

TESTIMONY OF FRANCES KENNEALLY

In Support of HB 6355: An Act Concerning Homeowner Protection Rights

Personal Background

Members of the Committee, thank for your time and the opportunity to speak to you today. My name is Frances Kenneally, and I am here to speak in support of House Bill 6355, an Act Concerning Homeowner Protection Rights. I have lived in my home on 33 First Avenue in Waterford, Connecticut for over 43 years. I live with my son, Danny, who is 45 years old and mentally disabled. He can do many daily activities on his own, but he needs help shaving and cooking, and he cannot stay home alone. I also live with Jeanne Brennan, who originally came to us to take care of my son and me. She's been with us for 27 years, and is now a part of our family. After 40 years in this house, I still love it. It is our home.

I've faced my share of difficulties throughout my 66 years of life. I've survived brain cancer and the removal of my kidney during my battle with kidney cancer. For a while in 2011, I had trouble walking after slipping on ice and breaking my leg. I worked at a Northeast Utilities Nuclear Power Plant for 22 years, but I was forced into early retirement because of my cancer. Since my early retirement, I have lived on a fixed monthly income.

Among all the troubles I've endured, the mediation process stands out as one of the most painful and unsettling experiences of my life. The constant fear and uncertainty took a toll on Jeanne and me. Jeanne's doctor told her that stress was causing her teeth to fall out. She now has false teeth. During that time, Jeanne's blood pressure got worse, and she needed a higher dose of medication. I had lost my hair from the stress. I had to start wearing a wig. I had cancer twice, and it never made me this upset or scared.

The stress continued for a very long time. We went to at least 17 mediation sessions over the course of three years. This was a dark time for us.

Early Days of Our Mediation Process

The threat of foreclosure has been a part of our lives for over three years, as we endured a disorganized and seemingly endless mediation process. But no matter what, I won't give up on keeping us in our home.

We first started having trouble making our mortgage payments in early 2009. At that time I was recovering from the brain cancer and the removal of my kidney. Even with my prescription plans, my drugs alone were very expensive.

Jeanne had lost her job, which spread our fixed income even thinner. We had trouble paying for even our most basic needs like electricity. It was a horrible time for our family, but we all stuck together. There was nothing else we could do. As hard as we tried, we realized that we had to do something about our mortgage payments. In April of 2009, OneWest initiated a foreclosure on our home and we were soon referred to the mediation process.

After our first two mediation sessions, we began a Home Affordable Mortgage Program (HAMP) loan modification. We entered into a Trial Payment Plan. At first, everything seemed fine.

The Trial Payment Plan contract said that we were supposed to make three monthly payments of \$849.09. Once we had made the payments, the contract said we would be given a permanent loan modification. We made each of our three payments, in September, October, and November of 2009, just as OneWest told us to in our Trial Payment Plan. We also provided them with all sorts of paperwork that they requested.

After our third payment, we were supposed to get a permanent loan modification, but we didn't. We didn't hear anything.

Troubles with the Mediation Process Begin

Not knowing what to do, we sent a fourth payment to OneWest in December of 2009. OneWest rejected our check. We talked to a representative of OneWest, who told us to send the fourth payment to one of OneWest's lawyers. OneWest's lawyer also rejected the check, and told us to stop sending checks. We never got any explanation for this.

When the bank wouldn't let us send payments or give us a permanent modification, I was hysterical. I didn't know what was going to happen with our house. This was just the beginning of what has been three years of living in a constant state of fear and confusion—fear that we might lose our home of 40 years, even when we complied with every request OneWest had for us.

On the Treadmill of Mediation: Two Years of Commitment Gets Us Nowhere

In January 2010, the mediation process went down a rabbit's hole that lasted over two years.

Virtually every month it was the same routine:

- We would attend mediation, and each time the bank would have a new lawyer.
- The bank would say that they needed financial documents from us.
- Before the next session, we would send the documents they had asked for to the bank. They would tell us that if we sent the documents, we would be all set to receive a permanent modification.
- When we arrived at the next mediation session, they would tell us they needed another document. Or they would tell us the documents we had already sent had become "stale" because no one at the bank had looked at them for a long time.
- Then we would have to resend the same documents we had already sent.

This went on month after month after month. Eventually months turned into years: January 2010 through July 2012.

We made a list of what the bank asked for and when they asked for it. This list shows just how repetitive and broken the mediation process was:

- I sent proof of my monthly long-term disability payments at least four times.
- I sent proof of my monthly social security benefits at least three times.
- I sent proof of my structured settlement payments at least six times.
- I sent proof of my bank statements or transcripts at least four times.

- I sent my tax returns three times.

Every time I was told to submit a document, I did. We never knew why we had to resend the documents. My monthly income barely changed over the course of those two years. Often the documents we would send were virtually identical to documents we had sent in previous months. I could start a library with the number of documents I've had to send to OneWest. It would be a very depressing and repetitive library.

Some of the provisions in the proposed homeowner protection rights law would help a homeowner like me. For instance, after one of our mediation sessions, our mediator, Donna Salemi, filed a motion to extend the mediation period. In it, she wrote that on September 29, 2010, OneWest informed her during mediation that "they had everything they needed." But it didn't matter – OneWest could turn around and ask for more documents. And it did.

Ms. Salemi was an excellent mediator. She understood what was going on in our case, and seemed to deal with both us and the bank fairly and with genuine concern for a mutually beneficial outcome. House Bill 6355 would give competent mediators like Ms. Salemi more authority to positively influence the mediation process.

OneWest demanded that we submit more documents on at least 5 separate occasions after our mediator was told that our package was complete. House Bill 6355 would help stop this runaround by giving the mediator the ability to declare a package complete.

Mediation Became a Way of Life

We planned our lives around attending mediation sessions and complying with all of OneWest's demands.

When Jeanne's brother died, the funeral was scheduled on the same day as one of our mediation sessions. We asked to change the date so that we wouldn't have to leave the funeral early, but the bank and the court denied our request.

So, we left Jeanne's brother's funeral early to attend the mediation session. Jeanne couldn't be with her family on that day. Instead she was in a mediation session, and the same thing happened: the bank said they needed us to send more documents.

In 2011, we asked to delay our mediation session because I had broken my leg and couldn't walk. Again, the bank and court denied our request. Jeanne pushed me in a wheelchair to the mediation session, after OneWest was able to postpone mediation sessions on three separate occasions.

It was the same song and dance every single time. We were told, "do this, and next time we'll work out a permanent modification." We heard the same promise countless times. But when we would show up at the mediation session and see a new lawyer who asked for the same documents we had already sent, we knew that OneWest was not making a good faith effort to work with us. We complied with their every whim, and they couldn't even keep our documents straight.

In my mind, promises are more than just words, especially promises about whether or not someone will get to continue living in their home of 40 years. To OneWest, dealing with us was just a job. Every mediation session we met a new lawyer.

One of their lawyers seemed to realize that that we were discussing the future of our home, not just some asset worth X amount of dollars. He was soon taken off the case, because he was getting "too close" to us, and that was preventing him from doing what they wanted him to do.

One particularly bewildering and frightening incident occurred on January 29, 2011. After we had been on this mediation roller coaster for nearly two years, we received a call from OneWest. The OneWest representative told us that our home was in "active foreclosure." The representative on the phone said that there are "no lawyers involved anymore" and asked, "are you going to keep your house or not?" I was shocked and extremely emotional. The bank had told us that we would be all set; the bank told us that we were in the process of making a deal.

We felt like we were on a treadmill going nowhere. If House Bill 6355 had been in effect, we could have had a hearing with a judge after three mediation sessions passed without resolution. We could have ended this process three years ago. We could have moved on with our lives and started making monthly payments we could afford.

After Three Long, Dark Years...

In May of 2012, we finally got a permanent modification on our loan. We had to fight tooth and nail to get this permanent modification. Only after we began receiving free legal representation from the Yale Mortgage Foreclosure Litigation Clinic did OneWest slowly start to pay more attention to our case.

But our troubles are not over. The delays in the mediation process cost us a lot of money. The new monthly payment is higher than the payments we had to make during our first Trial Payment Plan in 2009.

During our three year roller coaster ride with the modification process, OneWest wouldn't let us pay them what we could afford, which means we've accumulated a lot of fees and interest that we have to find a way to pay now.

This experience was truly a nightmare. From one day to the next, we never knew what might happen. We never knew if we could trust what OneWest told us, so we lived in a constant state of fear and uncertainty.

The fight to keep our home isn't over for us. I'm not trying to say "poor me." This kind of hardship happens to people. We understand that our medical bills, my son's challenges, and Jeanne's misfortune with her job aren't the bank's responsibility to fix.

But when we invested so much of our lives in saving our home and following the proper procedures for modifying our loan, we merely expected to deal with people who knew what was going on in our case. We expected that when they promised us something, they would keep the promise, or at least explain to us why they hadn't kept their promise. At the very least, we deserved to mediate with a bank that was actually paying attention to our case and looking at the documents that we sent them. We deserved to mediate with a party that was making good

faith effort in our case. Over the course of these three horrible years, we did not receive that kind of respect.

Thank you for your time and attention. I hope you will support Governor's Bill No. 6355 as proposed. After talking to the Yale Mortgage Foreclosure Litigation team about the bill, I believe it will prevent some of the same fear and uncertainty people like me have to face in the loan modification process.

