

**DEBT RELIEF**



**ATTY. LAWRENCE YANG**

(Part 2)

**L**AST week we discussed Part 1 of the Homeowner Affordability and Stability Plan or HASP which hopes to fix the mortgage meltdown by enabling qualifying homeowners to refinance or modify their mortgages. This will be accomplished by relaxing lending standards making it easier for borrowers to qualify for new loans and by rewarding lenders who provide those loans. The plan addresses two types of homeowners. The first type is homeowners who have good credit who want to refinance their houses to take advantage of current low rates of interest but cannot do so because the value of their houses have dropped too low, wiping out any equity. The administration estimates that the number of homeowners in this category is between 7 million to 9 million families. Here, HASP will allow loans to be made up of 105 percent of the property's value. For example, client who filed bankruptcy 10 years ago, now has a perfect credit score, and comes to see me to get a loan modification to reduce his mortgage payment.

**Homeowner Affordability and Stability Plan (HASP)**

His house is currently worth \$300,000. Balance of his mortgage is \$380,000. There is no second mortgage. The mortgage is fixed for 30 years at 6 percent. Since client has good credit, under HASP, client will qualify for a refinance loan of \$315,000 at the prevailing low 30-year fixed rate interest of 4.5 percent. If the lender will allow the refinance, lender will reduce the loan balance from \$380,000 to \$315,000, forgiving \$65,000. Client's mort-

and to bring the loan balance down to the current fair market value of the property. Lawyer will then try to get the loan modified under the HASP program.

The other types of homeowners covered by HASP are those who cannot afford their mortgage payments and cannot sell their homes, and have bad credit. HASP has allocated \$75 billion to help them modify their mortgages to establish an affordable monthly payment.

percent. Thus, if debtor's income is \$3,000, the mortgage payment should be reduced to \$1,140. This seems to be a really good deal for the borrower. Thus, homeowners in this category should try to have their loans modified.

Loan modifications in this category are not permanent. Modified loan terms will remain in place for five years. Thereafter, interest rate will be gradually returned to the contract rate.

If lenders do not cooperate with borrower's requests for loan modifications, the solution will be to file a Chapter 13 when the proposed amendment allowing bankruptcy judges to cram down the loan to the current fair market value of the house becomes law. By that amendment, bankruptcy judges will be empowered to modify the terms of a mortgage to benefit debtor by reducing the balance, reducing mortgage interest and payment. Congress passed the cram down bill two weeks ago, but it is not yet law right now.

If you need debt relief, contact my office. I will analyze your case personally.

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Lawrence Bautista Yang specializes in bankruptcy, business, real estate and civil litigation and has successfully represented more than five thousand clients in California. Please call Angie, Barbara or Jess at (626) 284-1142 for an appointment at 1000 S. Fremont Ave., Bldg. A-1 Suite 1125 Unit 58, Alhambra, CA 91803.

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*"If client is not able to get a refinance at 105 percent of the property value despite his good credit, then he would need a lawyer to get the loan modified if he still wants lower mortgage payments and to bring the loan balance down to the current fair market value of the property."*

gage payment will go down for two reasons: a) the mortgage balance is now \$315,000 instead of \$380,000 and b) the fixed rate interest is now 4.5 percent instead of 6 percent. Does client need a lawyer for this transaction? No. Client has good credit so all he has to do is go to a mortgage lender to see if he can get a refinance at \$315,000 at 4.5 percent.

If client is not able to get a refinance at 105 percent of the property value despite his good credit, then he would need a lawyer to get the loan modified if he still wants lower mortgage payments

Homeowners with high debt to income ratio or mortgage balance in excess of their property's value will qualify under the stability initiative.

If a lender is interested in participating in the HASP program, they must reduce mortgage interest rate or reduce the principal of the debt, or both, so that the borrower's monthly mortgage payment is not greater than 38 percent of income. The government will then match further reductions in the interest rate dollar for dollar in order to bring the borrower's debt to income ratio to 31

**How the Federal Courts helped end three years of waiting**

**PROBLEM SOLVED**



**ROBERT J. DUPONT**

**R**ECENTLY, in November of 2008, a client came to me because she has been trying to obtain legal permanent residency (green card) for her husband since January 2006. They were rapidly approaching their third year of waiting for an approval on their case, and there was no sign that USCIS planned to provide an approval for their case.

This left my client and her husband applying year after year for employment authorizations, and many sleepless nights wondering what was happening with their case. We were later informed by USCIS officers that one significant reason why their case was delayed was the fact that years ago, an employment-based petition had been filed for her husband by attorneys who have since been indicted and sentenced to prison terms for violating federal laws in filing immigration petitions.

When I reviewed the case I could see that this was a straightforward marriage-based petition filed by a committed and loving spouse. I also noticed that they had been interviewed in September of 2006 and that frequent inquiries had been made by prior attorneys. As they were approaching the three-year mark without explanation from USCIS, it was clear that the time for polite inquiries to USCIS had come to an end.

Typical processing times for legal permanent resident (I-485) applications are 8 to 10 months. Once an interview is conducted, a final decision on a case if it does not take place at the interview, should take place within the next few weeks.

Whereas here, there is no reasonable basis for delay on a case. I will discuss with a client the option of filing a Writ of Mandamus in Federal District Court. Once the complaint is filed, USCIS is given 60 days by statute to prepare a response to the District Court Judge explaining its reasons for extended delay in approving or denying petition for legal permanent residency. Many immigration cases are decided in

less than 60 days to avoid further action before the Federal District Court.

Our Federal Court case filed on November 26, 2008 resulted in a second interview with USCIS and an approval of the legal permanent residency petition by January 30, 2009. Happily we were able to dismiss the Federal District Court complaint without ever setting foot within the Federal Court House. In many cases USCIS simply will not adjudicate cases unless they are able to compare the most recent applications to prior applications filed on behalf of the applicant. USCIS failure (or refusal) to retrieve old applications is sometimes the source of the delay, and depending on the age of the file, the old case file may have been archived deep in the recesses of the National Records Center which is the home to some 20 million immigration files spread over four miles of shelving.

Unfortunately, for many cases, only deadlines imposed by Federal District Court and the prospect of having to pay attorney's fees to a prevailing party, is sufficient to compel USCIS to take action on an immigrant petition.

If you think you have waited too long, or that USCIS is not responding to your requests for a decision on your case, you should consult with an attorney. It is also recommended that you hire a qualified attorney familiar with the Federal Rules of Civil Procedure (he or she should have a copy) and willing to examine your complete immigration history prior to filing a Writ of Mandamus with the Federal Courts. Also, filing of a Mandamus action in most cases guarantees agency action on the case but not the outcome, meaning a case may be approved or denied based on whether the client qualifies for the benefit they have applied for.

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Robert J. DuPont is an attorney with the law firm of Wilner & O'Reilly. Mr. DuPont is admitted to the California Supreme Court, and Federal District Courts in the Central and Northern Districts of California as well as the 9th Circuit Court of Appeals. Mr. DuPont is a regular speaker with ILW, and past chairman of the Immigration Law Committee with the Beverly Hills Bar Association. Mr. DuPont has risen to prominence with a 10 year practice in the field of immigration law as well as influencing Department of State and USCIS practices and policies through Federal District Court litigation including a Ninth Circuit Court of Appeals decision on V-Visas eliminating age-out of minor V-visa recipients.

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**ATTENTION HOMEOWNERS**

**You can Bring Down Your Loan Amount to Your Home's Current Value**

**IF you are upside down by \$100,000 or more**

**IF you purchased in the last 4 years or refinanced in the last 3 years**

**IF you have a "problematic loan":**

- 1 yr/2 yr ARM or Option ARM loan • Interest Only loan
- Non-Amortizing/Negative Amortization loan
- No Doc or Low Doc Loan • Stated Income Loan

**You may be a victim of abusive lending by the mortgage industry**

**You have legal rights to a WRITE DOWN of your mortgage to your home's current value**

**SAVE YOUR HOME!  
SAVE YOUR MONEY!  
SAVE YOUR CREDIT!**

**Not "Attorney-assisted".  
Not "Attorney-backed".  
Licensed ATTORNEYS fight for your rights against predatory lending.**

Total Legal Services for Foreclosure Prevention



**In Foreclosure? Not Behind?  
Severely Delinquent? Job Loss or Pay Cut? Investment Property? Residential Property? Struggling to Pay Monthly House Payment?  
CALL NOW!**

**THIS IS NOT A LOAN MODIFICATION**

**You must be upside down by 100,000 to qualify. And you do not need to be behind in your payments!**

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**Bonuses of the New Republic**

**A**MERICAN International Group, commonly known as AIG, has been in the media since the middle of 2008. According to the 2008 Forbes Global 2000 list, AIG was the 18th largest public company in the world. Most of AIG investments are tied directly to the US real estate market. AIG used mortgage backed securities to build momentous wealth.

As the real estate bubble began to burst, AIG found its self in very unfamiliar grounds. AIG's net worth shrank pulling the stock value below the \$5 mark, causing dire consequences for them. Under SEC and IRS rules, most pension funds had to withdraw their capital which caused AIG stock to drop even lower.

For over five months now, AIG has been surviving through direct funding from the US government. Both the Bush and Obama administrations have pumped over \$300 billion to keep AIG afloat. In exchange, AIG promised to revise their operations in order to afford paying back the government.

During the past weeks, public opinion expressed anger over the AIG bail out. The rage was driven by leaked news showing "bonuses paid" to about 30 executives at AIG. Both Democrats and Republicans expressed their anger and disappointment. Seeing the need to calm public opinion, President Obama said he will "take responsibility."

Yielding to the demands of the public, the lower chambers of the US congress passed a tax bill to be attached to the AIG bail money. The White House came out strongly against such measures. Featured in the CBS news program 60 Minutes, President Obama forged the new tax bill as "targeting special people."

Benjamin Franklin once stated that: "All human situations have their inconveniences. We feel those of the present but neither see nor feel those of the future; and hence, we often make troublesome changes without amendment, and frequently for the worse." In our age of advanced technology, our economy is intertwined with the entire world and true balance is required. To see our hard earned tax dollars given to the ultra rich is extremely disturbing. Our ideologies of capitalism have been compromised.

Our government has made radical decisions in "handing out" money with no accountable measures in place and no true due diligence. Is this not the same irrational decision making that led our lending institutions (and entire country) to the verge of dissolution?

If you have any questions or comments, e-mail Elbert Medina at Elbert@habashylawfirm.com or call at 1-800-2494-LAW(529) X 102.

Mr. John Habashy is an attorney-at-law, graduated from USC, with extensive loan modification experience.

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