

From the Desk of
Senator Brian Boquist

Feds side with lender in Vancouver veteran's foreclosure fight



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A veteran of four tours of duty in the Middle East, Jacob McGreevey relishes a good fight.

When the longtime Marine became convinced his former lender had illegally foreclosed on his Vancouver home, he didn't hesitate. He looked up Sean Riddell, his former commanding officer now practicing law in Portland, and asked if he was ready to take on one of the biggest mortgage lenders in the country.

What neither McGreevey nor Riddell anticipated was that PHH Mortgage wasn't going to be their only adversary. Five months after the U.S. Department of Justice announced a major initiative to crack down on financial institutions taking advantage of active-duty service members, the agency intervened in McGreevey's case.

But it didn't come in on the side of the Marine. It went with the lender.

"The country that sent you to war is now choosing a corporation's interest over yours," Riddell told McGreevey.

The story shines a light on the Servicemembers Civil Relief Act, an obscure and often overlooked federal law intended to protect members of the military from foreclosure and other collections efforts while they're on active duty. McGreevey acknowledges he fell behind on his monthly payments but insists the law should have precluded PHH Mortgage from seizing his home in August 2010, just months after his third deployment.

"Soldiers don't make a lot of money," said Oregon Labor Commissioner Brad Avakian, who pushed the state to get involved. "They have extremely important and dangerous jobs. You don't want them in combat situations worrying about whether some mortgage company is going to steal their house out from under their family."

McGreevey's fight raises questions about the Trump administration's Department of Justice and its sudden interest in the New Jersey-based lender. Twelve days before the agency sided with PHH in the Marine's case, it had filed an amicus brief supporting the lender in a lawsuit against the U.S. Consumer Financial Protection Bureau. The bureau had fined the lender more than \$100 million for engaging in an insurance kickback scheme.

PHH Mortgage declined interview requests but issued a statement: "We take our commitment to helping all distressed homeowners very seriously and work closely with our customers to identify potential home retention options whenever possible, as we did with Mr. McGreevey."

The U.S. Department of Justice declined to comment.

John Odom, an attorney in Shreveport, Louisiana, and a national expert on the Servicemembers Civil Relief Act, said he was astounded by the federal government's actions.

"If the DOJ in the Trump era is now intervening in these cases on behalf of the financial services industry, that's troubling. That's really troubling," he said.

A Marine's story

McGreevey was still a teenager in 2000, a newly minted graduate of Columbia River High School in Vancouver, when he went through

boot camp. His first active-duty assignment came in 2003 when he was deployed to the front lines of the invasion of Iraq.

He served mainly in combat support roles, spending part of his years in the desert scanning the roads for the telltale signs of improvised explosive devices. It was his job to actually poke at the suspected bomb with a prod, to determine whether it was the real thing.

"I never got blown up," he said. "I had friends who did."

The Marine Corps called him back to Iraq and Afghanistan for three more tours. He was in Fallujah in Iraq's "bloody triangle" during the surge. In all, he spent about four years in the Middle East.

In between deployments, McGreevey would return to Vancouver, where he managed to buy a house on Northeast 24th Court. But the years overseas took a toll. He says he made a fateful mistake: trusting someone else to make the mortgage payment.

He returned from his third tour in June 2010, just in time to watch PHH Mortgage repossess his house.

Knowing next to nothing about the consumer protections afforded him as a member of the military, McGreevey didn't contest it. The foreclosure became final on Sept. 10.

McGreevey's final deployment ended in 2012. He had advanced from private to staff sergeant. Though diagnosed 80 percent disabled with post-traumatic stress syndrome, hearing loss and a back injury, he set about reinventing himself for civilian life. He earned a business degree from Portland State University and got a job at a bank.

He learned about consumer protection laws, including the Servicemembers Civil Relief Act. Congress passed the first version of the law in 1918 during World War I, reasoning that American soldiers should focus on staying alive and winning the war rather than about financial issues back home.

"There were millions of young American men who left the farm and factory to serve in that war, all of them with some entanglements from their civilian life," Odom said.

The law prohibits banks and other creditors from foreclosing, garnishing, evicting or repossessing assets from service members while they are on active duty or within 12 months of leaving the service. It is the creditor's obligation to determine whether the debtor is protected by the law.

"I didn't know my rights," McGreevey said. "I figured a foreclosure is a foreclosure."

But by spring 2016, McGreevey was convinced he'd been wronged. He reached out to Riddell, who filed the lawsuit in federal court in Western Washington a month later.

How long is too long?

Riddell, a hard-nosed prosecutor turned civil lawyer, named as defendants PHH Mortgage and Northwest Trustee Services, a firm based in Bellevue, Washington, that actually implemented the foreclosure.

Riddell claimed the facts were simple: PHH Mortgage foreclosed on McGreevey's house two months after his third tour, within the 12-month window of his active duty. Thus, he contended, he was clearly protected by the Servicemembers Civil Relief Act and the foreclosure was illegal.

The defendants didn't focus on the central issue of whether their foreclosure violated federal law and waged a more technical argument: PHH Mortgage and Northwest Trustee claimed McGreevey waited too long to file his complaint.

The Relief Act has no statute of limitations. But most courts have elected to apply a time limit on filing a complaint based on the statute of limitations in the most closely analogous state law. This gray area gave the two companies the opening they needed, and they argued that, under Washington state law, McGreevey had four years from the date of the foreclosure to file his lawsuit. Riddell argued for six years.

A federal judge in Seattle accepted the four-year limit. Even removing the 15 months McGreevey served in 2011-12 from the computation, more than four years had passed between the foreclosure and filing of the suit.