

MEMORANDUM

To: Massachusetts Access To Justice Commission

From: Karyn F. Scheier, Chief Justice, Land Court Department

Date: December 12, 2007

Subject: Land Court efforts to assist self-represented litigants

The greatest number of self-represented litigants who appear in the Land Court are named defendants in either 1) cases in which municipalities are foreclosing outstanding real estate taxes (tax cases), or 2) cases brought pursuant to the Service Members Civil Relief Act, which is the first step mortgagees must take before they foreclose on real property in Massachusetts (foreclosure cases). We also see self-represented litigants in a significant percentage of cases to “partition” co-owned property. We see very few self-represented litigants in our “miscellaneous” cases, which include zoning and other land use cases and disputes over title to or boundaries of property. Due to the highly technical nature of cases brought to register and confirm title to real property, we rarely have self-represented plaintiffs in those cases, but we often have defendants appear on their own behalf to challenge people’s rights to register their property.

The land court’s jurisdiction includes superintendence of the land registration offices, located within all the registries of deeds throughout the Commonwealth. In our superintendency role, the court adjudicates approximately 120 cases per month, in which owners of registered land seek to change something relating to either title or boundaries of their registered land. Many of these cases are brought by self-represented litigants who come into contact with our staff attorneys, and the litigants’ surveyors, who work with our Survey Department personnel. While these cases are usually uncontested, they nonetheless require care and knowledge in order to have them timely and properly processed, and our staff is often called upon to work through thorny issues with people who are not knowledgeable and are without counsel.

The Land Court prides itself on being “user friendly.” We encourage our employees to be courteous and informative when dealing with all people who come in to the court, and have instructed them to explain the court’s processes and procedures to all members of the public, particularly self-represented litigants. Designated employees answer questions by telephone, e mail, and in person. All employees who staff our front counter let people know which forms and resources are available on our website as well as which are available at the court. Recently, our tax foreclosure staff with the City of Boston, which brings the greatest percentage of tax foreclosure cases on a regular basis, to review an

“owner’s guide to tax title,” which its law department prepared for distribution to Boston taxpayers. That brochure, as well as a brochure explaining ADR (alternative dispute resolution) is also distributed at the court.

A special effort is made to route telephone calls to those best able to answer questions about court procedure in our various case types. Self-represented litigants who come to the front counter and need more information than front counter personnel are able to give are given the opportunity to speak with a staff attorney, clerk, or surveying staff member knowledgeable in the relevant substantive or procedural area. Front counter personnel have been instructed to accept anything filed by self-represented litigants for entry on the court’s docket.

The court has two public computers near the front counter, and instructions for their use and how to navigate MassCourts, the court’s web-based data management system, are posted. Anyone who needs help using them is helped by court personnel.

Some of the court employees are multilingual, and they assist people at the front counter informally. For trials and other matters when we need official translators, as we do infrequently, we work through the Administrative Office of the Trial Court.

Our court presents a particular challenge for self represented litigants in that many of our cases require considerable technical expertise in surveying and title work, and grasping the issues is beyond the reach of many lay people. During the past two years we have met with representatives of the Real Estate Bar Association, the Massachusetts Bar Association and the Boston Bar Association to discuss how they might help self-represented litigants in the Land Court. That conversation is ongoing, as is one with the Supreme Judicial Court’s Committee on Self-Represented Litigants, because we have determined that the land court may be an ideal court in which to implement “unbundled” legal assistance to self-represented litigants at crucial stages of litigation. We will continue to discuss the viability of unbundled services with Justice Cohen, who chairs the SJC Committee during the upcoming year.

Finally, on behalf of our department, I attended a weekend conference last month sponsored by a consortium of national organizations, through the National Judicial Conference on Leadership, Education and Courtroom Best Practices in Self-Represented Litigation. Each trial court department was represented. Those of us who attended from Massachusetts agreed that the conference materials and exercises, geared toward educating court staff and judges about “best practices” working with self-represented litigants, offer much to think about in Massachusetts. I look forward to working with Justice Cohen and others in that effort as it relates to self-represented litigants in the land court.