

**FIRST JUDICIAL DISTRICT OF PHILADELPHIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

JOINT GENERAL COURT REGULATION No. 2008-01
Residential Mortgage Foreclosure Diversion Pilot Program

The Court takes judicial notice that in 1983 and 2004, the Philadelphia Court of Common Pleas was called upon to issue stop-gap relief to a large number of residential homeowners who were facing the loss of their homes due to their inability to pay their mortgages. Relief was granted in the form of a temporary stay and postponements in the Sheriff Sale of foreclosed residential properties.

Mortgage Foreclosure actions recently filed in the Court of Common Pleas, as well as reliable data, establish that a mortgage foreclosure crisis, caused in part by “subprime” and “predatory lending” practices as well as rising interest rates, unemployment and underemployment, have negatively impacted a substantial number of homeowners causing an increasing number of residential mortgage foreclosures actions which are being filed and will be filed in the Court of Common Pleas requiring the expenditure of substantial judicial resources.

Pennsylvania Rules of Civil Procedures authorize the Court to implement case management programs designed to assist the Court and the litigants in the simplification of the issues involved, and to address such other matters which may aid in the timely and efficient disposition of the action. The within General Court Regulation adopts a *Residential Mortgage Foreclosure Diversion Pilot Program* which is designed to provide early Court intervention in residential owner occupied mortgage foreclosure cases which will assure timely determination of eligibility under various federal, state and local programs established to facilitate loan work-out and other solutions to permit residential homeowners, where possible, to retain their properties and permit lenders to move forward to the Sheriff Sale of the properties upon conclusion of the process established pursuant to this General Court Regulation.

1. Cases Subject to Residential Mortgage Foreclosure Diversion Pilot Program.

(a) All Mortgage Foreclosure cases involving owner-occupied residential properties which are subject to execution to enforce a residential mortgage must be scheduled for a Conciliation Conference, as provided in this General Court Regulation, before a real property can be sold at Sheriff Sale,. The term “residential premises” means real property located within the City and County of Philadelphia containing not more than four residential units and shall include a residential condominium unit or a residential co-op unit, occupied by an owner as the owner’s principal residence.

(b) Cases involving premises which are not owner occupied, which are not residential, or which are not exposed to judicial sale to enforce a residential mortgage are not subject to the Conciliation Conference and may be sold by the Sheriff of Philadelphia as scheduled and advertised unless the sales are otherwise individually stayed or postponed.

2. Conciliation Conference and Sheriff Sale. Owner-occupied residential properties which are subject to execution to enforce a residential mortgage cannot proceed to Sheriff

Sale unless a conciliation conference is held as provided in this General Court Regulation.

3. **Scheduling of the Conciliation Conference.** The Conciliation Conference shall be scheduled as follows:

(a) **Cases on the April 2008 and May 2008 Mortgage Foreclosure Sheriff Sale List.**

The sale of all *owner occupied residential premises* exposed to judicial sale on April 1, 2008 to enforce a residential mortgage whose sale was postponed by the Sheriff of Philadelphia, as well as the sale of all *owner occupied residential premises* which are scheduled to be exposed to judicial sale to enforce a residential mortgage at the Sheriff Sale on May 6, 2008 are postponed until the Sheriff Sale scheduled for July 1, 2008 so that the Conciliation Conference required by this General Court Regulation can be held.

The Court will issue orders designed to identify owner-occupied residential properties, subject to execution to enforce a residential mortgage, which were listed for Sheriff Sale in April 2008 and May 2008 which are to be postponed to a specific date pending the scheduling of a Conciliation Conference and those cases which can proceed to Sheriff Sale on May 6, 2008.

When the owner-occupied residential properties subject to execution to enforce a residential mortgage have been identified, a case specific Case Management Order will be issued, scheduling a Conciliation Conference, as provided in this Regulation.

(b) **Cases Filed but not yet scheduled for Sheriff Sale.** The Court will issue orders designed to identify owner-occupied residential properties, subject to execution to enforce a residential mortgage.

When the owner-occupied residential properties subject to execution to enforce a residential mortgage have been identified, a case specific Case Management Order will be issued, scheduling a Conciliation Conference, as provided in this Regulation.

(c) **New Mortgage Foreclosure cases filed on or after July 7, 2008.** Any Mortgage Foreclosure Case commenced on or after July 7, 2008 which involves owner-occupied residential properties subject to execution to enforce a residential mortgage must be identified as Case Type “**3D – Mortgage Foreclosure – Owner Occupied Residential Premises**” on the Civil Cover Sheet. A Case Management Order will be administratively issued and provided to the Plaintiff upon the filing of the Mortgage Foreclosure action which must be served on the Defendant(s) as provided in Section 5. below.

4. **Case Management Order.** The Case Management Order shall schedule a conference within thirty (30) to forty-five (45) days after the filing of the Complaint for cases subject to Section 3.(c), and as soon as practicable for cases subject to Section 3. (a) and (b). As applicable, the Case Management Order shall, *inter alia*:

- a. schedule a Conciliation Conference for a specific date, place and time;

- b. require the attendance of the Defendant and the Plaintiff-Lender's Servicer (who may appear telephonically);
 - c. require the Defendant to call immediately upon receipt of the Case Management Order the **SAVE YOUR HOME PHILLY HOTLINE** at (215) 334-HOME and the Defendant-homeowner will be directed to a housing counseling agency;
 - d. require the Defendant to cooperate with the housing counseling agency, provide financial and employment information and complete loan resolution proposals and applications, as appropriate;
 - e. require the exchange of the information provided as required by subsection 4. d. to the Plaintiff – Lender representative;
 - f. authorize the Plaintiff to send the ten (10) day notice required by Pa.R. C. P. 237.1, if service is effectuated as permitted under the Civil Procedural Rules, but delay the request for the entry of a judgment by default until after the date of the Conciliation Conference; and
 - g. provide such other terms as may be necessary and appropriate.
5. **Service of the Case Management Order.** The Court shall serve the Case Management Order on all parties for cases subject to Section 3. (a) and (b). The Plaintiff shall serve the Case Management Order together with the Complaint or other initial process for cases subject to Section 3. (c).
6. **Conciliation Conference.**
- a. **Presiding Officer:** As appropriate, the Conciliation Conference shall be conducted by a Civil Case Manager or other person designated by the Court, a *Judge Pro Temp* who possesses experience in the subject matter, or a judge of the Court of Common Pleas.
 - b. **Issues to be Addressed:** The following issues shall be addressed at the Conciliation Conference:
 1. whether the Defendant is represented and if not represented, whether volunteer counsel may be available and appointed;
 2. whether Defendant(s) met with a Housing Counseling Agency, as required;
 3. whether the Housing Counseling Agency has prepared an assessment or report providing available loan work-out for the defendant;
 4. Defendant's income and expense information;
 5. Defendant's employment status;

6. Defendant's qualifications for any of the available work-out programs, upon review and application of guidelines established pursuant to this General Court Regulation;

7. assistance with preparation of work-out plans and required Court Orders, as appropriate;

8. the necessity of a subsequent Conciliation Conference;

9. whether the case may proceed to Sheriff Sale since there is no prospect of an amicable resolution; and

10. any other relevant issue.

- c. **Defendant's Failure to Attend The Conference:** If a Defendant fails to appear for the mandatory Conciliation Conference, the requirement for a Conciliation Conference imposed by this Regulation may be deemed satisfied upon verification that the required notice was sent, and if so, an order will be issued authorizing the Plaintiff to proceed with the action.
7. **Case Management Order:** At the conclusion of the Case Management Conference, an appropriate Order shall issue memorializing the result of the Conciliation Conference.
8. **Duration of the Residential Mortgage Foreclosure Diversion Pilot Program.** Unless otherwise ordered the **Residential Mortgage Foreclosure Diversion Pilot Program** shall terminate on December 31, 2009.

This General Court Regulation is promulgated in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. R. *51 and Pa.R.C.P. 212.3 and 239, and shall become effective immediately. As required by Pa.R.C.P. 239, the original regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations; and copies shall be submitted to the Supreme Court Civil Procedural Rules Committee, the Administrative Offices of Pennsylvania Courts, the Legislative Reference Bureau and the Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

BY THE COURT:

/s/ Honorable C. Darnell Jones, II

HONORABLE C. DARNELL JONES, II
President Judge, Court of Common Pleas

Date: April 16, 2008

BY THE COURT:

/s/ Honorable D. Webster Keogh

HONORABLE D. WEBSTER KEOGH,
Administrative Judge, Trial Division

Date: April 16, 2008