

MINUTES
Foreclosure Committee Subcommittee

June 3, 2008

The "Committee" subcommittee met in the Superior Court Operations conference room 204 located at 225 Spring Street, Wethersfield, CT on Thursday, June 3, 2008.

In Attendance: Judge Salvatore C. Agati (Chair), Judge Samuel Freed, Attorney Jessica L. Braus, Attorney Robert F. Frankel, Attorney Louis Zowine, Attorney Leanne M. Larson, Attorney Keith Fuller, Attorney Thomas W. Witherspoon and Attorney Peggy George

The Chair, Judge Agati, called the meeting of the "Committee" subcommittee to order at 2:08 p.m. Judge Agati welcomed members.

Handouts: Agenda, Minutes of Feb. 14, 2008 meeting, Proposed Revisions to Uniform Procedures For Foreclosures By Sale, Proposed Revisions to foreclosure forms, and proposed revisions to the Standing Orders.

1. Judge Agati mentioned the new legislation that has been passed and is awaiting the Governor's signature regarding a mediation program for mortgage foreclosure actions.

2. Review of Proposed Revisions to Uniform Procedures for Foreclosure By Sale: Judge Agati opened discussion regarding the Uniform Procedures and whether they are consistent with the Standing Orders. The members of this subcommittee started going through the proposed revisions of the Uniform Procedures.

General Responsibilities: The members discussed whether the committee should be allowed to do a title search and whether the committee bears the risk if there is a problem with the title. Members determined that the plaintiff is responsible for passing good title and that if the committee discovered a problem with the title that the committee should contact the plaintiff. Members also discussed and suggested that the plaintiff's title search not be distributed by the committee to third parties. It was suggested that a sentence to this affect be added to the third paragraph under General Responsibilities.

The members also determined that the last sentence "If the committee's duties are terminated before commencement of service, the committee should immediately notify the foreclosure clerk" should be deleted from the Uniform Procedures.

Appearance in Court: The group discussed the need for the committee to appear in court with regard to committee motions and it was decided that the committee should not have to appear unless seeking advice. The words "described below" should be deleted from the paragraph.

Legal Advertisements: The wording should be changed to "Prior approval of the court is necessary, instead of will be necessary.

Appraiser: Add to this paragraph after “disinterested appraiser”, “other than the plaintiff’s appraiser,”

Access to Premises: The first two sentences of the second paragraph should be deleted.

Condition of Premises: The first sentence of this paragraph should be deleted. The second sentence should begin “If the committee learns that”.

Viewing Premises: The revision date of the form should be deleted.

Auction: The first sentence of the second paragraph should read “When the bidding has ended, the Committee must declare the bidding over, the auction closed and the successful bidder, other than the plaintiff, must execute the Sales Agreement.” Add to end of paragraph, “If the plaintiff is the successful bidder, the Bond for Deed is waived.”

Post Sale Procedure: Delete the form revision date from the last paragraph. Change the next to the last sentence to read “When the committee report is filed, and there is a deposit with the court, the committee may request the court’s consideration for an order directing the plaintiff or the clerk of the court to reimburse expenses and pay fees within 45 days of the approval of sale.

There was discussion among the members of the subcommittee regarding committee’s fees. It was determined that a mentoring program could address this area.

Recommendations for changes to the Standing Orders: The subcommittee recommended that there be an addition to the Standing Orders requiring that upon the request of the plaintiff the committee provide estimated fees and costs to the plaintiff within two business days of the request. This should be added as a new #16.

Other recommendations: Delete the last sentence of the current #16: add to end of #11 “unless the property is cluster housing”. Members also question whether there should be an amount allowed for the cost of the sign.

3. Review of Forms:

The members reviewed the proposed forms and suggested a few changes to the forms. The “Committee” subcommittee will recommended to the Bench – Bar Foreclosure Committee that these forms be made standard forms by judicial.

Members also suggest that the Committee for Sale look at the prospective purchaser’s ID to ensure they are the same person as the person who submitted the check.

The minutes of the February 14, 2008 meeting were approved.

There being no other business for discussion by the members, the meeting was adjourned at 5:05 p.m.