http://www.southernminn.com/faribault_daily_news/archives/article_3e84e4d5-83b4-5b72-9b74-47aeafecaf4c.html

Faribault family among those fighting off foreclosure

By Jaci Smith

The frustration and fear were evident in the Melillos' letter.

Written in capital letters to U.S. District Court Judge Ann Montgomery, Keith and Margaret Melillo had been reduced to begging.

"Please, your honorable Ann D. Montgomery, let us come to your court and you will see that they have and are doing mortgage fraud."

The Melillos' home on Willow Street is in foreclosure. Barring a last-minute reprieve, their home will go to a sheriff's sale in April.

They are the face of many nationwide who are fighting to stay in their homes by battling overwhelmed mortgage companies and by trying to make sense of a labrynthine system. Help is out there, experts say, but it's not always easy to find.

They came for the snow

Keith and Margaret moved to Minnesota from California for the snow. They made a plan to stay for several years and in February 2006 bought a small, two bedroom home at 911 Willow St. They used a mortgage broker who got them a fixed rate, 30-year loan with a well-known national mortgage company.

About six months later, they noticed their mortgage payments were no longer automatically coming out of their bank account. They called their mortgage company only to find the number had been disconnected.

They contacted their bank, but it had no additional information.

They looked for someone from the company to contact on the web. Nothing.

They contacted their home insurance agent. He had no luck reaching the company, either.

They filed a complaint with the state Attorney General's office in September that year, and were told to wait until they heard from their new mortgage company. Mortgage companies are required by law to contact a homeowner when a mortgage is sold.

That came in the form of a June 2007 letter demanding payment. They found several letters from the company at the post office, where they had been held because they had the wrong address on them.

Nationwide impact

The buying and selling of conventional mortgages like the Melillos' between banks has been going on for years, and helps ensure the lowest possible financing rates for customers. When a mortgage is sold, the servicer of the loan is required to adhere to the policies of the investor, usually a bank.

But when the mortgage crisis struck in 2007, few loan servicing companies were prepared to handle the onslaught of customers who were struggling to make payments on time. Paperwork became backlogged. Loan collection and loss mitigation counselors working for the servicers became overwhelmed. Banks watched the value of the mortgages decline on the market. The pace of buying and selling accelerated.And the number

WHERE TO GO FOR HELP

There are three key points to remember if you find yourself underwater with your mortgage, says Ed Nelson, marketing and communications manager of the Minnesota Home Ownership Center:

1. Be extremely persistent: If you have to call the mortgage company three times a week, do it. Don't give up and don't ignore them if they call you.

2. Keep detailed records: Note the date, time, operator number and name of every person you talk to. Keep notes on the conversation. Get everything in writing. Keep copies of everything you send or receive. The Melillos even began recording their phone calls with the loan servicing company.

3. Do not pay for help avoiding foreclosure: There are many nonprofits in the state that provide mortgage assistance for free. They can help you first decide whether fighting for the home is worth it. And if there are other financial issues, they can also provide you with access to social services that help home owners get back on their feet.

Start by checking out the list of resources for help at the center's website at HOCMN.org.

of foreclosures grew exponentially.

Communication with customers suffered. In the late 2000s, complaints to the Federal Trade Commission skyrocketed. Other than identity theft, debt collector calls represented the greatest percentage of complaints the FTC received in 2009, the latest year for which data is available.

In May 2009, President Obama signed two bills into law that would provide more opportunity for those behind in their mortgages to stay in their homes through a mortgage modification program and to help prevent them from becoming victims of fraud. Mortgage modifications allow you to skip payments and have them added to the end of the loan, reduce the principal, extend the term of the loan or reduce the interest rate, depending on the program.

But the law has never had the intended effect. Because there is nothing in the law requiring loan servicers to use the modification program, few have on a permanent basis.

In a letter to the Federal Trade Commission in March 2010, the president of a company that provides assistance to homeowners behind on their mortgage wrote, "It has been very frustrating ... just to get a straight answer from the lender in terms of a homeowner's qualification for a loan modification ... They repeatedlly loose (sic) documents and mandate documents constantly be sent to them over and over again for whatever reason. They are lost, never received, outdated because they waited to (sic) long to review the file."

Proposed legislation now in the U.S. House would repeal the part of Obama's 2009 law that deals with mortgage modifications. Can't stop the train wreck

Since finding those letters at the post office in 2007, the Melillos' mortgage has been sold two more times. In that time, they filed a second complaint with the state Attorney General's office and paid more than $1,000 to a company that claimed it was representing their loan servicer and would help them fight off foreclosure. It was a scam. Attorney General Lori Swanson later sued the company.

In 2009, the Melillos successfully applied for and received a loan modification from a well known national loan servicer and brought their mortgage up to date. The couple suffered a setback when Margaret's hours were cut at work, though, and they fell behind again.

In early 2010, they were granted a second modification at the same time their loan was sold to another bank. For more than three months, the new loan servicer said it had no record of the Melillos' loan or the approved modification.

In June, the servicer requested the Melillos fax their paperwork to the company. They did. They also continued to make payments under the approved modification, but they were refused by the new loan servicer.

In July, during a phone call that the Melillos recorded, a company representative told the couple they were four months behind on their mortgage and needed to immediately pay $3,000 to avoid foreclosure. They were told the approved modification they had was no longer valid and that they needed to start the process all over again. They were told the company would foreclose if they didn't escrow payments. The Melillos disputed the charges, and, representing themselves, filed a lawsuit in August in federal court alleging fraud. In September, the loan servicer foreclosed on their home.

In January, US District Judge Ann Montgomery dismissed their case, saying in part that because the loan servicer does business primarily in Minnesota, that the case should be filed in state, not federal court.

"Unfortunately, the issues they've run into are not uncommon," said local attorney Terry Watkins. Watkins has agreed to help the Melillos consider a suit in state court. "And it's not limited to just this particular mortgage company. It's across the board."

The Minnesota Network

Ed Nelson says though he can't put a specific number on it, his clients report over and over again their frustration in trying to get a straight answer from loan servicing companies. Nelson is the marketing and communications manager for the Minnesota Home Ownership Center, a nonprofit gateway that provides information and resources to help Minnesotans begin — and maintain — home ownership.

"It's probably our number one complaint. They call on Monday, talk to one person and are told one thing, only to call back on Thursday to be told a different story," Nelson said. Nelson says it is a growing problem, particularly in greater Minnesota, where foreclosures seem to be increasing while they've plateaued in the metro area.

According to the center's data, Rice ranks 10th of the state's 87 counties for the rate of foreclosures in 2009. And that same data reports the number of foreclosures in 2010 grew by 11 percent. County data reflects that 259 of Rice's 492 foreclosures in 2010 were in Faribault, although that number is partially inflated by a multi-unit complex that was foreclosed. That compares to 175 in Steele, 160 in LeSueur and 225 in Goodhue counties.

Attorney Watkins suggests that having a mortgage that's held by a large national bank is part of the Melillos' problem. Amy Amundson, vice president for lending and operations at Reliance Bank in Faribault, agrees, but only to a point.

Reliance does mortgages that it keeps in house, but even though it's a small local bank, it too sells mortgages on the market. And those mortgages become subject to the rules of the investor that buys them.

However, Amundson agrees that having a local loan has benefits. The bank is invested locally and knows that it's in its best interest to keep as many people in their homes as possible. And when a local loan officer can speak face to face with the homeowner to delve more deeply into the circumstances that led them to fall behind on their mortgage, that helps, too.

"Sometimes you can't always avoid foreclosure," Amundson said. "But I do think that being with a local bank, they have a much better chance."

Watkins thinks the Melillos stand a good chance of having their sheriff's sale stayed by a judge until a fair hearing of both sides' stories is held. All the couple wants is to have a loan modification that allows them to stay in their home, Watkins said.

"It's destroying lives," Keith Melillo said of the foreclosure crisis. "Just go down Willow and look at all the 'for sale' signs on the street."