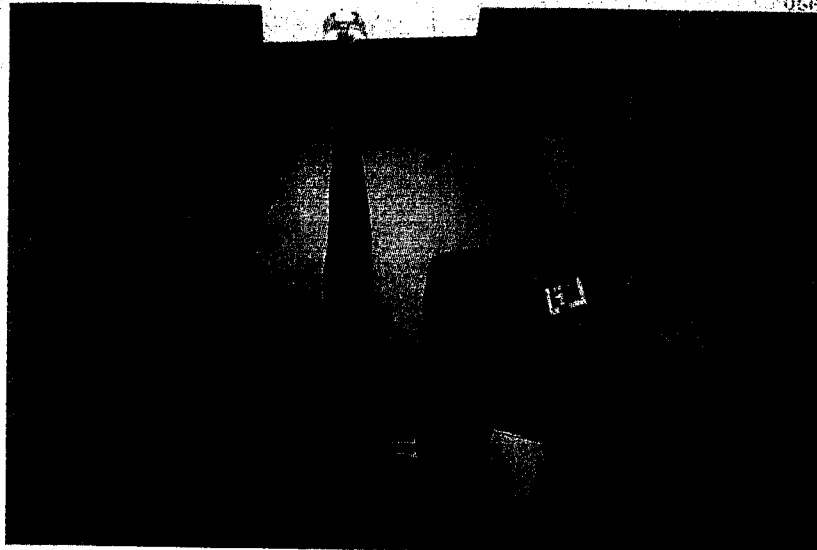


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NYLJ PHOTO/RICK KOPSTEIN

Chief Judge Judith S. Kaye speaks yesterday to the media about the foreclosure program as Chief Administrative Judge Ann Pfau looks on.

Court Taps Community Resources and Creates Foreclosure Program

BY MARK FASS

CHIEF JUDGE Judith S. Kaye responded yesterday to the dramatic rise in residential foreclosure filings throughout New York by announcing a new statewide program intended to educate homeowners and facilitate early negotiations and settlements.

The Residential Foreclosure Program will begin with a trial run this summer in Queens, the epicenter of the state's foreclosure crisis, and spread to the rest of the state's courts this fall. The key components of the plan will be notifying parties as soon as practicable of community resources, holding early conferences before a hearing officer to develop a settlement or case management plan and hiring dedicated, specialized court personnel.

"Like so many other problems that affect society, the courts end up dealing with the fallout" from foreclosures, the chief judge said at yesterday's news conference at the offices of Chief Administrative Judge Ann Pfau. "We are here this morning because we believe the court system can be part of the solution."

Chief Judge Kaye was joined by leaders of associations on all sides of the foreclosure process, including Michael P. Smith of the New York Bankers Association; Lynn Armentrout of the Lawyers Foreclosure

Intervention Network; and Michael Hickey of the Center for New York City Neighborhoods.

Although Manhattan has had relatively few foreclosures, the rest of the state has mirrored the nation-

38,807 Estimate foreclosures statewide in 2008

15,599 Foreclosures in 2005

al epidemic. Over the past three years, foreclosures have increased by roughly 150 percent throughout the state, to an estimated 38,807 in 2008 from 15,599 in 2005, according to statistics provided by the court.

The hardest hit regions include southeast Queens, in particular the area surrounding John F. Kennedy International Airport, where the annual foreclosures will have rocketed to an estimated 5,945 by the end of this year from 1,842 in 2005.

State courts have experienced numerous problems in processing the onslaught of foreclosure filings, chief among them long delays and high default rates. As Judge Pfau repeatedly noted yesterday, the state's 90 percent default rate in foreclosure cases calls into question the number

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Court Creates New Foreclosure Program

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of homeowners who may not know they are losing their houses.

The Residential Foreclosure Program will be a multi-pronged approach at attempting to better educate homeowners while also facilitating discussions and negotiations that can speed and ease the complex foreclosure process.

Homeowners facing foreclosure will first come into contact with the new changes when they receive two notices—one from the plaintiff, a second from the court—describing the early conference program and available community resources.

The nonprofit Center for New York City Neighborhoods will play a lead role in selecting the resources, or service providers, Judge Pfau said.

The center's director, Mr. Hickey, said providers will be chosen either at the center's discretion or via a

request-for-proposal process. The center already has working relationships with many community providers, he added.

"It's not like we're creating this system from scratch," Mr. Hickey said.

The court's notice also will include a "request for early conference" form, which represents a partial accommodation of Governor David Patterson's proposal that early settlement conferences be held before judges in all residential foreclosure proceedings.

Judge Pfau had testified at legislative hearings last month that it was unrealistic to expect that property owners who have fallen behind on their house payments could afford legal counsel (NYLJ, May 13).

Under the new program, only those who have sought counseling, on their own or from the court-provided resources, may schedule the early conferences.

"It's not the best use of court resources to be scheduling and calendaring conferences that will never take place," Judge Pfau said, noting the 90 percent default rate. "We think more meaningful conferences will take place when you have a defendant who is actually present and has had access to legal and financial counseling."

After the form is returned to the courts, a case manager assigned to the newly established conference part will contact the parties and schedule the conference. Overseen by either a judicial hearing officer or a referee, the conferences will allow the parties to settle the case or, in the alternative, develop a case management plan intended to streamline the proceedings, which at present can stretch out as long as a year and a half.

"Early resolution," Judge Pfau said, "is in everyone's interest."

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