

Draft Minutes  
Bench-Bar Foreclosure Short Calendar Subcommittee

April 10, 2008

The Short Calendar subcommittee met in the Superior Court Operations Conference Room 133 located at 225 Spring Street, Wethersfield, CT on Thursday, April 10, 2008.

In Attendance: Judge Theodore R. Tyma (Chair), Hon. Ric Robinson, Attorney Adam L. Bendett, Attorney Geoffrey Kent Milne, Attorney Thomas J. Farrell, and Attorney Peggy George

1. Welcome by Committee Chairperson. The Chair, Judge Tyma, welcomed the members and called the meeting to order at 2:20 p.m. Members received a packet of materials including: Agenda, Minutes of February 21, 2008 Subcommittee Meeting, Proposed Language on Appraisals (submitted by Atty Braus), proposed standing orders re motions to open judgment after bankruptcy and motions to open due to loss mitigation initiatives (submitted by Adam Bendett), proposed changes to standing orders (submitted by Atty Frankel), current standing orders, proposed notice for attachment to complaint (drafted by Atty Leibert), further language for notice (submitted by Atty Ferrell).

2. Approval of Minutes of Feb. 21, 2008 Meeting. Motion to approve the minutes was made and seconded. All were in favor and the minutes were approved.

3. Discussion of Short Calendar Issues Assigned to Members. Judge Tyma reviewed notes of what was discussed at the Oct. 25, 2007 meeting of the Bench-Bar Foreclosure Committee. Peggy reported to the Short Calendar Subcommittee what the Process Subcommittee discussed at its meeting.

Reviewing Attorney Frankel's proposed revisions to the Standing Orders:

1 Committee appointments: A question was raised as to whether an attorney would have to attend a foreclosure sale before being able to be appointed as a committee. Judge Tyma thought this would be a part of the Uniform Procedures and will prepare something for the Bench-Bar Foreclosure Committee.

2 Notice of Judgment: After discussion the subcommittee would recommend to the Bench-Bar Foreclosure Committee that notice of judgment be within 10 days of the entry of judgment of foreclosure by sale. The committee would also recommend that the notice be given by certified mail to the owner of the equity and by regular mail to all other, even non-appearing, defendants. Otherwise, standing order 2 is okay.

3, 4 and 5 standing orders are okay as proposed.

6. Appraisal: this is okay. The subcommittee referred to C.G.S. 49-25 and a case Stone Trail.

7 and 8 are self-explanatory.

9 This subcommittee recommends keeping the deposit amount at 10% of the fair market value of the property as is currently the standing order.

10 and 11 are okay; however, question whether a sign on the property is necessary.

12 – 15 are okay as proposed. With regard to the insurance premium, would recommend that the Chief Administrative Judge have authority to change the premium amount.

16 Okay, except question why the plaintiff's bid must be received by 2:00 pm on Friday. This subcommittee recommends that this be discussed by the Bench-Bar Foreclosure Committee.

17 – 20 Okay. Question whether the committee has to stay at the property for a certain length of time if the sale is cancelled. Decided to leave "reasonable time".

Discussion regarding the Notice to Bidders and the insurance liability after the Bond for Deed is signed. This subcommittee recommends that this be discussed by the Bench-Bar Foreclosure Committee.

Attorney Jessica Braus' proposal regarding appraisals: Discussion regarding proposed paragraph 1 revolved around the time frame for preparation of the appraisal and the number of appraisals required. Question whether allowing an appraisal six months old is too long a time period and whether 90 days is long enough. The appraised value could make a difference as to whether a judgment of strict foreclosure or foreclosure by sale is entered. This subcommittee determined that the proposed paragraph regarding appraisals is acceptable.

Attorney Jessica Braus' proposal regarding the opening of judgments after a bankruptcy is filed: The subcommittee discussed whether there should be a new appraisal and a new affidavit of debt - recommends that there be no new appraisal if the bankruptcy occurred less than six months earlier. Concerned that fees will be an issue; however, want a reasonable property value. This subcommittee preferred Adam Bendett's proposed paragraph regarding opening of the judgment after bankruptcy. Adam agreed to prepare a new version encompassing Attorney Braus' paragraph re appraisals and his paragraph re opening the judgment.

Attorney Adam Bendett's paragraph regarding opening judgment due to loss mitigation: This subcommittee mentioned concerns regarding whether the court could continue a case for six months, and if a case is withdrawn, the costs associated with withdrawing and then restoring the case to the docket. This subcommittee recommends that this be discussed by the Bench-Bar Foreclosure Committee.

Judge Tyma requested that any items submitted by this committee be submitted to all members as well as Judge Mintz. Judge Tyma will redo the standing orders. Peggy is to speak with Judge Mintz regarding the next meeting of the

Bench-Bar Foreclosure Committee and the possibility of having a meeting in June 2008.

The meeting was adjourned at 3:40 p.m.

DRAFT