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Pro Bono Home Rescue Team

By: **Craig Sander**

For three months now the NHBA Pro Bono Program has been helping homeowners in New Hampshire prevent foreclosure through the creation of the Home Rescue Team, a project of the NHBA Pro Bono Program which links low-income homeowners facing foreclosure with attorney volunteers.

The project focuses on loan modifications and work outs. "While providing a vital service to low-income homeowners," said Virginia Martin, associate executive director of legal services, "the project also greatly expands opportunities for transactional attorneys to get involved in Pro Bono."

The Program's efforts to help families and individuals save their homes is made possible thanks to a \$15,000 grant from the NH Housing Finance Authority and support from IOLTA, cooperation and referrals from the NH Banking Department, and a May 5 legal education seminar which brought in more than 40 new volunteers willing to help stem the rising foreclosure tide.

To date, the Home Rescue Team initiative has referred 22 cases, and it started with one volunteer who had the vision to do more.

Three years ago, an elderly couple was persuaded by a mortgage broker to refinance their mortgage into a sub-prime loan. The majority of the money from the refinance went to pay the mortgage broker's fee, with some money left to pay a few bills.

In the agreement, Mary (not her real name) and her husband – who has since passed away – would pay \$688 per month for a 30-year period. However, within two years, the payments – which paid only on loan interest – were reset when the increasing principal triggered a payment-related clause in the agreement. In one loan adjustment, her monthly payment skyrocketed to \$1448 per month. She struggled for three months, paying what she could of the higher monthly payments, while her daughter sought help. Finally, she reached the NHBA Pro Bono Program.

Soon after, Ginny Martin contacted Karen McGinley, a shareholder and commercial real estate attorney at the law firm of Devine, Millimet & Branch in Manchester, who took the case and promptly notified the woman's mortgage holder – a bank that had collapsed in the financial crisis – that Mary had representation.

"As soon as I called the mortgage holder, they notified me that they were re-writing the mortgage," said McGinley.

The first re-write deal fell through due to poor timing and probate issues related to the death of the woman's husband. After dealing with a pool of officials at the bank, McGinley wrote a letter to Congressman Paul Hodes, who put her in contact with a single official at the mortgage company. This allowed McGinley to focus her attention on one bank official responsible for the mortgage.

"According to the mortgage company's records, Mary had money left over after paying each month's payment," said McGinley. "We took a closer look and found that there was some misclassified income."

After more investigating and negotiating with the mortgage company, McGinley structured a deal that would prevent foreclosure of her client's home. Rather than pay \$1448 per month, she would pay \$602 and her interest rate would drop to three percent for five years.

"Finishing that case was satisfying in a way that I don't often feel in my commercial work," said



McGinley. "I think we have an obligation to make time to do these things."

Doing More

The NHBA Pro Bono Program had already been handling foreclosure prevention cases, but in early 2009, several factors coalesced and the Home Rescue Team was born.

"Karen came to us wanting to do more. She wanted to know how we could respond to the [growing] need, saying that there were more attorneys that could be doing these cases," said Joceline Champagne, coordinator of the Pro Bono Program's Low-Income Taxpayer Project.

"I just wanted to find a way to contribute something after the financial meltdown. I thought that maybe I could get other attorneys involved," said McGinley. "I eventually got nine or ten attorneys to take on cases."

McGinley – now with a full roster of volunteers – met with NH Supreme Court Associate Justice James E. Duggan, John Tobin of NHLA, and Ginny Martin to discuss how the program would work. Once the structure was in place, Justice Duggan issued a letter to the NH Bar's Real Property Section, asking that they answer the call to service.

With volunteers signed on, the Pro Bono Program staff began taking calls, screening cases and issuing weekly Pro Bono Home Rescue Alerts, from which volunteers could choose cases.

Also helpful, said Martin, was the award of a \$15,000 grant from the NH Housing Finance Authority, which helped to fund a continuing legal education program which helps to guide new volunteers through the foreclosure prevention process.

The training session took place on May 5 and all attendees, in exchange for the low cost of the program, agreed to take on two Pro Bono foreclosure cases each. The seminar not only doubled the number of volunteers available to take foreclosure prevention cases, but also served to provide a means for new attorneys to participate in the Pro Bono Program.

The Clients

Joceline Champagne and Pro Bono Coordinator Carolann Wooding work together to produce the weekly Home Rescue Alert and also screen the clients facing impending foreclosure. She says that the clients they select "have not had their head in the sand" and have done everything they can to figure out the process on their own.

"Most of the mortgage modifications happening today are being done privately between the borrower and the lender," she said, "but inserting an attorney into the situation can really make a difference for someone that can't seem to get anywhere with a lender."

She says that the current climate may make it easier to negotiate with lenders. Recent federal legislation is providing incentives for lenders to consider loan modifications as an alternative to foreclosure. Also, since foreclosed homes aren't selling very well in the down market, a lender may be more likely to deal with a borrower, especially if the borrower has representation.

"There's a lot of negotiating and reaching compromises," she said. "An attorney knows many of the different options; options about which the client may not have known."

Champagne says these cases illustrate how valuable an attorney's knowledge can be to a struggling homeowner.

"[The borrower] just didn't understand the [original] transaction. She worried that if she didn't show enough income, then the bank would foreclose," McGinley said of her first foreclosure prevention case. "I think attorneys can provide some authority to the situation and can negotiate in a way that the borrower can't."

To learn more about the NHBA Pro Bono Program Home Rescue Team, contact Joceline Champagne or Carolann Wooding at 603-224-6942.



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