



The Jerome N. Frank Legal
Services Organization
YALE LAW SCHOOL
Housing Clinic

By Electronic Mail

December 17, 2020

The Honorable Patrick L. Carroll III
Chief Court Administrator
Connecticut Judicial Branch
231 Capitol Avenue
Hartford, CT 06106

RE: Request to Stay Executions and for Minimum Notice for Remote Hearings

Dear Judge Carroll:

We very much appreciate the herculean efforts the Judicial Branch has undertaken since March to continue the business of the courts while managing the effects of the pandemic on parties, the community, Judicial Branch employees, attorneys, and even former judges. We nevertheless write with two requests as nonprofits who often represent homeowners in foreclosure.

1. Please Impose a Stay on Executions Till the End of the Eviction Moratorium.

While we understand the rationale for lifting the stay on executions in September, the spike in COVID-19 infections since that time along with the difficulties associated with – and, in the case of foreclosures, limited applicability of – the CDC moratorium and declaration rules present compelling reasons to re-impose a stay on executions.

We understand that Governor Lamont is strongly considering an extension of his eviction moratorium to February 9. **A relatively short stay on executions** (including issuance) through the holidays, past the expiration of the CDC moratorium, and coextensive with the eviction moratorium, would help prevent infections and save lives.¹ Exceptions could be made for cases where the judgment was based on serious nuisance or where the tenant is a business.

We understand that a stay on executions has financial consequence for landlords. But we have also advised and represented owner-occupants of multifamily buildings facing foreclosure for more than a decade. We know these owners rely on rental income to make their mortgage payments. But because of the array of assistance programs for homeowners, and because these landlords are simply not facing the same level of economic devastation that has struck many

¹ See, e.g., Emily Benfer et al., *Pandemic Housing Policy: Examining the Relationship Among Eviction, Housing Instability, Health Inequity, and COVID-19 Transmission*, J. Urb. Health, *4 (forthcoming 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3736457; Kathryn M. Leifheit et al., *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality* (Dec. 3, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576.

tenants, since the pandemic began **we have received barely any calls from landlords who are facing foreclosure because of nonpaying tenants**. On the other hand, we have received hundreds of calls from tenants who fear being evicted in a pandemic.

We also understand that foreclosing plaintiffs who now seek executions of ejection or summary process have gone several months, if not a year or more, since receiving a payment. We understand a stay on executions would only delay their recovery further. But **most lenders can pursue deficiency judgments** and recover that way. Ensuring that the former homeowners have shelter a bit longer will help get us all through this second spike.

2. Please Require a Week's Notice for Remote Hearings.

Since arguable matters have returned to the foreclosure short calendar, we have been monitoring the daily scheduling of remote hearings. While most judicial districts have provided at least one week of notice to self-represented parties of hearings, and while at least one judge has required foreclosing plaintiffs to affirmatively notify parties of an impending hearing, some self-represented parties have received comparatively little notice – in several instances, no more than four days' notice, sent via regular mail.

We ask that **self-represented parties be provided at least one week of actual notice prior to any remote hearing**. Besides allaying due process concerns, this would provide enough lead time for these parties to begin familiarizing themselves with remote technology.

Thank you again for your work on behalf of the State thus far, and for considering these requests.

Sincerely,

Erin Kemple, Executive Director
Connecticut Fair Housing Center

J.L. Pottenger, Jr.
Nathan Baker Clinical Professor of Law
Housing Clinic, Jerome N. Frank Legal Svcs. Org.²

Cc: Hon. Richard Robinson, Chief Justice, Connecticut Supreme Court (by electronic mail)
Hon. James Abrams, Chief Administrative Judge for Civil Matters (by electronic mail)

² This does not represent the institutional views of Yale University or Yale Law School.