



JOSEPH R. BIDEN, III
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
NEW CASTLE COUNTY
820 NORTH FRENCH STREET
WILMINGTON, DELAWARE 19801

CIVIL DIVISION (302) 577-8400
FAX (302) 577-6630
CRIMINAL DIVISION (302) 577-8500
FAX (302) 577-2496
FRAUD DIVISION (302) 577-8600
FAX (302) 577-6499
TTY (302) 577-5783

February 14, 2013

The Honorable James T. Vaughn
Superior Court
500 N. King Street
Wilmington, DE 19801

The Honorable Patricia M. Blevins
Legislative Hall
P.O. Box 1401
Dover, DE 19903

The Honorable Peter C. Schwatzkopf
Legislative Hall
P.O. Box 1401
Dover, DE 19903

RE: Foreclosure Filing Data- 4th Quarter

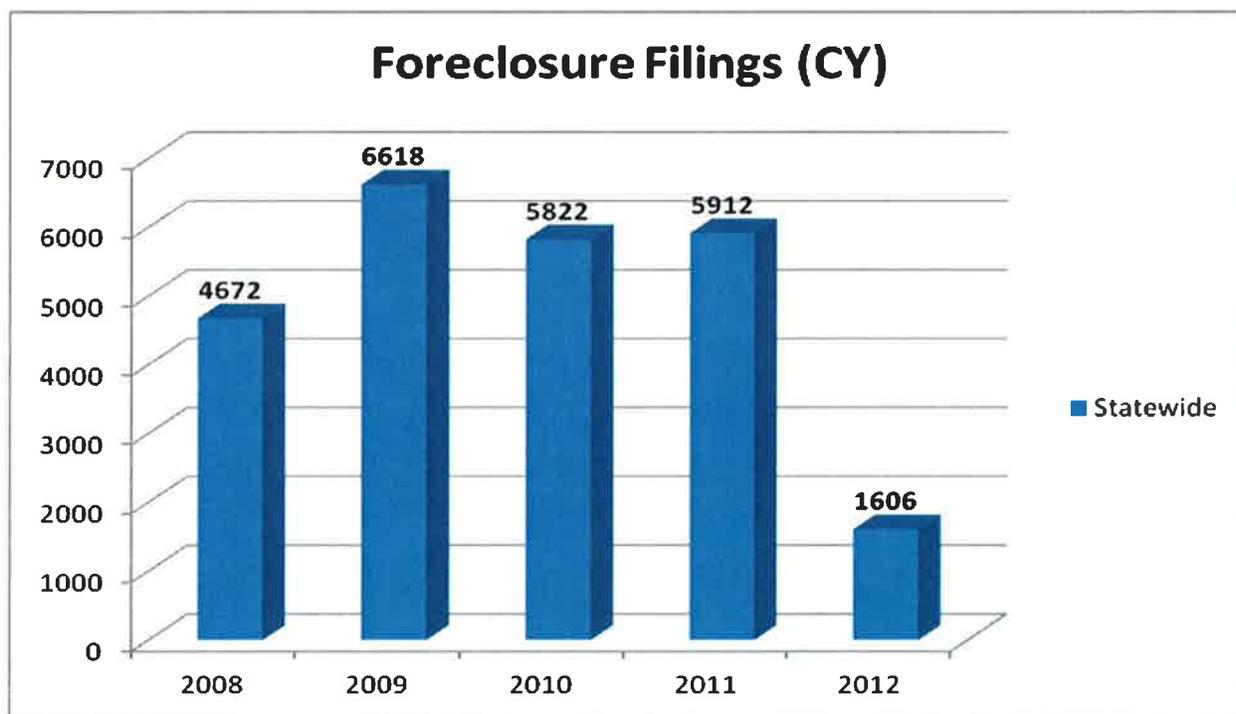
Dear President Judge Vaughn, President Pro Tempore Blevins, and Speaker Schwatzkopf:

Last year, in response to record numbers of foreclosures filed against Delaware homeowners, the General Assembly enacted a legislative package meant to afford Delawareans an opportunity to explore alternatives to foreclosure. That legislative initiative established the Automatic Residential Mortgage Foreclosure Mediation Program (the "Mediation Program"). As the delegatee of the Superior Court under 10 *Del. C.* § 5062C(t), the Department of Justice is required to periodically report relevant statistics about the implementation of the Mediation Program. This letter serves as the Fourth Quarter Report for 2012.

1. Statistical Snap Shot

While foreclosure filings dramatically decreased when the Mediation Program became effective, the case volume of the Mediation Program has steadily increased since September 2012. As of December 31, 2012, 501 eligible foreclosure actions have been filed since the Mediation Program went into effect on January 19, 2012. A more detailed overview of foreclosure statistics can be found below, as well as on the Mediation Program website at: <http://www.attorneygeneral.delaware.gov/consumers/protection/automediation.shtml>.

The following chart demonstrates the number of foreclosure actions¹ filed statewide in the calendar years indicated.

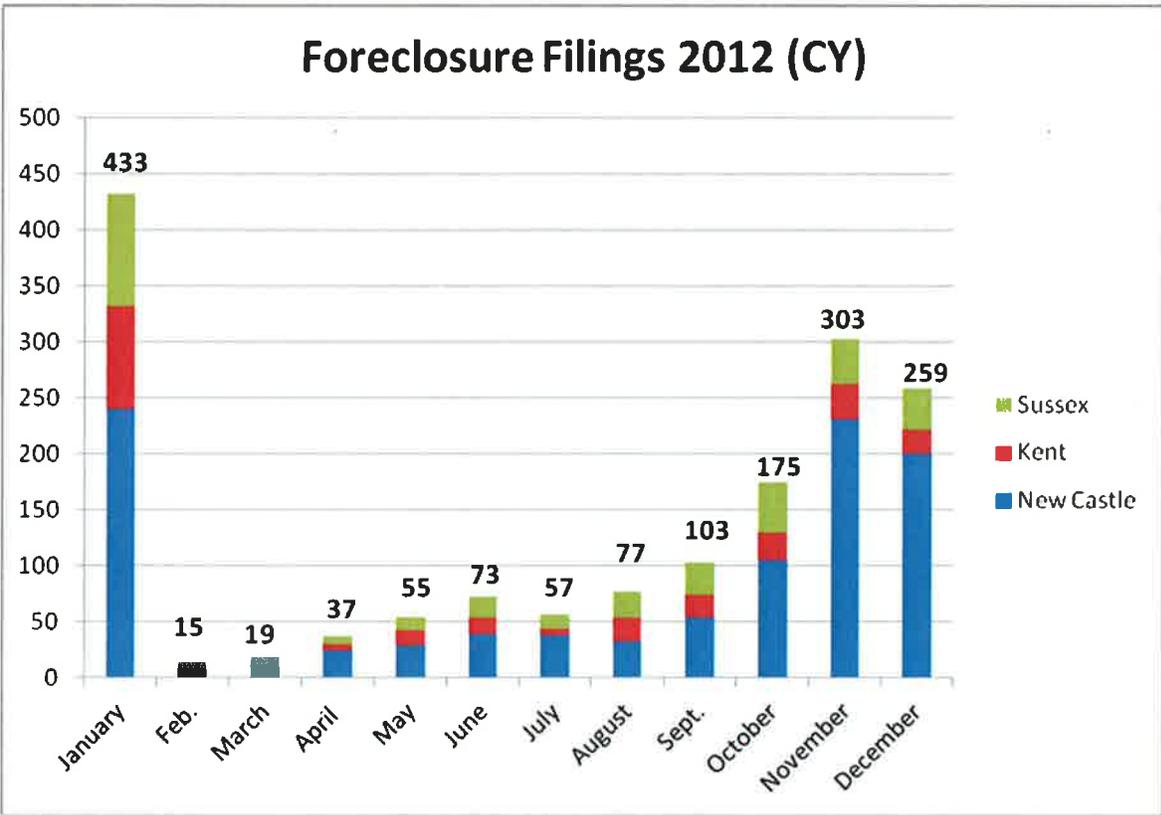


2. Foreclosure Filings Since Inception of the Mediation Program

There were 1,606 foreclosure filings statewide during calendar year 2012. Of the 1,606 filings, 308 were filed prior to the Mediation Program becoming mandatory. Thereafter, between January 19, 2012 and December 31, 2012, there were a total of 1,298 foreclosure filings statewide with 501 of those cases, or 38.6%, eligible for the Mediation Program. Foreclosure filings have seen a marked increase during this most recent quarter.

The following chart demonstrates the number of foreclosures filed in all case types in each county from January 1, 2012 through December 31, 2012. Kent County continues to see the lowest number of foreclosure filings while New Castle County has the highest.

¹ This data is compiled through December 31, 2012. These figures include *scire facias* actions, commercial foreclosure actions, mechanic's lien actions, and, as of January 19, 2012, mediation-eligible *scire facias* actions. Additional information by county and case type is available on the Department of Justice's website: <http://www.attorneygeneral.delaware.gov/consumers/protection/automediation.shtml>.

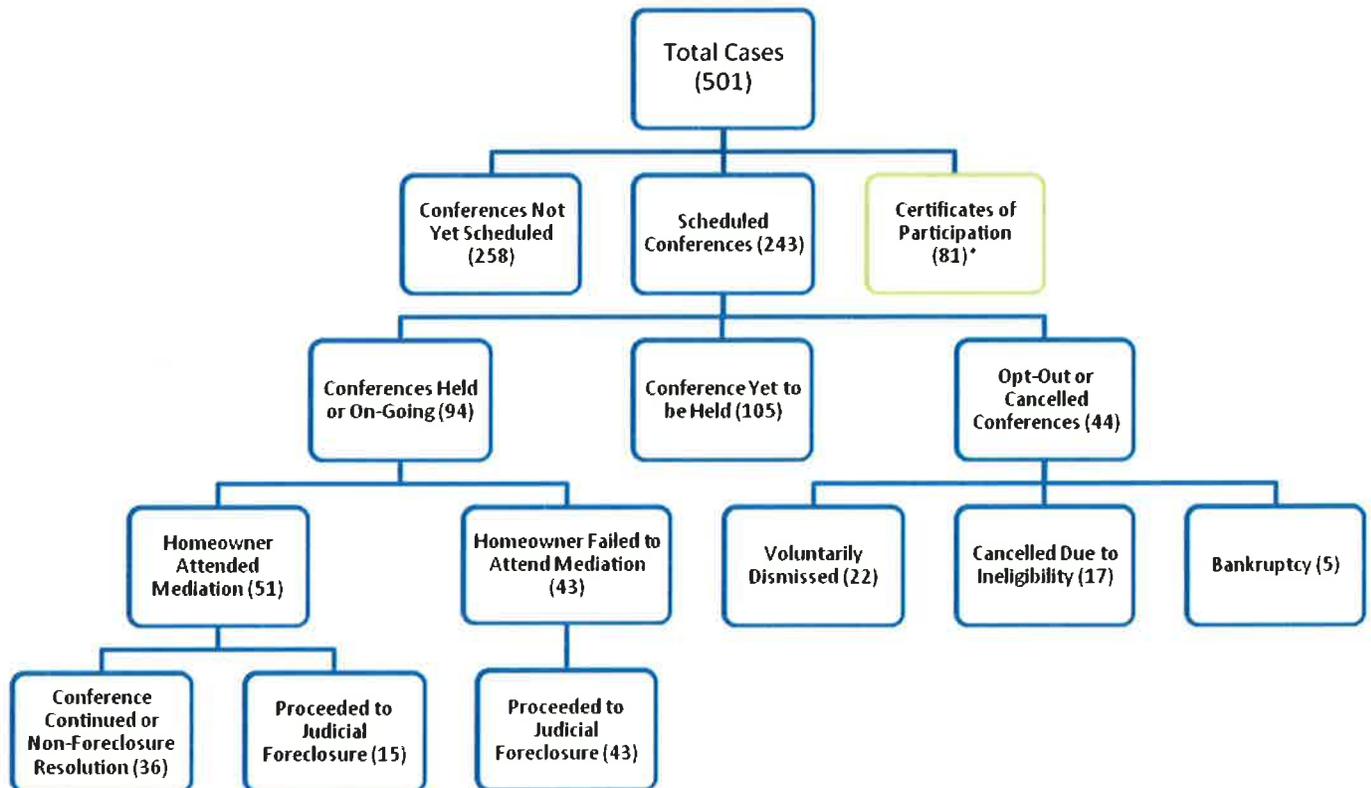


3. Mediation Conferences and Participation Data

Under the Mediation Program, the Department of Justice currently conducts conciliation-style mediations for each case in which the homeowner has been served with process. We are able to accommodate up to 100 cases per conference day in each county. Although we have yet to reach this conference volume to date, we expect to reach these numbers within the first quarter of 2013.

The participation data displayed below gives a snapshot of cases in the Mediation Program through December 31, 2012.

Mediation Program: 4th Quarter Participation Data (2012)



Overall, the Mediation Program has a **54.25% participation rate**. Of those Delaware homeowners who elect to actively participate in the Mediation Program, **70.58% are able to achieve a non-foreclosure resolution of their matter**. The remaining 29.42% have been unable to avoid foreclosure due to unemployment, severe delinquency, and/or a failure to work with a housing counselor. The overwhelming success rate of the Mediation Program thus far owes a great deal to the support of knowledgeable HUD-approved housing counselors.

For those homeowners who fail to participate in the Mediation Program, our data indicates that they often have vacated their homes prior to the foreclosure case being filed in the court. Therefore, they do not receive the information about the Mediation Program which is sent by the Department of Justice.

4. The Looming Shadow Inventory

The shadow inventory of seriously delinquent mortgages in Delaware has been cause for concern. The filing data suggests that lenders/servicers have started to work through this shadow inventory as the number of foreclosure filings have generally increased each month since the inception of the Mediation Program. In particular, there was a significant uptick in filings in this past quarter. While foreclosure filings have slowly resumed, they have not yet returned to historical rates and delinquencies continue to accrue.

The build-up of a shadow inventory over the last year may have negative effects for Delaware homeowners and communities. First, while severe delinquency over a longer period of time may serve to delay eviction of a homeowner from his/her property, it also reduces the chance that homeowners will be able to take advantage of loan modifications and other alternatives to foreclosure due to such deep delinquency. Second, a deluge of looming foreclosure filings has the potential to flood the judicial systems straining the resources of the Court. The Mediation Program's continued availability will alleviate this potential strain on the Court and continue to efficiently facilitate non-foreclosure resolutions to these matters.

Full participation by lenders/servicers in the Mediation Program will allow the shadow inventory to be reduced, allow homeowners the benefit of a conciliatory conference with their lender/servicer, and allow lenders/servicers the opportunity to explore options aside from the public auction of the property at sheriff's sale.

5. Going Forward

The threat of losing one's home remains a painful reality for many Delawareans. As the number of foreclosure filings begins to creep back up, the Mediation Program has demonstrated a 70%+ rate of success at avoiding foreclosure for homeowners who work with a HUD-approved housing counselor and fully participate in their mediation conferences. The low number of foreclosure filings during the first three quarters of 2012 meant that the Mediation Program was underutilized and that these benefits were not as widely available as they otherwise would have been. The fourth quarter numbers indicate that a majority of the lenders/servicers have resumed filing foreclosure actions. However, there is a lot of ground to cover to make up for the severe drop-off in filings seen in the first three quarters of 2012.

Additionally, the Department of Justice's Office of Foreclosure Prevention and Financial Education (the "OFP") has been an important complement to the Mediation Program through its community outreach and education seminars, servicer events, and the day-to-day assistance

provided to homeowners via the foreclosure hotline. The OFP plans to continue hosting outreach and education events throughout the State where homeowners are given resources and information to assist them in navigating the foreclosure process and avoiding unnecessary sheriff's sales. The work of the OFP has served many Delaware homeowners who face this difficult life event and, in many cases, prevent the filing of foreclosure actions against these homeowners.

As we begin 2013, the Department of Justice is ready to meet the increasing demands of higher foreclosure volumes and greater participation in the Mediation Program. When foreclosure cases are filed, homeowners will be promptly scheduled for mediation dates throughout the State and will have the opportunity to have a meaningful conversation with their lender before the judicial foreclosure proceeds. Increasing participation and success rates of the Mediation Program will save many more Delaware homeowners from unnecessary foreclosures, increase the stability of our neighborhoods, and improve the housing market in Delaware.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory C. Strong", with a stylized flourish extending to the right.

Gregory C. Strong
Director, Consumer Protection Unit

cc:

Linda Carmichael, Chief Staff Attorney to the Superior Court
Hon. Tom Carper
Hon. Jack Markell
Hon. John Carney
Hon. Chris Coons
Members of 147th General Assembly