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National Mortgage Settlement Analysis
By Marceline White

On November 19, the Office of Mortgage Settlement Oversight released its second report describing the progress that the five big banks that are part of the national mortgage settlement have made to implement the settlement reached between Ally, Bank of America, Citi, Chase, and Wells Fargo and 49 state attorneys general in Feb. 2012.[1]

The second report covers the period between March 1, 2012 and September 30, 2012 and includes an update on the amount and type of relief consumers have received, the implementation of new servicing standards, and a review of complaints submitted by individuals and housing professionals across the nation.

Number of Marylanders Helped

Between March and September 2012, 6.933 Maryland families were helped by the settlement. Relief averaged nearly $80,000 ($79,721) per family. Overall, Maryland families have received $552,707, 039 worth of relief in the first six months of the settlement, according to the figures from the banks. However, because the settlement doesn't provide a dollar-for-dollar credit for each type of relief, the total credit the banks will receive for this consumer relief may be smaller.

Unfortunately, the number of families helped still pales in relation to the number of families struggling to retain their homes. Between March and September 2012, 64,275 Maryland families received notice that their homes may be foreclosed upon.[2] In September 2012 alone, such notices surged to 24,809, the second-highest level since data collection began in 2008. This large number is because one servicer cleared a backlog of their notices.

The largest number of notices issued were in Prince George's County (6,263 notices), Baltimore County (3,150 notices), Baltimore City (3,042 notices), and Montgomery County (2,683 notices). In other words, the number of families helped by the settlement between March and September barely surpasses the number of families in September in Prince George's County alone who received notice that they might lose their homes.

While Maryland policy leaders know which counties are experiencing the greatest distress from the foreclosure crisis, the fact that the settlement does not require servicers to report by county or

[1] Continued Progress: A Report from the Monitor of the National Mortgage Settlement Office of Mortgage Settlement Oversight, November 19, 2012
[2] Notice of Intent to Foreclose in Maryland September 2012 Report Department of Labor, Licensing, and Regulation

zipcode where relief is being offered means that policymakers and advocates lack the information needed to determine whether the relief offered through the settlement is reaching the hardest hit areas.

Much more needs to be done at both the federal and state level to help working families save their homes.

Principal Reductions vs. Short Sales

In September, we noted in MCRC's assessment of the first progress report on the mortgage settlement in September that the number of families receiving short sales assistance dwarfed the number of families receiving principal reductions. Unfortunately, that continues to be the case. To date, the number of Maryland homeowners who have received short sales under the settlement is approximately 3.5 times the number who have received principal reductions. Nearly 35% of the Maryland families that have gotten relief under the mortgage settlement have received short sales, while only about 10% have received principal-reduction loan modifications. At the national level, the gap is even larger: nationally, less than 8% of the borrowers who have gotten relief have received principal-reduction loan modifications while more than 40% have been put through short sales.

In terms of total value, short sales comprise about 48% of all consumer relief in Maryland, while principal reductions make up approximately 15% of all consumer relief from the settlement.

Principal reductions are a critical and oft-overlooked factor to spur our national economy. At a 2011 meeting with President Obama, a number of leading economists suggested that the administration should introduce a plan to forgive the mortgage debt owed by the nearly 11 million homeowners who owe more than their properties are worth.[3] Several economists noted that many of the troubled loans will have to have their principal reduced before the housing market can effectively be stabilized.

Mortgage servicers' sluggish progress on principal-reduction loan modifications is particularly troubling because the settlement provides a number of incentives for servicers to implement this form of consumer relief. For example, the settlement requires 60% of each servicer's obligations to be met by first and second lien principal-reduction modifications, establishes a dollar-for-dollar credit for principal reductions, and provides an additional 25% credit for any first or second lien principal reductions that take place in the first year of the settlement. The fact that all of these incentives have failed to elicit strong responses from servicers is cause for real concern.

Servicers have also initiated trial loan modification offers that have been approved or are in progress that are counted separately in the report and therefore not included in the analysis above. However, it is noteworthy that Bank of America leads the five banks in trial modifications with more than 851 trials in progress in Maryland. Conversely, Wells Fargo, which owns more than 21% of all mortgages in Maryland, only has 159 trial loan modifications

[3] Goldfarb, Zachary A. Economists, Obama Administration at odds over role of mortgage debt in recovery, The Washington Post, November 22, 2012

underway. The fact that a number of principal reduction loan modifications are moving forward is a sign of some progress – but that progress remains slow and incremental at best.

The banks that are part of the settlement own some of the loans they service while they simply service -- collect payments and act as an intermediary – for other loans. Wells Fargo owns more of the Maryland mortgages (22 percent) that may go into foreclosure than any other bank. When a bank is the investor as well as the servicer of the loan, it has more freedom to decide whether or not to offer principal-reduction loan modifications. This suggests that Wells Fargo should be providing far more principal-reduction loan modifications than the other banks. Instead, it ranks third among the five banks in the settlement in this kind of relief.

Homeowners whose loans are owned by Fannie Mae or Freddie Mac as the owner of their loan are still unable to benefit from the mortgage settlement. Federal Housing Finance Agency (FHFA) Acting Director Edward DeMarco continues to thwart assistance for these homeowners by refusing to consider principal reductions for mortgages that FHFA holds. Nationally, FHFA owns 60% of mortgages. In Maryland, FHFA holds 15.7% of all loans (84,338).

DeMarco believes that principal reduction programs would attract strategic defaulters who don't really need the program. This would render the program ineffective, and in turn, counter his Congressional charge to limit taxpayer's losses.

Servicing Standards-Far To Go

The Monitor's progress report includes an analysis of complaints from individuals and professional mortgage counselors and attorneys related to problems encountered in the loan modification process, customer service issues, or problems in the foreclosure process. Problems included concerns around dual-tracking as well as problems consumers had getting responses from their single points of contact and ineffective service.

Here in Maryland, MCRC and other consumer advocates continue to hear regularly from homeowners in distress who have had terrible difficulties applying for loan modifications from the big banks. The frustrating efforts of Candace Grove to get Wells Fargo to modify her mortgage are a good example of the kind of problems consumers continue to encounters

The story of Candace Grove: A borrower stuck in Wells Fargo's loss mitigation machine

Since missing mortgage payments due to loss of income, I have attempted to obtain a modification on three occasions with Wells Fargo. They put me on three reduced payment schedules. I made every payment on time during these periods. However at the end of each period, Wells denied my modification request and then considered me much farther behind on the loan than I understood. I thought that by making the reduced payments I was meeting their requirements.

I then got approval from Wells to list the house under the short sale program. They sent their appraiser out and he valued the house at $200,000. According to my real estate agent, the price was too high. The house has been listed with a real estate brokerage for $200,000 since 2010 *and I have received no offers. My real estate agent tried to contact Wells Fargo a number of times to request a price reduction but Wells was nonresponsive.*

After the short sale approval period expired with no offers received, Wells Fargo proceeded with the foreclosure process. I opted in and requested a mediation hearing with Wells Fargo to discuss my options with regard to the pending foreclose on my home. I secured an attorney to represent me at the mediation. After meeting with the attorney, we decided to request that Wells consider me for another short sale and/or deed in lieu of foreclosure (DIL) and/or a waiver of deficiency judgment. Before the mediation, Wells Fargo sent me a transcript of my file.

In the transcript, I noticed that Wells had denied me for a DIL. I was frustrated about this for two reasons. One was that I had not even requested a DIL at that point and two because their basis for denying the DIL was due to a bogus claim of "over $20,000 in repairs" that needed to be done to the house.

This statement by Wells is totally ridiculous claim. The house was a fixer-upper when I purchased the property. When I took the loan out in 2008, the house was in worse shape than now. I have paid for many improvements, including a rough-in for a bathroom in the basement, along with extensive dry wall work, etc. The house still required additional improvements but not as many as were needed when I took out the loan. Why would Wells grant me a loan on the house and then deny me for a DIL due to "repairs" which were not even necessary? This did not make sense. I had been working hard to improve the home!! No damage was ever done to it!!!...

I have tried and tried in good faith and have consistently made the effort to work with Wells Fargo and try to do the right thing despite my economic situation. However, Wells has never held up their end. Communicating with Wells is like talking to a brick wall. Their messages are not consistent, they do not follow through with what they agree to at mediation, and they refuse to speak to me.

I can't make any progress with my situation because the lender prevents it.

Recommendations

To ensure that homeowners are getting the relief they're owed under the settlement and that relief is reaching the communities hardest hit by the foreclosure crisis, MCRC calls for:

- National Settlement Monitor Joseph Smith should use his authority to require banks to release data which details the consumer relief provided in each state by zipcode.
- All future settlements should include a requirement for zipcode level data in the original settlement and reporting requirements.
- Banks should increase their principal-reduction loan modifications. In Maryland, Wells Fargo, which owns 22% of all mortgages should aggressively scale up its principal reduction loan modification programs for qualified homeowners.
- President Obama should appoint a new director of the FHFA to replace Acting Director DeMarco who supports principal-reduction loan modifications.