

Program Overview

In July, 2015, the Metro Milwaukee Foreclosure Mediation Program anticipates celebrating six years of successful operations. Metro Milwaukee Mediation Services, Inc., (which administers these the program) resolves residential foreclosures by employing a mediation process that enhances communication between mortgagors and their lenders, in a structured confidential environment overseen by a neutral mediator, and accountable to the civil courts.

Through mediation, homeowners who have unsuccessfully sought to cure their mortgage loan default by working directly with their mortgage servicer, qualify for loan modifications under the national HAMP (Home Affordable Modification Program), or other modification programs, with the assistance of our specialized staff and professional mediators. Foreclosure mediation prevents avoidable foreclosures, and the otherwise resulting glut of empty and unsalable homes that devalues neighborhood property and creates a public safety hazard.

Program Funding History and Ongoing Public Need for Foreclosure Prevention Services

Initial program funding in 2009 came through grants from City of Milwaukee and *cy pres* funds distributed by the Wisconsin Department of Justice. All subsequent grant funding has come through the Wisconsin Department of Justice in the form of *cy pres* funds, first from the Countrywide settlement and subsequently the National Mortgage Settlement. Our current contract expires June 30, 2015 and Attorney General Schimel's administration has confirmed there are no additional foreclosure prevention funds available for our program. Consequently, we are left with a budget shortfall for 2015 operations.

The need for foreclosure mediation services in our community continues. This year new foreclosure filings are occurring at the rate of approximately 250 per month in Milwaukee County, based on our review of case information available in the Wisconsin Circuit Court Access website. In March and April of this year the foreclosure mediation program experienced a spike in mediation requests that exceeded levels during the same two months for the two prior years. Consequently, year to date mediation requests are up from last year.

A further illustration of the ongoing need for foreclosure prevention services is the Federal Housing Finance Agency's announcement on May 8, 2015 that it is extending the Home Affordable Modification Program (HAMP) through December 2016. That program was previously set to expire December 2015. This extension signals the fact there are still a significant number of homeowners who could benefit from a mortgage modification to make their monthly mortgage payments consistent and affordable.

Despite the availability of programs like HAMP, homeowners still struggle to navigate the loan modification review process. Often communication from the mortgage servicer to the homeowners is confusing, inconsistent, or met with skepticism. Through mediation, the professional mediators bring a neutral viewpoint and help minimize miscommunication and misunderstanding. Through use of a secure, online documents exchange portal, all parties to the mediation case are literally on the same page, looking at a record of all the financial documents submitted for the loan modification review, including dates and comments regarding any additional information or

clarification that is needed by the mortgage servicer. Beyond the mediation program's efforts to help keep people in their homes, the mediation program also works to connect homeowners to resources in the community including Legal Aid Society of Milwaukee, the Milwaukee Justice Center and the Marquette Volunteer Legal Clinics. Other resources include housing counseling agencies - Select Milwaukee, Green Path Debt Solutions and Housing Resources, Inc.

We are often the first organization a homeowner calls once they're served the Summons and Complaint of Foreclosure because our application is included in that package as required by Judicial Directive 09-14. When they call we are able to explain the foreclosure process and the general timeline, so they understand they're not facing immediate eviction, and that they should stay in their home. At the other end of spectrum, at the conclusion of mediation, if homeowners find themselves in a situation where they are not eligible for a loan modification that would enable them to retain their home, they walk away with the certainty that all options have been considered, and can turn their attention to formulating a plan to transition out of the property.

Program Results and Estimated Economic Impact

Over the course of our nearly 6 year history, the Metro Milwaukee Foreclosure Mediation Program (MMFMP) administered by Metro Milwaukee Mediation Services, Inc. (MMMS, Inc.), and its predecessor, the Milwaukee Foreclosure Mediation Program (MFMP) administered by Marquette University Law School, have helped more than 4,600 families with crucial foreclosure and referral information, and mediated approximately 1,500 residential foreclosure cases. **On average, 50% of all mediated cases resolve the foreclosure action with a loan modification, giving homeowners a fresh start and lenders a performing loan.** Since inception through March 2015, our program has helped 752 families stay in their homes. Of those families, 613 families were Milwaukee County residents. The vast majority of our case volume comes from Milwaukee County residents.

Cumulative Program Results

3rd Quarter 2009 through 1st Quarter 2015

	All Counties	Milwaukee County (subset of All Counties)
Program Applications Received	4500	3560
Mediated Cases	1500	1144
Retention Agreements	752	613

Each home retention is conservatively estimated to save stakeholders and communities an average of \$40,000, with some studies setting that number as high as \$79,443.¹ **Applying those figures to the 613 Milwaukee County retentions reflects a range of economic impact to stakeholders and the community from \$24,520,00.00 to \$48,698,559.00.**

When home retention is not a viable option, the program provides resources and facilitates transitional options so borrowers have a dignified exit and soft landing. **A survey of program participants, which included both lender's counsel and homeowners, found that 98% of program participants would recommend the program to others in foreclosure.**

¹ Joint Economic Committee. 2007. *Sheltering Neighborhoods from the Subprime Foreclosure Storm*. Washington, DC: Joint Economic Committee. Special Report, April. This study estimates a single foreclosure costs communities and stakeholders \$79,443, with the cost to local government, homeowners, and neighboring property owners comprising \$29,443 per completed foreclosure and the cost to mortgage servicers comprising \$50,000 per completed foreclosure.

Sustainability of Outcomes

A random sampling of cases with retention outcomes obtained through mediations reflects the majority of mediated retentions are sustainable outcomes for Milwaukee County residents. Our sample consisted of cases where the Milwaukee County homeowner secured a loan modification through the Metro Milwaukee Foreclosure Mediation Program sometime between the years of 2011 and 2014.

Through the Wisconsin Circuit Court Access website we checked each case in the sample to determine whether the file remained dismissed, was reopened, or a new case was filed for the same homeowner and property. We found that nearly all retention outcomes in the sample were sustainable beyond 6 months, and by averaging the number of sustained outcomes over the three-year sample, we found 75% of the outcomes were sustained to date.

It is important to note that mediated outcomes are based on loan servicing guidelines and options that are available to homeowners based on their specific financial circumstances. With improvements in mortgage servicing standards and the loan modification review process in recent years, we anticipate that loan modifications retained in recent years will continue to be even more sustainable than older modifications.

Taking Stock: How Mediation Programs Reduce Home Foreclosures

Foreclosure mediation programs serve as effective controls to help reduce improper foreclosures. This table documents how this program resolves some of the most common problems homeowners encounter when applying for loan modification programs.²

Servicer Difficulty	NCLC Mediation Reported Solution	Metro Milwaukee Foreclosure Mediation Program Solution
1. Lost documents ³	Rules/orders specify documents needed and time lines for exchanges	Exchange of all documents and messages are tracked by the program through mandatory use of the shared DMM Portal files
2. Failure to follow time frames for reviewing applications	Set time frames and penalties for failing to adhere to deadlines	Program rules establish set time frames and court is notified when the servicer’s review is pending

² http://www.nclc.org/images/pdf/foreclosure_mortgage/mediation/report-foreclosure-meditation.pdf

³ In survey after survey, housing counselors report that mortgage servicers lost loan modification application documents. Counselors must constantly resend the same documents, sometimes up to six times. Homeowners acting alone, without the help of experienced housing counselors, inevitably fare much worse. Servicers routinely delay application decisions, and then demand updates of financial information already sent because earlier documents are no longer current. This process repeats itself again and again. Variations of the behavior include demands for redundant and unnecessary paperwork from borrowers, such as documents not required under the rules of a particular loss mitigation program. The Government Accountability Office has noted that the documents runaround was a major reason for HAMP trial plan cancelations. After foreclosures have occurred, it is often impossible to untangle what happened to these thwarted applications. Rebuilding America ©2012 National Consumer Law Center www.nclc.org.

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3. Failure to comply with notice requirements	Servicer must document all decisions in accordance with mediation rules	Servicer is required to send all notices and communications through the mediation program
4. Inconsistent or invalid denial of loan modifications	Servicer must document basis for decisions, including calculations and borrower data used	After decision is rendered, there is a mediation conference to explore the basis of the decision and supply answers to homeowner's questions. Homeowner can appeal decision.
5. Ineffective reviews	Servicer complies with program rules or risks ability to foreclose and penalties	Mediation remains open until complete and effective review occurs, and court is notified that mediation is still open.
6. Foreclosing while reviewing application (dual track)	Foreclosure is barred while negotiations are active	Court is notified that review is open and servicers generally self-regulate and comply with the CFPB prohibition against dual tracking

Foreclosure mediation programs provide the structure and oversight to overcome the obstacles in the loan review process. And in cases where modifications cannot create a credible and sustainable resolution to a delinquent mortgage, more-expedient exits from homeownership, such as deeds-in-lieu of foreclosure or short sales, can help reduce transaction costs and minimize negative effects on communities.

In light of the information provided above, we respectfully request the Judiciary Committee members consider and pass our proposed resolution and request for funding to offset our 2015 budget shortfall.

Please direct any questions to Executive Director, Amy H. Koltz, at 414-939-8800 / amy@mediatemilwaukee.com, or former Executive Director and current Secretary of MMMS, Inc. Board of Directors, Debra H. Tuttle, at 414-939-8800 / debra@mediatemilwaukee.com.