

No Modification For You!

Dear Friends and Clients,

I continue to receive calls from people complaining that they want to modify their loan, but their mortgage servicer doesn't really want to work with them. The truth of the matter is, it's true! Your mortgage servicer doesn't need to modify your loan, nor does it want to modify your loan.

What follows is an excellent article written for the Bankruptcy Law Network blogsite.

No Modification for You!

For the last few years, I have witnessed a steady stream of homeowners flowing through my office who are dumbfounded by their inability to get a mortgage modification. And for years, I have been telling them all the same thing:

YOUR SERVICER DOESN'T WANT TO MODIFY YOUR LOAN!

The truth of the matter is that, of all the options available to a mortgage servicer to deal with a distressed homeowner, mortgage modification is the least desirable for the servicer of your loan. This phenomenon is discussed at length in a recent Washington Law Review article by attorney [Diane E. Thompson](#) entitled [Foreclosing Modifications: How Servicer Incentives Discourage Loan Modifications](#), 86 WashLRev 755 (© 2011). Ms. Thompson, who is Of Counsel at the [National Consumer Law Center](#), adeptly dissects the servicer's incentive to foreclose rather than modify a mortgage. She concludes:

The financial compensation and constraints imposed on and chosen by servicers generally lead servicers to prefer refinancing, foreclosures, and short-term repayment plans to modifications. Servicers recover all costs in a refinancing or foreclosure, without incurring unreimbursed expenses. Refinancing, where available, will always be preferred: the servicer incurs no costs in a refinancing, other than the staff cost of providing a payoff statement, and may gain some incidental float income from the prepayment. Moreover, if refinancing is available as an option, servicers are likely to be able to replenish their servicing rights and ensure a steady income.

Under the current rules, a foreclosure is the next best option. The servicer's expenses, other than the costs of financing advances, will be paid first out of the proceeds of a foreclosure. Thus, the servicer will recover all sunk expenditures upon completion of the foreclosure. The servicer's costs of financing those advances will not be recovered-but all other costs, including those services provided by affiliated entities, like title and property inspection, will be recovered.

The mortgage servicer is paid by the owner, investor or lender to service a mortgage loan. There is more servicing involved, and therefore more money to be earned, on a defaulted loan than a performing loan. And when that loan goes into foreclosure, the servicer makes even more dough. After foreclosure, the servicer gets paid in full regardless of whether the investor ultimately takes a huge loss on the foreclosed property.

When the mortgage servicing industry was bailed out by the U.S. taxpayer, servicers were genuinely afraid that they would be forced by our government to modify mortgages in exchange for taking [TARP funds](#). However, when the Obama Administration unveiled [HAMP](#) as the solution to the foreclosure crisis, mortgage servicers breathed a collective sigh of relief.

[HAMP has been universally described as a dismal failure](#), and the reason is simple. HAMP gives servicers a way OUT of modification because they only have to modify if that's a better alternative for the investor than a foreclosure. But the servicer's analysis is secretive and subject to no oversight. In short, HAMP expects the servicer to "do the right thing."

Is Obama kidding me? Do YOU believe [Bank of America](#), [Wells Fargo](#), [JP Morgan Chase](#), [CitiMortgage](#), etc. are doing the right thing? Me either.

As Ms. Thompson concludes, "Only mandates on servicers to provide modifications and increased transparency throughout the modification process will increase modifications to a significant level."

About Our Law Firm

I have 30 years of expert experience in litigating cases such as Foreclosure Disputes, Real Estate Purchase Contract Disputes, Mortgage Automatic Stay Litigation, Escrow Litigation & Interpleaded Proceedings, Title Disputes, Landlord & Tenant Law, Bankruptcy Law, Corporations, Partnerships, Contracts and more. **As your attorney, I dedicate my services to get you the best possible outcome under the law and to do everything possible to keep you out of court - while providing fair and reasonable rates! Remember folks, sometimes *"the cheap comes out expensive."***

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