

Mandatory mediation has a high success rate

By DANIEL CHANG
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In some ways, says Caridad Ramos, it might have been easier for her to walk away from the pink, five-bedroom Miami house her family has called home since 2001. The numbers aren't encouraging: She owes \$195,000 on the house, which is assessed at \$178,000.

But relocating might have been too disruptive for her 11-year-old son, who is autistic, she feared.

"When you have a disabled child," she says, "you can't just pick up and leave."

Instead, she's taking a second chance at paying her mortgage under a court-ordered mediation program.

Ramos, 42, hopes to be one of hundreds of Miami-Dade homeowners who have averted foreclosure through the 11th Circuit Homestead Access to Mediation Program, which requires lenders to negotiate with borrowers before foreclosing on a home.

Since launching on May 1, the program has led to settlements in 465 of the 599 cases scheduled for mediation.

The program, which is mandatory in three of Florida's 20 judicial districts, has led to settlements in 1,072 of the 1,401 cases scheduled for mediation statewide.

To be sure, that's only a fragment of the estimated 350,000 foreclosures projected by Florida's Clerks of Court to be filed this year—in part because only homesteaded properties qualify, but also because mediation is mandatory only in Miami-Dade, Pensacola- and Stuart-area courts.

Under this system, mediators cannot compel either side to settle a case. But a success rate of about 76 percent in the three judicial test districts has made the program a likely model for the rest of the state.

Some lenders oppose mandatory mediation, saying it adds another cost to an already expensive process. Under the mediation program in Miami-Dade, lenders are required to pay the \$750 fee in addition to foreclosure filing fees that can cost as much as \$1,900 per case. They must also provide a representative with the authority to modify a loan.

Though many banks have invested in in-house programs to help borrowers who have fallen behind, sometimes it's just not enough, says Ned Pope, program director for the nonprofit Collins Center for Public Policy, which manages the mediation program for Miami-Dade civil court.

"You can't try and patch that hole with the same old solutions," he says. "Mediation is part of the answer, not the whole answer."

Cases that do not mediate to settlement proceed through the foreclosure process, Pope says. Lenders who do not comply with the program risk having their cases thrown out of court.

For their part, borrowers are required to attend credit counseling before mediation and to provide detailed financial information.

Ramos, who is currently in mediation, fell behind on her \$1,900 monthly mortgage payments in January - after taking a pay cut at her job as a leasing agent, and after her husband lost his job as a driver.

Chase Bank filed for foreclosure in June, Ramos says. Soon after, a Collins Center counselor called and offered to help her navigate the judicial process and get her financial documents in order.

A mediation conference lasted about 90 minutes, during which Ramos met in a room with an attorney for the bank and the mediator. A bank representative participated by phone.

Negotiations went back and forth, Ramos says, with the bank requesting financial and personal information, such as how often she goes to the hairdresser.

Ramos is still waiting for Chase to modify her balloon mortgage with a floating interest rate by converting it into a 40-year fixed rate loan. She expects her monthly mortgage payment to be about \$1,300, including an escrow account for insurance and taxes.

The best part, Ramos says, is that she can sleep at night now, and she no longer feels that the bank is her adversary.

"I feel that Chase really worked with me," Ramos says. "They did have a lot of patience with me."