q4 - 09	55,340	14,004
Q1 - 10	60,766	11,979
Q2 - 10	64,211	13,497
Q3 - 10 <i>(e)</i>	66,787	13,747
Q4 - 10 <i>(e)</i>	71,237	14,105

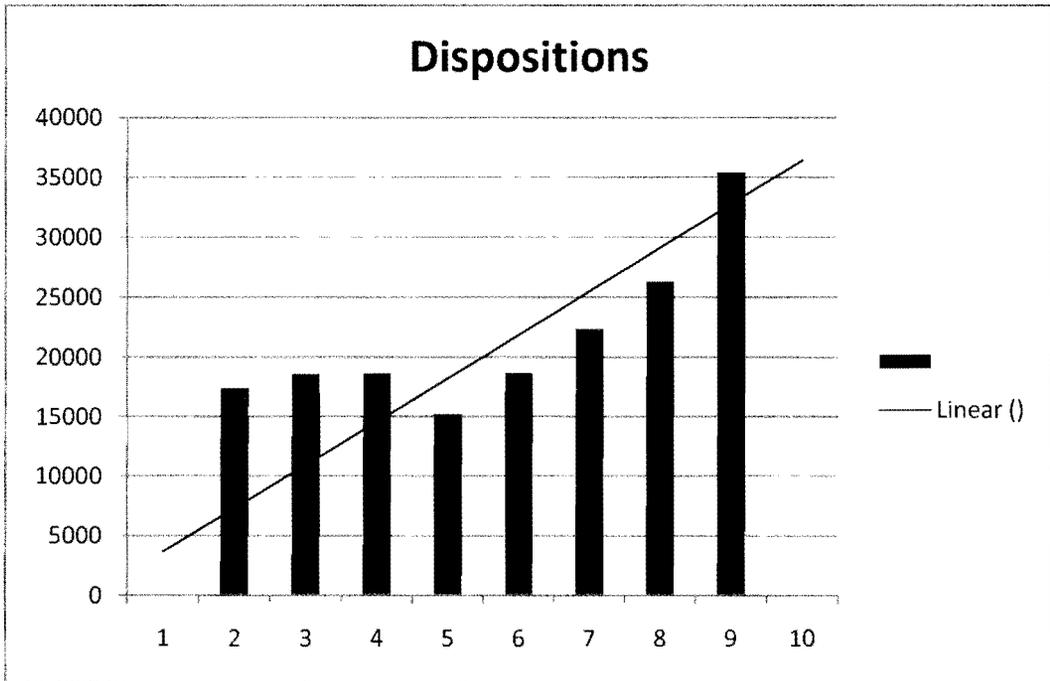
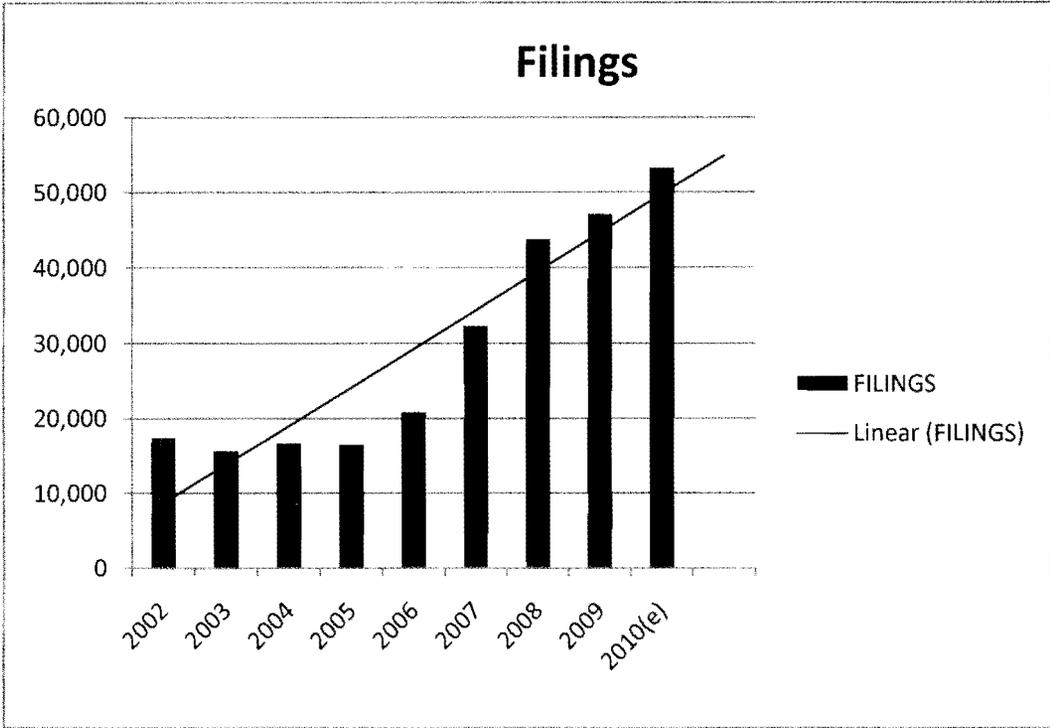
The chart below displays the number of actual filings during 2010 by month.



YEAR	FILINGS	DISPOSITIONS	PENDING
2002	17,382	17,377	15,474
2003	15,616	18,567	14,249
2004	16,637	18,647	12,489
2005	16,497	15,152	14,442
2006	20,761	18,635	18,401
2007	32,269	22,293	26,936
2008	43,773	26,251	42,920
2009	47,049	35,410	55,340
2010(e)	53,328	37,431	71,237







2010 Mortgage Foreclosure Filings
 Circuit Court of Cook County
 Chancery Division

<u>Month</u>	<u>Filings</u>	<u>Qtrly Filings</u>
January	3,859	
February	3,578	
March	4,542	11,979
April	4,879	
May	3,861	
June	4,757	13,497
July	4,512	
August	4,522	
September(e)	4,713	13,747
October		
November		
December(e)		14,105
2010 annual est		53,328

