

Net Present Value Webinar

Geoff Walsh & Diane Thompson, The National Consumer Law Center

Maralise Hood Quan, Pierce County Center for Dispute Resolution

Richard Torrance & Valerie Grigg Devis, WA State Dept of Commerce

Donna M. Hughes, JP Morgan Chase

Bruce Neas, Columbia Legal Services

Jessica Hiemenz

National Consumer Law Center

**This Webinar is provided by the National Consumer Law Center
and the Foreclosure Fairness Program of the Washington State Department
of Commerce.**

March 7, 2012



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Presenter- Valerie Grigg Devis

- Has been with the Department of Commerce since 2007.
- Her background includes program management for state and local land use planning, transportation system policy, financial fraud and gang prevention task forces, as well as federal grant administration.
- She has also represented large telecommunications corporations as a development consultant and managed a non-profit center for inner-city entrepreneurship.



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Presenter - Richard Torrance

- Rick is the Managing Director for the Public Safety Unit at the Department of Commerce.
- Rick has worked in state government for 11 years. During that time, he has managed the Community Services Block Grant Program, the Long-term Care Ombudsman Program, Community Voice Mail and the Retired and Senior Volunteer program.
- He also helped design the Developmental Disabilities Endowment Fund. Currently Rick is managing Commerce's implementation of the state's Foreclosure Fairness Program.



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Presenter – Geoff Walsh

- Worked as a legal services attorney for over twenty-five years before joining NCLC. He is presently a staff attorney with NCLC's Boston office.
- Before that he worked with the housing and consumer units of Community Legal Services in Philadelphia and was a staff attorney with Vermont Legal Aid in its Springfield, Vermont office.
- His practice has focused upon housing and bankruptcy issues. He is co-author of two recent studies by NCLC on issues affecting the current foreclosure crisis: *Foreclosing a Dream: A Study of State Foreclosure Laws* and *State and Local Foreclosure Mediation Programs: Can they Save Homes?*

Presenter – Diane Thompson

- Has represented low-income homeowners since 1994. She is currently of counsel with the National Consumer Law Center, where she is the co-author of the NCLC treatise Truth in Lending and a contributing author to Cost of Credit.
- Among other publications, she wrote NCLC's *Why Servicers Foreclose When They Should Modify and Other Puzzles of Servicer Behavior* and co-authored with Elizabeth Renuart *The Truth, the Whole Truth, and Nothing But the Truth: Fulfilling the Promise of Truth In Lending*, 25 Yale J. Reg. 181 (2008).
- From 1994 to 2007, Ms. Thompson represented individual low-income homeowners in East St. Louis at Land of Lincoln Legal Assistance Foundation. While there, Ms. Thompson served as the Homeownership Specialist, providing assistance to casehandlers representing homeowners in 65 counties in downstate Illinois, and the Supervising Attorney of the Housing and Consumer unit of the East St. Louis office.
- She has served on national and local boards, including the National Community Reinvestment Coalition's Board and the Metropolitan St. Louis Equal Housing Opportunity Council's Board. She was a member of the Consumer Advisory Council of the Federal Reserve Board from 2003-2005.

Presenter – Donna Hughes

- Has been in the mortgage business for over 27 years with extensive experience in processing, closing, underwriting, and servicing.
- She has been a DE Underwriter since 1986 and an employee of Chase since 2002.
- She currently leads the Client Services Team of National Mediations for JP Morgan Chase. In her current role she leads 7 AVP's and a staff of 85 with File Intake, Scheduling, Mail, Customer Assistance, Legislation Initiatives, Business Analytics and Capacity Modeling, Underwriting, In Person Mediations for 1st and 2nd mortgages, short sale mediations, process implementation, projects, and research.
- She has actively participated in several state legislative initiatives on mediations including WA, MD, DC, and DE

Presenter – Maralise Hood Quan

- Brings a breadth of experience in the field of conflict resolution to the Pierce County Center for Dispute Resolution as the Executive Director since May 2007. Maralise had worked in intercultural and nonviolent conflict resolution settings in her native Washington State, with migrant workers, community and peace organizations.
- In 1985, as Coordinator of the Conflict Resolution Program at the United Nations University for Peace in Costa Rica, her many projects included multiple instances of mediation and conflict resolution trainings in violent settings, preparing peace negotiators to come to the table, supporting regional efforts in nonviolent conflict resolution strategies in key instances such as environmental policy, gender equality, business negotiations and a wide variety of other .
- Maralise returned to Washington in 2000. Her work as a professional mediator in a small firm focused on land use, state agency mediations, and problem solving services led her to pursue her long-time interest in the law-making process.

Presenter – Bruce Neas

- Has been a legal services attorney since 1980.
- From 1996 until the present, he has been an attorney at Columbia Legal Services.
- In 2005, he was the recipient of the TCBA's Daniel Bigelow "Lawyer of the Year" award.
- He is the statewide legislative coordinator in the Olympia office of Columbia Legal Services.
- He is the project manager for the CLS Institute for Foreclosure Legal Assistance Grant which provides legal representation to homeowners facing foreclosure. He represents clients in areas of housing, consumer, and education law, as well as speaks frequently to client and community groups.

Today's Agenda

10-10:10 a.m.

Welcome & Overview

Valerie Grigg Devis, Program Manager
& Richard Torrance, Managing Director



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Today's Agenda

10:10–11:05a.m

PRESENTATION: Net Present Value – Calculations & Case Studies

Geoffrey Walsh & Diane Thompson,
of Counsel, National Consumer Law Center®

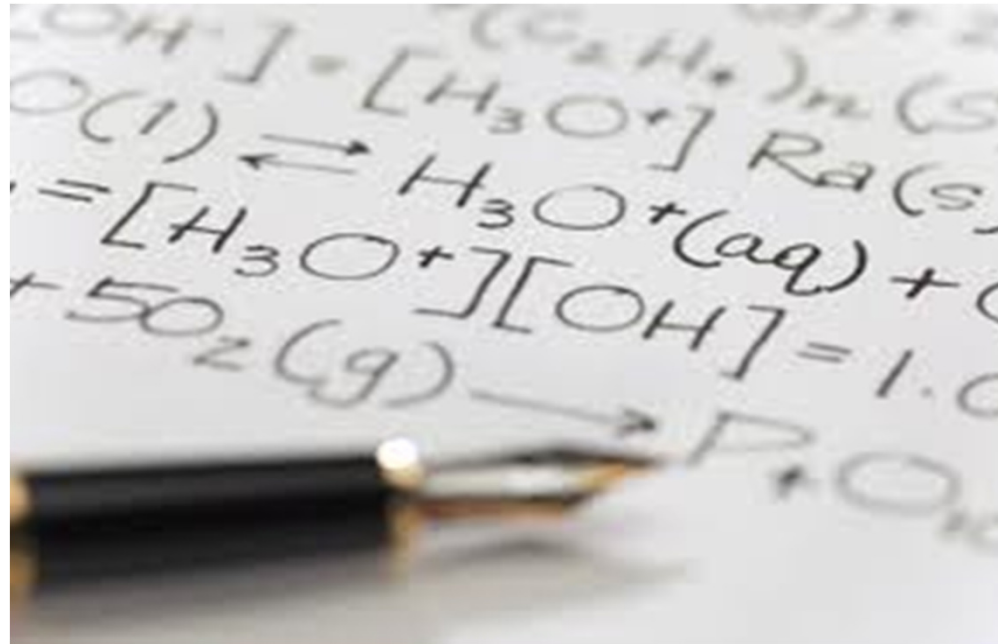


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Today's Agenda

11:05-11:20 pm

Q&A on NPV Calculations



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Today's Agenda

11:20 – 11:25 pm

5 Minute Break!



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Today's Agenda

11:25 -11:35 p.m.

A Lender's Perspective

Donna Hughes, Vice President
JP Morgan Chase

JPMorganChase 



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Today's Agenda

11:35 -11:45 p.m.

Tips & Best Practices for NPV

Maralise Hood Quan, Executive Director



Pierce County Center for
Dispute Resolution



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Today's Agenda

11:45 -11:55 p.m.

The Advocates Role in NPV

Bruce Neas – Columbia Legal Center



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Today's Agenda



11:55 - 12:25 p.m.

PANEL DISCUSSION / Q&A

Maralise Hood Quan - Executive Director, Pierce County DRC

Donna Hughes - JP Morgan Chase, Vice President, Client Services & National Mediations

Lili Sotelo and **Catherine West** – Attorneys for Northwest Justice Center

Bruce Neas – Columbia Legal Center

Geoffrey Walsh and **Diane Thompson** - of Counsel, National Consumer Law Center

Rick Torrance, and **Valerie Grigg Devis** -

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Today's Agenda

12:25 – 12:30 p.m.

FINAL COMMENTS

Valerie Grigg Devis & Rick Torrance
Foreclosure Fairness Program



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**To all our Foreclosure
Mediators:**

**Thank you
for your
Participation!**



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Mediation Report

	Case #	Reference #	Mediator
Date	<input type="text"/>	<input type="text"/>	#/Name <input type="text"/>
Time	<input type="text"/>	Conducted	Phone <input type="text"/>
Location	<input type="text"/>	<input type="text"/>	Email <input type="text"/>

Borrower(s)

	<u>Subject Property</u>	<u>Borrower¹</u>		
Role	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Name	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Street	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
City	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
State	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Zip	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Parcel#	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Lot#	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Phone	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Email	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Participation	<input type="text"/>	<i>In-Person / Phone / Video</i>	<input type="text"/>	<input type="text"/>

Beneficiary / Trustee

Individual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Agency	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Street¹	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Street²	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
City	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
State	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Zip	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Phone	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Email	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Participation	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Authority	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>



MEDIATION REPORT INPUT SCREEN - Lower Portion

Mediation Outcome

Agreement

<input type="checkbox"/>	Reinstatement	
<input type="checkbox"/>	Repayment	
<input type="checkbox"/>	Extension	
<input type="checkbox"/>	Adj Rate > Fixed Rate	Percentage Change _____
<input type="checkbox"/>	Amortization Extended	
<input type="checkbox"/>	Interest Rate Reduction	Percentage _____
<input type="checkbox"/>	Principal Reduction	Amount _____
<input type="checkbox"/>	Monthly Principal Payment Reduced	Amount _____
<input type="checkbox"/>	Monthly Interest Payment Reduced	Amount _____
<input type="checkbox"/>	Refinance	
<input type="checkbox"/>	Other Loan Restructure/Modification	
<input type="checkbox"/>	Principal Forbearance	Principal Write-Off _____
<input type="checkbox"/>	Other Forbearance	Interest Write-Off _____
<input type="checkbox"/>		Fees/Penalties Write-Off _____
<input type="checkbox"/>		Other Forbearance _____
<input type="checkbox"/>	Deed in Lieu of Foreclosure	
<input type="checkbox"/>	Short Sale - Debt/Interest Zero'd	
<input type="checkbox"/>	Voluntary Surrender	
<input type="checkbox"/>	Cash for Keys	
<input type="checkbox"/>	Other	

No Agreement

<input type="checkbox"/>	Borrower not able to meet restructure offer
<input type="checkbox"/>	Borrower unwilling to accept restructure offer
<input type="checkbox"/>	No agreement reached, no lack of 'Good Faith'
<input type="checkbox"/>	Borrower failure to mediate in Good Faith
<input type="checkbox"/>	Lack of timely provision of documents'
<input type="checkbox"/>	Lack of accurate provision of documents
<input type="checkbox"/>	Lack of provision of documents to both beneficiary & mediator
<input type="checkbox"/>	Failure of timely appearance at mediation
<input type="checkbox"/>	Representative not authorized to make binding decisions
<input type="checkbox"/>	Failure to pay respective share of mediation fee
<input type="checkbox"/>	Beneficiary failure to mediate in Good Faith
<input type="checkbox"/>	Lack of timely provision of documents'
<input type="checkbox"/>	Lack of accurate provision of documents
<input type="checkbox"/>	Lack of provision of documents to both borrower & mediator
<input type="checkbox"/>	Failure of timely appearance at mediation
<input type="checkbox"/>	Representative not authorized to make binding decisions
<input type="checkbox"/>	Failure to pay respective share of mediation fee

Net Present Value of the modified loan exceed the anticipated net recovery at foreclosure?

Did not complete the mediation process, specify reason:

I, _____ do hereby attest and certify that this report of Mediation Outcomes is True and Correct.

(Full Name of Approved Mediator)

Mediator's Name

Signature

Date

Attachments:

- (1) Copy of the Net Present Value test used, and all inputs, including the results expressed in a dollar amount (REQUIRED).
- (2) Additional details of the mediation session, as needed.

Mediation and Net Present Value Tests under the FFA

Diane Thompson and Geoff Walsh
National Consumer Law Center
March 7, 2012

What the Statute Requires

- Rev. Code Wash. 61.24.163
- Mediator duties:
- “(7) To assist the parties in addressing issues of foreclosure, the mediator **must require** the participants to consider the following: . . .
 - (b) The net present value of receiving payments pursuant to a modified mortgage loan as compared to the anticipated net recovery following foreclosure;”

(emphasis added)

R.C.W. 61.24.163 (the FFA)

- Mediator duties:
- (7) To assist the parties in addressing issues of foreclosure, the mediator **must require** the participants to consider the following:
.....
- (c) Any affordable loan modification calculation and net present value calculation when required under HAMP as applicable to GSE and non-GSE loans and any HAMP-related modification program applicable to loans insured by the federal housing administration, the veterans administration, and the rural housing service.

R.C.W. 61.24.163 (the FFA)

- 7(c) continued:
- The mediator **must require** the participants to consider:

. . . . If such a calculation [i.e. a HAMP-related NPV Test] is not required, then the beneficiary **must use** the current calculations, assumptions, and forms that are established by the federal deposit insurance corporation and published in the federal deposit insurance corporation loan modification program guide;

R.C.W. 61.24.163 (the FFA)

- To summarize:
- Under FFA RCW 61.24.163 subsection 7(C) mediator **must require** that participants consider:
 1. Any required HAMP-related net present value test; and
 2. If a HAMP-related NPV test is not required for loan, then must use FDIC net present value calculations

Good Faith and NPV Test

- RCW 61.24.163 subsection 8: A violation of the duty to mediate in good faith as required under this section may include:

. . . .

- (b) Failure of the beneficiary to provide the following documentation to the borrower and mediator at least ten days before the mediation or pursuant to the mediator's instructions:
 - (vii) All borrower-related and mortgage-related input data used in any net present value analysis;**

Mediator Report

- RCW 61.24.163 (subsection 9): Within seven business days after the conclusion of the mediation session, the mediator must send a written certification to the department and the trustee and send copies to the parties of:
- (e) A description of the net present value test used, along with a copy of the inputs, including the result of the net present value test expressed in a dollar amount.

Review for HAMP Eligibility

- Who must review borrowers facing foreclosure for HAMP?
- Any servicer who signed a Servicer Participation Agreement with Treasury
- Any servicer servicing a loan owned or insured by Fannie Mae, Freddie Mac (the GSEs)
- Over 100 servicers signed HAMP Servicer Participation Agreements
- Over 85% of mortgages in foreclosure subject to HAMP review

GSE Loan Look Up

- Fannie Mae
 - www.fanienae.com/loanlookup
 - Call 1-800-7Fannie
- Freddie Mac
 - www.freddiemac.com/mymortgage
 - Call 1-800-Freddie

FDIC STREAMLINED MODIFICATION

- Developed in context of IndyMac take over
- Standard tool for evaluating eligibility for modification (Excel spreadsheet)
- Standard documents

The Only Borrower Input: Income

- For both the HAMP and the FDIC Loan Mod in a Box NPV calculation, the only input the borrower needs to provide is household income
- The servicer has all the other inputs.

What HAMP Requires

- Participating servicers must:
- Solicit and review all borrowers 60+ days in default for HAMP mod before refer to foreclosure
- Must evaluate all borrowers who apply (sale stayed unless apply less than seven business days before sale)
- Review includes conducting NPV test for eligible borrowers
- Review includes notice of ground for denial, provide NPV test inputs if fail test

HAMP Modification Mandatory

- Participating servicer must modify when:
- Borrower qualifies under basic eligibility requirements: lives in house (1-4 units), paying over 31% of income for PITI, loan under \$729,450 (1 unit), not defaulted on prior HAMP mod
- If these qualifications met, then servicer **must** implement HAMP mod if borrower passes NPV test.
- If investor restriction, then servicer must provide documentation under FFA

HAMP Guidance

- Non-GSE:
 - Handbook (currently version 3.4, Dec. 15, 2011)
 - Supplemental Directives
 - Model Forms
 - hmpadmin.com
- Fannie Mae: Announcements & Chptr VII of the Servicing Guide (efanniemae.com)
- Freddie Mac: Bulletins & Chptr C65 of Seller/Service Guide(freddiemac.com)
- FHA: Mortgagee letters
(hud.gov/offices/adm/hudclips/letters/mortgagee/index.cfm)
- VA: Circulars (homeloans.va.gov/valeri.html)
- USDA: Final rule (75 Fed. Reg. 52429 (Aug. 26, 2010))

Net Present Value A Lender's Perspective

Donna M. Hughes

Vice President, Client Services

National Mediations, JP Morgan Chase

- The National Servicers all have an interest in offering a borrower a modification. We live and work in the communities we serve.
- Net Present Value is but one factor that goes in determining a servicer's loan modification decision. As such, it is not always the determining factor as to a lender's decision to offer a borrower a modification.
- Borrowers may be denied a modification on a positive NPV loan for:
 - Insufficient income
 - Too much income
 - Or unable to document income.
- Many investors, GSE's, and programs impose limitations on the lender's ability to offer a modification regardless of NPV.
- NPV is required for HAMP and our Chase Home Affordable Modification Program.
- It is not required for FHA, VA, and USDA programs. However, lenders are compelled by WA State statute to provide an NPV calculation, and will provide the FDIC model.