

UNIFORM PROCEDURES FOR FORECLOSURE BY SALE MATTERS

INSTRUCTIONS TO COMMITTEE

These instructions and guidelines have been prepared to assist committees in the performance of their duties as Court appointed committees of the Superior Court. Therefore, the court expects that committees will discharge these duties responsibly, competently and efficiently and with due regard for the interests of the parties and the Court. The simplified procedures in these instructions should be reflected in the quality of the committee's work and the appropriateness of the committee's fee.

GENERAL RESPONSIBILITIES

The committee appointment is a personal appointment. The committee must file a personal appearance and not a firm appearance. The foreclosure judgment may include a date after which the committee may begin to incur committee fees or expenses (the bar date). However, the committee should file an appearance immediately to ensure receipt of future Court notices and pleadings. The committee's duties may not be delegated to anyone else without the prior approval of the Court. If the committee will not be available on the date of the sale or is otherwise disqualified from serving, the committee should immediately contact the foreclosure clerk so that a substitute committee can be appointed.

The committee may file a motion to delegate the committee's duties (for example, a health or family emergency). Absent a satisfactory reason why the committee cannot personally appear to argue the motion, the Court will not hear argument on the committee's motion. Any questions regarding the need for the committee to appear for the motion should be directed to the foreclosure clerk at the appropriate Judicial District.

After the passage of the bar date, the committee should contact the Plaintiff's attorney and request copies of the appraisal, complaint and title search. In addition, the committee should order its own title search at that time. The committee should work closely with the Plaintiff's attorney, who may have extensive information regarding the property and its condition. The committee must not distribute the plaintiff's title search to third parties.

The committee should go to the Superior Court immediately and periodically to review the foreclosure file to confirm information about the file, and to keep abreast of subsequent pleadings (particularly bankruptcy filings which would stay the foreclosure auction procedures). The court file will also have the names and telephone numbers of the court-appointed appraiser and other information that may not have been contained in the initial notice.

The committee is not authorized to alter the terms of the judgment without court approval. Questions, after consultation with counsel and the foreclosure clerk, should be submitted to the court in the form of a Motion for Advice. If a Motion for Advice would not be printed on the short calendar in time to provide timely advice, the committee should contact the foreclosure clerk for an expedited assignment on the write-in list.

APPEARANCE IN COURT

The committee does not have to attend court to seek approval of a sale unless the committee is aware of a likely objection or is ordered by the court to do so. Generally, the committee need only attend court to obtain the advice of the court in limited circumstances. The committee should not attend court for argument on motions for extension or modification of a sale. Any unnecessary appearance in court will not be approved for compensation.

LEGAL ADVERTISEMENTS

The committee is to post the advertisement on the Judicial website and place an advertisement in the newspaper in accordance with the standing orders. Under special circumstances, such as where the property is unique, commercial or industrial, the committee may consider a display advertisement. Prior approval of the court is necessary for a display advertisement. A cost estimate must be provided to the Court.

The ad posting confirmation page printed from the Judicial website and an affidavit of publication from the newspaper, including the newspaper ad, must be attached to the Foreclosure By Sale Committee Report. Be sure to request the affidavit of publication from the newspaper.

APPRAISER

The court will appoint a disinterested appraiser, other than the plaintiff's appraiser, to appraise the property pursuant to Connecticut General Statute § 49-25. The appraiser's report shall be made under oath and returned to the clerk of the court at least ten days prior to the sale.

SIGN ON PREMISES (IF ORDERED)

The standing orders require that the sign must be placed on the premises not less than 20 or more than 30 days prior to the sale and its dimensions shall be 3 feet wide and 2 feet high and contain the following statement: **DO NOT REMOVE; VIOLATION SUBJECT TO PUNISHMENT BY THE COURT**. The committee should ensure that the sign also contains the case caption, the name, address and telephone number of the committee, the date and time of the auction, and the amount and type of deposit required.

ACCESS TO PREMISES

The committee should contact the persons in control of the premises (through counsel or, if necessary, directly) to establish the accessibility of the premises on the date of the sale.

Under no circumstances should the committee force entry into the property against the will of the party in possession. If the Debtor is not living at the property, the committee should try to obtain keys to enable the committee to inspect the property and show the property to prospective purchasers prior to the auction. If prior to, on, or after the date of sale the committee has any questions regarding obtaining access to or securing the premises, the committee should **IMMEDIATELY** contact the foreclosure clerk.

POLICE OFFICER

The committee is authorized to hire a police officer when, in the opinion of the committee it is necessary for any reason, including, but not limited to, the character of the neighborhood, a reasonable concern for safety, or security at the sale. The grounds for such a decision must be stated in the committee's report to the Court.

LOCKSMITH

The hiring of a locksmith without prior judicial approval is authorized only when the premises is actually or apparently unoccupied. "Unoccupied" means uninhabited and unfurnished. If after entry, it is discovered that the premises is occupied or furnished, the committee must immediately withdraw, relock the premises and leave a note in a conspicuous place that keys may be obtained from the committee. The committee, not the successful bidder or the plaintiff, is responsible for securing the premises after the sale.

CONDITION OF PREMISES

If the committee learns that certain emergency conditions are likely to impact the sale materially (e.g., leaking roof or burst pipes), the committee should first notify the plaintiff's attorney. If not corrected in sufficient time to avoid impacting the sale, the condition should immediately be brought to the Court's attention by filing a Motion for Advice which will be addressed on an expedited basis.

VIEWING PREMISES

The committee should inspect the premises as soon as practicable after the sign is erected. Ordinarily, there should be no further need to inspect other than the viewing and inspection on the morning of the sale. However, the committee should become familiar with the property by consulting the appraisal and reviewing the physical

specifications of the building in preparation for questions that may be asked by interested parties. The committee should complete the Fact Sheet-Notice to Bidders form, JD-CV-80, as soon as possible in order to be prepared for questions that may be asked by interested parties.

AUCTION

The committee is to keep a list of all prospective bidders who register to bid. On the morning of the auction, the committee should provide interested parties with copies of the Fact Sheet-Notice to Bidders and answer questions regarding the bidding process and transfer of title procedures. For legal questions that arise, it is more appropriate for the committee to recommend that the bidder seek advice of his or her own counsel.

When the bidding has ended, the Committee must declare the bidding over, the auction closed and the successful bidder, other than the plaintiff, must execute the Sales Agreement. The Committee should explain the process for the Court approval of the sale and the deadline for transfer of title. Before leaving the premises, the Committee should make sure that all individuals attending the auction have left the property. If the plaintiff is the successful bidder, the Sales Agreement is waived.

POST-SALE PROCEDURE

The check for deposit and the balance of the funds from the closing should be deposited with the court on the next business day or as soon as possible thereafter. The successful bidder's check should be made payable to the bidder and endorsed to the "Clerk of the Superior Court" or, if made payable to another, endorsed to the "Clerk of the Superior Court". The committee is not authorized to make any adjustments to the deposit or the purchase price.

In order for the sale and the committee's fees to be approved in the shortest period of time, the committee is encouraged to efile the Motion for Approval of Sale by the Wednesday following the sale. All additional motions and supporting documents (including the Foreclosure by Sale Committee Report JD-CV-75) must be efiled no later than twelve (12) days after the efilings of the Motion for Approval of Sale. When the committee report is filed and there is a deposit with the court, the committee may request the court's consideration for an order directing the plaintiff or the clerk of the court to reimburse expenses and pay fees within 45 days of the approval of sale. When the committee report is filed and there is no deposit with the court, the committee may request the court's consideration for an order directing the plaintiff to reimburse expenses and pay fees within 45 days of the approval of sale. The deed must be in the form of Foreclosure by Sale Committee Deed, JD-CV-74. Any deviation must be approved by the court. The Committee should mail the signed Committee Deed to the court upon the filing of the Motion for Approval. After the judge approves and signs the deed, the clerk will scan the deed into the file and return the original deed to the committee.

At the closing, the successful bidder must provide the Committee with a certified or bank check payable to the Clerk of the Superior Court, for the balance of the purchase price. The successful bidder must record the committee deed within 30 days of the closing.

FEES AND COSTS

Committee fees will be approved only upon the filing with the Foreclosure by Sale Committee Report of an appropriate motion supported by an affidavit of service performance which must contain an itemization in units of time.

For additional committee information, see the Foreclosure by Sale Standing Orders, JD-CV-79, and the Judicial Branch website, www.jud.ct.gov under **Courts**, Superior Court, Standing Orders, Foreclosure Uniform Orders, Procedures and Forms.

The Judicial Branch of the State of Connecticut complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation in accordance with the ADA, contact a court clerk or an ADA contact person listed at www.jud.ct.gov/ADA/