

# Neighborhood Legal The NLS Press Services Association

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## Foreclosures and Sheriff's Sales Play Havoc with the American Dream

by Matthew Bayard  
NLSA Summer Intern

**H**omeownership is sometimes described as the cornerstone of the American Dream. In a series of articles and editorials published in June, the Pittsburgh Post-Gazette depicted with heartbreaking clarity how this dream has become a nightmare for so many Allegheny County homeowners facing mortgage foreclosures or tax sales of their homes. According to a June 6th article, there has been a 500% increase in the number of homes sold at sheriff's sales since 1996. Forty-seven hundred (4700) homes are expected to be foreclosed on by the end of the current year. This represents the area's worst foreclosure crisis since the early 1980's "when the bottom of the steel industry fell out."<sup>1</sup>

This disturbing trend prevails nationwide. Here in Pennsylvania, The Sunday News of Lancaster reported on May 30 that foreclosures on homes in wealthy Lancaster county increased 110% between 1997 and 2003.<sup>2</sup> The Rocky Mountain News reported in April that there had been a 67% increase in the number of foreclosures in seven

of the largest counties in Colorado during the first quarter of 2004. Texas and Michigan are two of the states where foreclosures have reached epidemic levels. Currently, Pennsylvania has the seventh highest foreclosure rate in the country.<sup>3</sup>

Experts seem to agree that there is no one single cause of this epidemic. In Pennsylvania, the weak state of the economy over the last few years, an increase in taxes, higher unemployment, and divorce have all been cited as causes.

Many homeowners in Allegheny County have been faced with an additional problem. When homeowners become delinquent in paying their taxes, a lien can be established against their property. The holder of the lien can then force a sale of the home to satisfy the debt. According to NLSA attorneys Catherine T. Martin and Daniel L. Haller, the city and county governments' sale of old tax debts to private entities in the mid-nineties aggravated the problem. These entities, Capital Assets and GLS, have been more aggressive in

collecting the tax debts than the city and county had been, and they often add in additional attorney's fees and collection costs. When homeowners were unable to pay these additional costs, GLS and Capital Assets forced the sale of many houses to satisfy the liens. Some homeowners took out high cost, high interest sub-prime loans to avoid tax sales of their homes.

Even though the sale of the liens to private entities occurred almost a decade ago, we have only recently seen a dramatic jump in the number of homes

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## NLSA Goes Global

NLSA attorney Catherine Martin entertained a most interesting dinner guest recently. On May 24, Mr. Youhao Guo, director of Law and Regulation Section Two of the Guizhou Province in Guiyang, China, came to dinner to discuss legal services for the poor with Ms. Martin and her colleague, NLSA attorney Mary Ellen Droll. Through the services of a translator, the group enjoyed an evening of cultural exchange and learned much about each other's countries.

The discussion ranged from personal to political, with translator Jay Sailey, himself a professor of Chinese literature, contributing a great deal to the evening by helping to bridge the chasm between the two cultures.

Mr. Guo was traveling in the United States as a guest of the State Department International Visitor Program and came to Pittsburgh partly to study the problems caused by competing local governments. While not a lawyer himself, Mr. Guo is in charge of drafting local economic laws and regulations on a wide range of topics. Because of the differences in the economic and governmental structures between the U.S. and China, his position does not appear to have a counterpart in this country.

One topic of discussion involved the educational system in China. Free education stops after grade school, with only exceptionally talented students receiving scholarships to continue their education. Competition to attend certain magnet high schools and prestigious universities is very intense, and parents who want their children to attend these schools tend to ignore government pleas to reduce the pressure on young students.

The training for lawyers is also quite different in China. For example, a student can sit for a licensing exam after four years of studying law in college. The percentage of students who pass the exam on the first try has traditionally been very low (about 10%); however, that pass rate is increasing in recent years.

The NLSA attorneys were especially interested in what Mr. Guo had to say about the concepts of legal services and pro bono work. In China, there is nothing comparable to legal service programs such as NLSA specializing in representation of indigent clients. However, every lawyer is required to take a certain number of pro bono cases each year, and every low-income applicant for service will be provided with a lawyer if the government determines that is appropriate. Failure to meet the pro bono requirements can result in the withdrawal of a lawyer's license to practice.

With the cutbacks in legal service programs in this country in recent years and the apparent market for such services in China, Ms. Droll and Ms. Martin are definitely looking into opening a branch office in Guizhou province next year!

NLSA is a member of the Southwestern Pennsylvania Legal Services Consortium. Established in 1997, the fourteen county Consortium is a functional integration of Laurel Legal Services, Neighborhood Legal Services Association, and Southwestern Pennsylvania Legal Services. Together, these programs serve a poverty population that is greater than the individual eligible population of sixteen other states. SPLSC was formed in response to an ongoing era of reduced governmental funding and the rising need of low-income people for professional legal services. The Consortium model enables the organizations to function in a coordinated manner throughout the region. At the same time, each program retains its own individual structure and identity permitting them to optimize the benefits of that coordination within their local communities.

## Foreclosures *(continued from page 1)*

being sold to pay off tax debts. According to Ms. Martin, this might be because the litigation by public interest groups against the city and the private entities was only recently resolved, essentially in Capital Assets' and GLS's favor.

Everyone agrees that predatory lending practices have also been a major cause of the increase in foreclosures. Predatory loans are a subset of sub-prime loans, where loans are offered to people with less than stellar credit in exchange for a higher than normal rate of interest. Sub-prime loans are important and can be beneficial to the community in some cases because they allow access to credit for those who might not otherwise be able to get it. However, when loans become abusive or predatory, (for example, when lenders charge exorbitant interest rates or include hidden fees), the consequences to homeowners can be devastating.

Mr. Haller says that these lenders, often working with unscrupulous mortgage brokers, target unsophisticated members of society, especially the elderly. A typical predatory lending transaction would be one in which a mortgage broker, going door to door in a low-income neighborhood, offers a prospective mortgagor a loan for home improvements and the chance to refinance under a new mortgage agreement (often offering some cash in bond to entice the potential borrower.) The predatory lender pays off the old mortgage and takes a new one with a very high interest rate and additional fees that the borrower must pay back. Very often borrowers are unable to meet these higher mortgage payments, and then the lenders foreclose on the home to satisfy the outstanding debt.

One solution to this problem offered by Mr. Haller is for the state to require that mortgage brokers be bonded or insured and made to have a fiduciary duty to the borrower. The broker could then be sued for breaching that fiduciary duty. If a mortgage broker were found to be engaging in illegal lending practices, that broker's insurance company would have to pay the damages. Fairer trade practices in the lending industry would likely ensue because insurance companies would try to reduce their risk by insuring only brokers who played by the rules. Haller thinks this solution would be effective because it requires the industry to monitor itself and it would drive out the unscrupulous brokers who generate these loans. It also provides a deep-pocketed insurer who is able to compensate the victims of predatory lending.

Ms. Martin adds that tighter control over certain land appraisers who make "wildly inaccurate appraisals" on the value of homes would help prevent mortgage companies from making inflated loans to homeowners. This would mean that less money would be available to those who are unable to pay back the loan, which in the short-term might anger sub-prime borrowers but in the long run would probably benefit everyone.

NLSA works with several other organizations who are concerned about the alarming increase in loss of homes. Chief among these is the Pittsburgh Community Reinvestment Group (PCRG), a coalition of citizens groups, local banks, and civic leaders. PCRG has mounted a publicity campaign in the Pittsburgh area to educate citizens about the dangers inherent in predatory lending. In addition, PCRG has met with several lenders and their servicing agents in an attempt to halt certain practices and to negotiate better loan terms as new lower-cost loans with local lenders who belong to the PCRG.

When PCRG's negotiation efforts fail, eligible homeowners are directed to Neighborhood Legal Services for legal representation. In many instances, NLSA attorneys have successfully thwarted the foreclosure efforts of predatory lenders or their servicers by restructuring the loans to a significantly lower amount and lower interest rate. Chapter 13 bankruptcy is another means through which homeowners can try to prevent the loss of their homes.

Other organizations which help low income homeowners include the Community Justice Project and the Home Ownership Preservation Project (HOPP). Community Justice Project is active in litigating class action lawsuits on behalf of homeowners against companies that engage in illegal collection practices. HOPP is involved in aiding homeowners keep their homes by providing legal and technical assistance, primarily to those whose homes have liens for back taxes or unpaid utilities.

Working together, these groups are helping Allegheny County homeowners turn the nightmare back into a dream.

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<sup>1</sup>Steve Levin, *A Dream Foreclosed*, Pittsburgh *Post-Gazette*, June 6, 2004 at C-1.

<sup>2</sup>Sally Melcher Jarvis, *Lancaster Foreclosures Skyrocket*, *Sunday News* (Lancaster, PA), May 30, 2004 at D-1.

<sup>3</sup> Steve Levin, *A Dream Foreclosed*, Pittsburgh *Post-Gazette*, June 6, 2004 at C-1.

## New Faces for the Summer

by Barbara Kern

**N**LSA's Pittsburgh office has been energized this summer by the presence of 13 young people serving in various capacities.

Eight of them are participants in our Summer Intern Program. They come from law schools at the University of Pittsburgh, Duquesne University, the University of Texas, and the University of Akron. One of the interns is an undergraduate student at the University of Pittsburgh. Their work this summer involves giving telephone advice and representing private housing clients at District Justice hearings. By the end of the summer they will have handled over 200 intakes. The summer interns also interview and represent clients seeking unemployment compensation benefits at referee hearings. In addition, they assist at the Wednesday evening clinics and accompany attorneys in our Elder Law Program to Senior Centers.

Although only two of the interns are at this time considering a career in public interest law, we hope that they all echo the sentiments of Candace Ragin, the Martin Luther King Jr Intern, who says that "[w]orking for Neighborhood Legal Services has affirmed my life's dream of becoming an attorney."

NLSA's family law attorneys are being assisted in the PFA program by two young women from the University of Pittsburgh School of Law. These students help prepare clients for PFA hearings, negotiate terms of final petitions, and do the necessary follow-up work to close the file. Maryam Shad, who worked at the U.S. Attorney's Office last summer, says that she has become more interested in family law as a result of her work here this summer. When she finishes law school this coming year, she will be relocating to Dallas, Texas, where her husband has

obtained employment. JaCina Stanton, the second PFA intern, is also enrolled at the University of Pittsburgh School of Law.

Maurice Eberhardt, a business administration student at Point Park College, has been assisting Attorney Ed Stevenson with a variety of tasks since January. Mr. Stevenson is hoping that Maurice's experience here and previously in the McKeesport office will encourage him to consider the law as a profession.

Finally, two young women are providing valuable assistance to NLSA's secretarial and clerical staff. They are Brittany Lee, a student majoring in office administration at the Bradford School of Business, and NaTosha Pope, a participant in the ACBA summer program for minorities. Brittany will complete a 14 month program in May, 2005. NaTosha is a student at the Ellis School and has an interest in biochemistry as a possible college major.

We hope that the training and experience which these young people are receiving this summer will benefit them in their educational programs. We know that their assistance has benefitted us here at NLSA.



Front Row: Kyle Matson, Brigid Laughlin, Brittany Lee and Maryam Shad.  
Back Row: Diane Kay, Matthew Dewey, NaTosha Pope, James Miller, Matthew Bayard and Candace Ragin. Missing from picture: Chase Kaniecki, Maurice Eberhardt and JaCina Stanton.

## Staff Profile: Thelma Reese

*by Chase Kaniecki  
NLSA Summer Intern*

**T**helma Reese has been working at Neighborhood Legal Services for over 30 years. A Pittsburgh native, she and her husband are the proud parents of two grown children.

Thelma first came to NLSA because she had an interest in helping individuals in her community. At that time, there were smaller offices throughout the city (which explained the “Neighborhood” in Neighborhood Legal Services Association). Since then, one office after another has closed, leaving the Pittsburgh office as the only one in Allegheny County. In addition, NLSA maintains offices in Butler, New Castle, and Aliquippa.

Thelma received her Paralegal Certificate from Pennsylvania State University and is now an Administrative Assistant at NLSA. In this capacity, she is, in her own words, “responsible for a little bit of everything.” She supervises the secretaries, first floor reception, and the intake unit. Thelma stresses the importance of these staff members as the first contact that the public usually has with NLSA.

Thelma’s 30 years of experience also allows her to assist in other areas. If an attorney is not available to interview a client, Thelma will fill in and conduct the interview. Occasionally, Thelma will represent a client in a welfare case. She is also experienced in advising and representing clients in SSI cases.

When vacations or illness leave the secretarial or intake staff short-handed, it is Thelma’s job to make the necessary staff adjustments. She can often be found filling

in herself at the first floor desk or on the intake unit.

Outside of the office, Thelma is involved with physically challenged children and their sports teams. She also enjoys listening to music and has a bit of a green thumb, spending time gardening throughout the summer months.

Thelma has built a reputation among her colleagues as someone who can be counted on. She also has quite a reputation as a detective. If there is anything that staff members cannot find, they turn to Thelma – and rarely does she fail to turn up the missing item.

Thelma Reese’s commitment and dedication have been a longtime asset, without which the Pittsburgh office of Neighborhood Legal Services could not function as well as it does.



## A Homeowner in Jeopardy: A Case Study

By Diane Kay  
NLSA Summer Intern

Frank, a 70-year-old retiree, came to NLSA owing \$73,000 on a house worth \$30,000 because of a predatory home mortgage. An unscrupulous contractor had solicited Frank at his home and had convinced him to take out a \$60,000 mortgage to pay for home repairs that proved to be overpriced and substandard. The mortgage also included several unreasonable fees, including a "loan discount" fee of nearly \$2,000, an application fee of nearly \$1,000, and a fee of over \$600 for title insurance. The Mortgage Company was charging Frank 13.960% interest on the 25-year mortgage.

It would have taken Frank until he was 95-years-old to pay off the loan, which would have accrued substantial interest during that period. That assumes, of course, that Frank could afford to make his mortgage payments and meet his basic living needs. Indeed, he could not and soon found himself in arrears. When the Mortgage Company sued Frank in foreclosure, the total amount of the loan was \$73,000 - more than double the value of the home and \$13,000 more than the original amount borrowed.

NLSA Attorney Daniel L. Haller represented Frank. After filing for chapter 13 bankruptcy to stay the foreclosure, Haller filed an objection to the mortgage company's claim. Ultimately, he was able to negotiate a settlement agreement with the Mortgage Company that reduced the amount of debt from \$73,000 over 25 years to \$30,000 over 10 years. The loan was adjusted both to adequately reflect the value of the house and to allow Frank to pay the balance off during his lifetime. In addition, the settlement

agreement decreased the interest on the mortgage to 6.5%. Frank's payments went from \$1,018 per month to \$345. Once Frank completes the repayment plan detailed in his bankruptcy, he will continue to pay the lender at the same \$345 monthly rate.

According to Haller, such examples of predatory lending are not uncommon. Unscrupulous lenders and brokers sometimes seek out homeowners like Frank, who, because of their age or lack of sophistication, are easy marks. Minorities are also commonly targeted in such schemes.

Often, a representative from a so-called construction company will visit the home of the target several times. If the salesman is successful in convincing the homeowner that repairs are necessary, the salesman finds a broker to provide a loan for the repairs. The broker, who has no obligation to find the best terms for the homeowner, seeks a loan that will accommodate the needs of the contractors and inflate his own fee. In order to inflate the fee, the broker will usually try to convince the homeowner to pay off unsecured debt such as credit card debt with the new loan. In addition, he may try to talk the homeowner into an even higher interest loan so he can collect a yield spread premium from the lender.

Frequently, the contractor will try to convince the homeowner that added work needs to be done, and he then increases the size of the loan accordingly. This cycle — increasing both the amount of home "improvement" and the size of the loan — can happen several times. It is referred to as "flipping." By the time the contractors have

finished, the homeowner is often left with a mortgage that is far greater than the value of the house. The final blow to the homeowner lies in the fact that the work by the contractor is usually of low quality and does not increase the value of the property.

Predatory loans are given without consideration of the borrowers' credit scores, their income, or their ability to pay off the loan. Often, the brokers will provide doctored financial information to the lenders. The loans are made at high rates of interest with unwarranted fees that often violate federal law.

Victims of these situations are not limited to the borrowers. Often, pension funds and other investment groups buy mortgages as a stable investment. These pension funds later realize that they bought a loan that the borrower had no realistic way of repaying, where the guaranteeing property is less than half the value of the loan. Even if the mortgage is foreclosed upon, the pension fund may be out tens of thousands of dollars.

The number of predatory loans in Allegheny County is steadily increasing. There were over 600 more mortgage foreclosures last year than the year prior. The problem has been well documented by a recent front-page article in the *Pittsburgh Post-Gazette*, and a series in the *Pittsburgh City Paper*. To remedy the problem, attorneys and volunteers are needed to represent people like Frank when they face foreclosures and the possible loss of their homes. If you are interested in volunteering in this area, please contact Barbara Kern at 412-255-6700 extension 449.

# The Pro Bono Corner

As we move into the second half of those “lazy, hazy” summer vacation days, it is important for all of us to remember that the legal needs of the poor do not take a vacation. Utilities are still being shut off, families are being overwhelmed with debt, heads of household are being denied unemployment compensation, mortgages are being foreclosed, and families are still having to deal with problems of custody and support.

During these days when many of our volunteers are out of the city on vacation, sometimes for fairly long periods of time, it becomes ever more important for new volunteers to heed the call for assistance. If you have never volunteered before and have been thinking about doing so, there’s no better time than now.

Attorney Francis Corbett, who schedules attorneys for the Debt Advice clinics on Wednesday evenings, still needs volunteers for the August 11, August 25, and September 8 clinics. Heidi Weber, who schedules the attorneys for the family law

clinics can also use volunteers.

We also need volunteers to take Chapter 7 bankruptcy referrals and unemployment compensation referee hearing referrals and for our PFA referral program. Please contact Barbara Kern to find out how you can help.



We would like to thank Attorneys **Gretchen L. Jankowski** and **Lynne M. Downs of Buchanan Ingersoll P.C.** for their efforts in coordinating the firm’s PFA program utilizing their Summer Associates. These young people and the attorneys supervising them have provided legal representation for 8 clients on each of seven different days throughout the summer. We hope that these young Associates, in assisting our clients, also benefitted from the practical courtroom experience involved in negotiating final petitions and occasionally representing clients in hearings.



We would also like to acknowledge the outstanding pro bono leadership of Attorney **Jeffrey Heeter** of

the **Alcoa Legal Department**.

Mr. Heeter is one of the founding members of the Pittsburgh Pro Bono Partnership and is currently a member of the Partnership Board. The effectiveness of the monthly Board meetings has been due in no small part to his leadership. Mr. Heeter has also taken the lead in volunteering attorneys from Alcoa to join **Klett Rooney** attorneys in staffing one of the Partnership’s first Signature Projects – the McKees Rocks Community Clinic. He himself is a regular volunteer at the clinic and at times has taken on cases involving considerable time and effort. NLSA would like to thank him and all the volunteers at the McKees Rocks Clinic for their generous pro bono contribution.

**If you would like to volunteer or have questions concerning the type of volunteer work available at NLSA, please contact Barbara Kern at 412-255-6700, ext. 449.**



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**NLSA's mission is to meet the civil legal needs of poor and vulnerable individuals by securing the rights and obtaining the benefits to which they are entitled through effective legal representation of eligible individuals and groups.**



Articles in this newsletter are for general information only and do not constitute specific legal advice. If you have a legal problem, you should consult an attorney.

## The NLS Press

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