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Jill Kerby: Mortgage holders group aims for debt reduction

Published on Saturday 20 October 2012 11:25

"Christmas is coming and Santy is coming too... no one stops Santy," says David Hall, the head of the new mortgage debt resolution group, the Irish Mortgage Holders Organisation (see www.mortgageholders.ie).

A thorn in the side of the banks and government for the last couple of years over their inadequate and piecemeal responses to the huge mortgage debt crisis, David Hall has thrown down a Santa-sized gauntlet at the nation's creditors to engage properly with their distressed mortgage customers.

He's also sending a message of hope to anyone who is in the unbearable position of worrying about whether they will have a home in which to even set up a Christmas tree this year. Yes you will, but only, says Hall, "if you keep your head and engage with the banks, but only at the minimum required level."

Hall, the owner of a private ambulance service, Lifeline, and a long-established charitable organiser (he set up the Irish version of the 'Make a Wish' charity and chaired the Marie Keating Foundation) has moved on from his original debt charity work with New Beginning, a group of lawyers and accountants that took on cases of desperate home owners who were about to lose their homes in the courts.

Their actions successfully stymied most bank foreclosures except for those in which owners voluntarily agreed (often without proper information) to hand back the keys, but to remain liable for any mortgage shortfall. They also achieved a small number of debt write-offs from the banks.

He now fronts this new, not-for-profit mortgage holders organisation which this time is not just welcoming distressed mortgage holders and helping them in their impending court dealings with the banks, but is aiming to get a proper system of independent mortgage debt resolution in place. It will prepare debtors for the next step that they may have to face - one of the three personal insolvency or bankruptcy options when the new Insolvency Bill is enacted and the state's debt resolution process is up and running. (This isn't expected before next spring.)

His agenda is deeper than that: The Bill itself needs amending, says Hall, if the great Irish debt crisis is to result in fair and sustainable outcomes for the real people and families who are affected.

"The legislation as it stands provides no protection to the debtors - the creditors still have a veto." The better-off ones - owners of multiple properties - are getting the best deals from the banks, he says, while the ordinary home owner and people with a single buy-to-let "are getting hammered."

He (and other lobby groups like FLAC) also want an independent appeals mechanism included in the Bill and an assurance that the three-year bankruptcy period will genuinely last just three years. At the moment it may take a year to even get a bankruptcy hearing and there are too many conditions required to qualify for the personal insolvency process that aims to keep as many people in their homes as possible.

Perhaps the most radical step towards a final and just debt resolution process, he says, will be the adoption of an Irish version of the successful, state supported online credit counselling services that exist in the UK and US and a more realistic attitude by the banks to what debtors will need to live on during their insolvency.

The independent, impartial advice provided by the new credit service is paid by the lenders, says Hall, and negotiations are under way with the Irish banks to convince them to go this route rather than the piecemeal, disjointed and "totally inadequate debt process that we have now."

Until the Insolvency Bill is enacted and a proper debt counselling service is in place, Hall recommends that people in mortgage distress only engage with the banks "within the MARP process, and no further." (The Mortgage Arrears Resolution Process involves putting a financial statement in place, securing some form of payment restructuring with the bank unable to take any legal action against the homeowner for at least one year.)

If the distressed homeowner engages any further - "even in taking up this offer to €250 meeting with an accountant to discuss a forbearance offer, then they've got you," he says.

Once you are in MARP, Hall advises against any further engagement unless you have secured impartial, professional, independent advice, paid for by the bank, in whose interest it is that your debt problems is sorted out properly, he says. Other, unsecured creditors should also be told that your debts to them will only be dealt with as part of a larger resolution of the mortgage problem. (The worse they can do is try to get a court judgement against your house, he says.)

The courts have been sympathetic to indebted homeowners who are trying to find a solution, says Hall. It is now for the government and the banks "to realistically engage with homeowners," he says, and to clear the huge backlog of serious arrears cases, even if that does mean debt write-offs.

Hall and the legal and accounting volunteers behind the Irish Mortgage Holders Organisation are determined that the criteria by which the banks decide who gets a forbearance or any kind of debt settlement deal (especially in the new insolvency legislation) become utterly transparent and fair.

Without this, there will be no end to the purgatory of debt and uncertainty that tens of thousands find themselves.

If you are having difficulty dealing with your mortgage lender and believe you may be in danger of losing your home, David Hall wants to hear from you in the hope that they can either help you negotiate on a stronger footing yourself with your bank creditor or with some help from the mortgage holders organisation.

Just fill out the contact invitation on the IMHO website. You never know, Christmas might even arrive a little earlier this year.

jill@jillkerby.ie

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