

Federal Reserve Bank of Cleveland

Getting Back in Gear: Better Ways to
Move Stalled and Vacant Foreclosures
Forward

March 11, 2014

Stephen M. Bucha III, Chief Magistrate
Cuyahoga County Court of Common Pleas

Cuyahoga County Foreclosure Process

- A. All foreclosure, quiet title, and partition cases are referred to magistrates immediately upon filing.

- B. Differentiated case management.

Cases filed by “regular attorneys”

- a. Managed by docket review and reminder orders.
- b. No CMC/pretrial.
- c. Default hearing held in all cases where at least one party is in default.
- d. If case becomes truly contested shifts to contested case track.

Cuyahoga County Foreclosure Process

2. Cases filed by “non-regular attorney” or contested cases.

- a. Managed by magistrate like an ordinary civil case.
- b. CMC set within ninety days of filing.
- c. Discovery and dispositive motion deadlines and final pretrial/settlement conference/trial set at CMC.

Vacant & Abandoned Property Docket

Cases are placed on the vacant and abandoned property docket if:

- (1) The Court is notified by municipality directly that the municipality has determined that the property is both vacant and abandoned; and
- (2) No party in the case objects to the vacant and abandoned designation, after notice.

Benefits of Vacant & Abandoned Property Docket

Benefits include:

- (1) Cases on the vacant and abandoned property docket are set ahead of all other cases for default hearings and other events scheduled by the court;
- (2) The magistrates regularly review their vacant and abandoned property cases and push them towards disposition (For example ordering plaintiff's counsel to file a dispositive motion when it is discovered that service is perfected).

Benefits of Vacant & Abandoned Property Docket

Benefits include:

- (3) Orders of sale are issued by the Clerk of Courts on the vacant and abandoned property docket cases ahead of all other cases;
- (4) Depending on the magistrate to whom the case is assigned, this designation can eliminate as much as four months of delay

4. Mediation

- a. A foreclosure case may be sent to foreclosure mediation at any time prior to confirmation of a sheriff's sale.

- b. There are two routes by which a case may be referred to foreclosure mediation.

(1) A property owner sends a Request for Mediation to the Court's ADR Department. A Request for Mediation is included with every summons envelope.

(2) The Foreclosure Magistrate may make a referral to mediation at any time prior to confirmation if he or she feels the case is appropriate.

Mediation

c. For cases where mediation is appropriate, the case is set for a Pre-Mediation Conference.

(1) Both the Plaintiff's counsel and the Defendant and counsel, if any, must appear.

(2) At this conference, the mediation process will be explained, and each party will be given a questionnaire to complete and return prior of mediation. In addition, the property owner is given a consent form to sign authorizing the release of financial information to the Plaintiff.

Mediation

- d. The Questionnaires are returned to the Mediator by a date certain. The Plaintiff will be allowed to copy the Property Owner's Questionnaire to prepare for the Mediation.

Mediation

e. The Mediation is held and either:

- (1) The case is settled; or
- (2) The case is not settled and it is returned to the active docket.

Mediation

- f. A case may be removed from the foreclosure mediation for the following reasons:
- (1) Failure of the property owner to submit financial information as required by the mediator.
 - (2) Failure of the property owner to appear at a scheduled mediation event.

Mediation

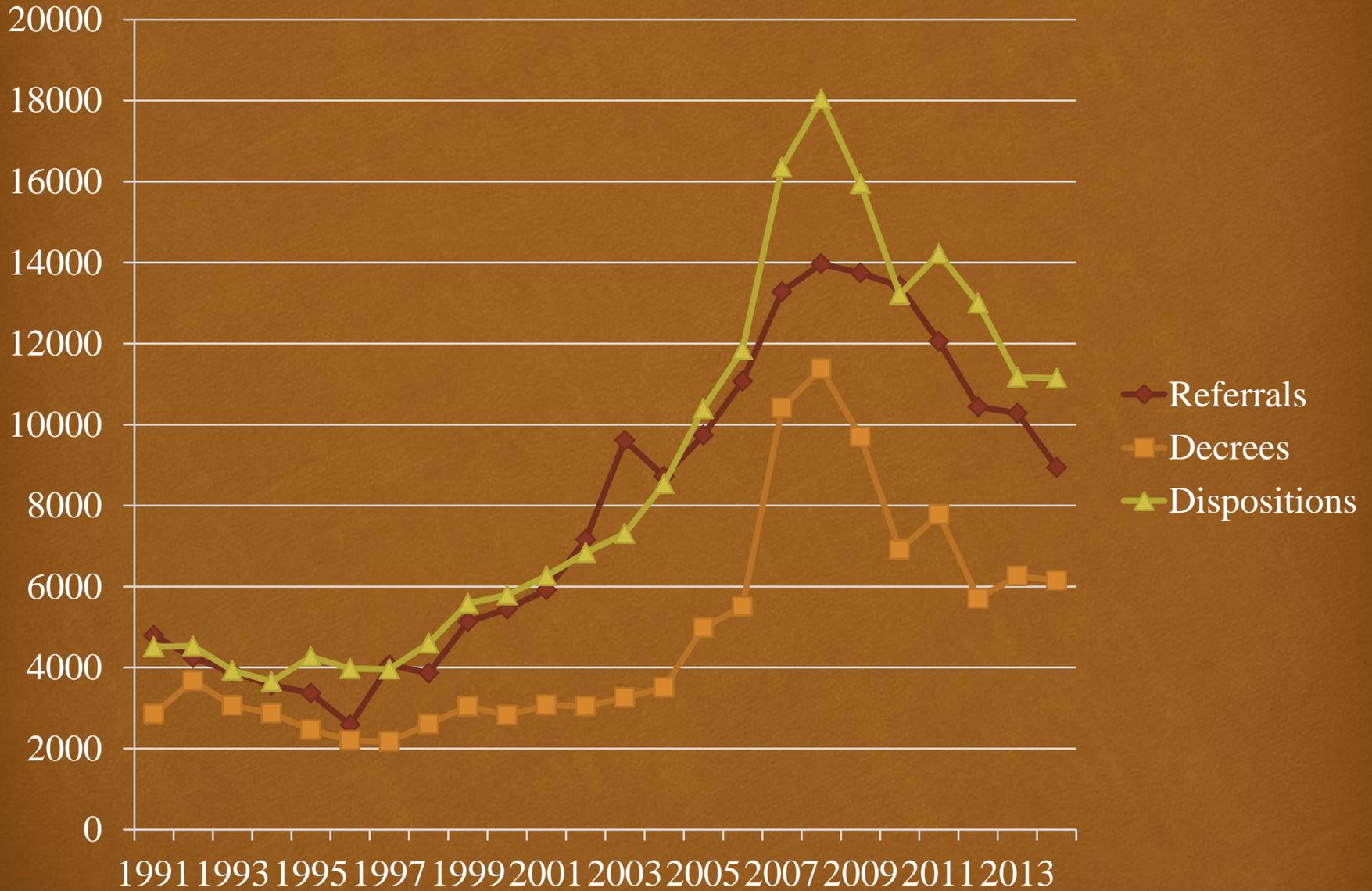
- (3) After submission of financial information, failure of the property owner to qualify for mediation.
- (4) After a full mediation, failure of the parties to reach a settlement.
- (5) Request of the property owner to terminate the mediation.

Mediation

- g. Upon the removal of the case from mediation, the motion practice and discovery stay terminates and the case is returned to the active foreclosure docket.

- h. The case may be re-referred to the foreclosure mediation program by the magistrate after its removal from mediation and before confirmation of sale with good cause shown.

Referrals and Decrees



Average Days to Disposition



Questions ?