

NOTICE TO THE BAR

FORECLOSURE OF ABANDONED RESIDENTIAL PROPERTIES – RULE RELAXATION, MODEL PLEADINGS

Recently adopted legislation provides for a summary procedure for foreclosure of vacant or abandoned residential properties. L. 2012, c. 70, codified at N.J.S.A. 2A:50-73. The Supreme Court has relaxed the provisions of Rule 4:64-1 (“Foreclosure Complaint, Uncontested Judgment Other than in In Rem Tax Foreclosures”) to allow such summary foreclosures to proceed pending development and adoption of the necessary implementing rule amendments. Attached is the Court’s April 29, 2013 detailed rule relaxation order. The Court has asked the Civil Practice Committee to develop and recommend conforming rule amendments.

Additionally, the Civil Practice Division of the Administrative Office of the Courts has developed a set of model pleadings to initiate a summary mortgage foreclosure action for vacant and abandoned residential property or to convert a pending foreclosure action to a summary proceeding. The model pleadings are can be downloaded from the Judiciary website at: http://www.judiciary.state.nj.us/civil/forms/11720_abandoned_residentialpleadings_v3.pdf. While use of these model pleadings is not mandatory, counsel should review them carefully and adapt them to their particular case as appropriate, since each contains the necessary detail to proceed with a summary vacant/abandoned residential property foreclosure action.

Any questions regarding this Notice, the Court’s rule relaxation order, or the sample pleadings may be directed to Kristi Jasberg Robinson, Esq., Chief, Civil Practice Division, Administrative Office of the Courts, Hughes Justice Complex, P.O. Box 981, Trenton, NJ 08625-0981; (609) 292-8470; Kristi.Robinson@judiciary.state.nj.us.

/s/ Glenn A. Grant

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Court

Dated: May 23, 2013

SUPREME COURT OF NEW JERSEY

It is ORDERED, pursuant to N.J. Const. Art. VI, sec. 2 par. 3, that the provisions of Rule 4:64-1 (“Foreclosure Complaint, Uncontested Judgment Other Than In Rem Tax Foreclosures”) are supplemented and relaxed so as allow for the summary foreclosure proceedings for “vacant and abandoned” residential properties pursuant to L. 2012, c. 70, codified at N.J.S.A. 2A:50-73, as detailed in this order.

In addition to the content required by Rule 4:64-1(a) and (b), a complaint for foreclosure of vacant and abandoned residential property as established by N.J.S.A. 2A:50-73 shall set out facts that the plaintiff alleges demonstrate that the property is vacant and abandoned. The complaint shall incorporate the Rule 4:64-2(b) affidavit or certification of amount due that the plaintiff will rely upon to establish the judgment amount.

Notwithstanding the procedure for judgment set forth in Rule 4:64-1(d)(1)(A), where residential property is vacant and abandoned as established by N.J.S.A. 2A:50-73, a notice of motion for entry of judgment and the notice of tenants’ rights during foreclosure in the form prescribed by Appendix XII-J of the Rules of Court are not required to be served. A copy of the Rule 4:64-2(b) affidavit or certification of amount due shall be served with the Rule 4:67-1 order to show cause or the Rule 4:67-2 notice of motion to proceed summarily.

Notwithstanding the application for judgment procedure set forth in Rule 4:64-1(d)(2), if the court determines that residential property is vacant and abandoned as established by N.J.S.A. 2A:50-73, the court on the return date of the order to show cause or the order to proceed summarily may enter final judgment provided an application is accompanied by proofs as required by Rule 4:64-2. In lieu of the filing otherwise required by Rule 1:6-4, the application shall be filed with the Office of Foreclosure in the Administrative Office of the Courts. The Office of Foreclosure may recommend entry of final judgment pursuant to Rule 1:34-6.

The provisions of the rule relaxation order shall be effective immediately and until further order.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: April 29, 2013