

Dr. Nate Easley

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blocked board discussions about this subject.”

The recall coalition, which includes McBride's NCCE; the Black Education Advisory Council, and Democrats for Excellent Neighborhood School Education (DeFENSE), also maintains that while Easley has been saying he supports teachers, he is overseeing an administration that has been dismissing older teachers, potentially exposing taxpayers to “enor-

mous liabilities.”

More than 50 DPS teachers have filed charges of discrimination against DPS with the federal Equal Employment Opportunity Commission (EEOC). Teachers, they say, are claiming that they were discriminated against because of their age, among other things.

If the teachers win their EEOC cases, they are likely to become part of a class action lawsuit against DPS that, if successful in court, could lead to DPS having to pay millions in damages and legal fees to the teachers and their

lawyers.

Who knows how much DPS is currently paying in legal fees to defend these EEOC discrimination complaints, the petitioners ask, adding that “what we do know is all of this money comes out of our classrooms.”

One more reason, they say, to take Easley out of his position overseeing what critics contend is a “corporatist” board majority bent on privatizing DPS services without taxpayers' informed and explicit authorization and approval.

Property Foreclosures

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vestors worldwide. “A homeowner only owes the money to whom the debt is owed,” he said. “Nine times out of 10 the real owner of the actual debt is not in court.”

Homeowners should be concerned about this, he warned, because if the foreclosure action from the incorrect party is successful, that may not “alleviate the homeowner from their obligation to the true owner of the note.” Ten years down the line, this could result in the true owner coming after the same person in efforts to recoup the debt still legally owed to them. Thus, Napolitano stresses that “you have to know who has the right to enforce the note to protect the homeowner from double liability in the future.”

Regarding the second point, he outlined some reasons a listed foreclosure amount might be in need of adjustment or modification. “If predatory practices were used to put the homeowner into that contract to owe money, the contract is not worth what the bank said.” He added that if fraudulent practices can be proven, then the bank or broker should be willing to offer “something in the form of an offset” to reduce the amount owed in relation to the home's actual worth.

His company specializes in foreclosure defense and as a first step, attorneys thoroughly examine the loans of clients to determine if they were fraudulent or illegal. From there, REST provides support services to the lawyers who represent these cases in court. Many people, he said, “are not focusing on the right things, particularly in cases where homeowners attempt to make the claim that they do not owe any money. “You do owe the money,” he said, again emphasizing that it's more a matter of how much is due.

He made mention of the “Produce the Note” campaign that became pop-

ular three years ago and voiced his disagreement with it since, in some cases, one bank can hold possession of the note and produce it in court but still lack legal right to enforce it. “A lot of people are not asking the right questions. It's about enforcement and the right to discharge the debt,” he explained.

Colorado law revised after foreclosure advocates push back

Advocate Sherron Lewis agrees that the right party must initiate foreclosure action but this week, after reviewing state law as found in Colorado Revised Statute 38-38-101, he noticed that several amendments to the law were made from 2006-2010. “They changed it several years after we started our fight,” he said of the work he and others became involved with in 2004, educating homeowners on their constitutional rights and coining a new phrase in describing many of the actions taking place as “illegal foreclosures.”

He told DWN that the law originally listed the requirements and paperwork to be submitted to the Public Trustee's office before an “owner” of a debt initiated foreclosure proceedings, but now the law uses the phrase “holder of an evidence of debt” in place of the term “owner.” He went on to say that the Public Trustee's office, as well as the courts in general, are “dropping the ball” in that, as “public” entities they are to carry out their duties without bias, and certainly not bias toward lenders, banks and those who initiate foreclosure actions. “Those two entities are supposed to exercise their individual respective duties to make sure each homeowner is afforded the proper and legal procedure,” he said.

Stephanie O'Malley serves as Denver's public trustee and has long been criticized by Lewis and other advocates for her role in allowing foreclosures to go through with little effort applied to verify the accuracy of information on submitted documents. Attorney Renee Cooper of Cooper & Durancy, this week, shared that years ago she “had noticed quite a number

of foreclosures without the correct paperwork and, more troubling, was the number of foreclosures,” which she described as being at an “epidemic” level in the state.

A long time associate of Lewis, she appeared with him and other panelists at a Five Points foreclosure forum held in 2007 and at which O'Malley also spoke and faced tough questions from homeowners, Cooper and Lewis. The advocates are not bashful about stating how seriously they take the public trustee's role or their belief that O'Malley's performance falls far short of the acceptable mark. “She sold out the East side, Montbello. All those Black folks that were getting their homes stolen, couldn't afford attorneys, didn't know the law and had no defense in a foreclosure, she sold them out,” Lewis said.

Public trustee's actions covered by law

DWN spoke with Deputy Public Trustee Sindee Wagner on Tuesday who assured that all actions the trustee's office takes are based upon what is found in the statute. When asked if any verification is done on the information found in the documents submitted by those initiating foreclosures, she replied, “We don't do any research. What we do is get the Notice of Election and Demand, the deed of trust and the note and a mailing list from the attorney and we process it based on Colorado statute. We don't do any kind of title search in our office.” She added that a verification process is not legally required. The law, she went on, says that the trustee's office only must make sure that the necessary forms have been submitted, not that the information on those forms reflects accurate facts.

In reviewing CRS 38-38-101, it allows for the possibility that submission of inaccurate documents may take place. “In the event that a qualified holder or the attorney for the holder commences a foreclosure without production of the original evidence of debt the qualified holder or the attorney . . . may submit the original ev-

Exercising Good Judgment

Physical Activity in Schools

Bill Passes

DENVER - State Representative Rhonda Fields' (D-Aurora) bill helping elementary school kids receive at least 30 minutes of exercise a day, passed on an initial voice vote in the House today.

“Childhood obesity in Colorado is growing at an alarming rate,” said Rep. Fields. “This bill will help tackle our growing obesity problem by giving our children a chance to move around and exer-

cise during the school day. Daily exercise can also improve mood and focus and teach our children healthy habits.”

House Bill 11-1069 will direct each Colorado school district to adopt a policy that incorporates a minimum of 30 minutes of physical activity each school week.

The bill was cosponsored by Rep. Tom Massey (R-Poncha Springs) in the House.

idence of debt prior to the sale,” paragraph two of the statute reads. “In such event, the sale shall be conducted and administered as if the original evidence of debt had been submitted at the time of commencement of such proceeding.” The law goes on to explain that if a property is foreclosed upon despite the fact that the “original evidence of debt” was never produced, “the only claims shall be against the indemnitor . . . and against the foreclosed property or the attorney for the holder of the evidence of debt.” It goes on to say that the homeowner, in this instance, can pursue any “remedies allowed by law.”

Legal “loopholes” benefit banks

Lewis believes that the “loopholes” added to the law in recent years primarily benefit lenders and owners of debts rather than homeowners. “They can start the process, knowing that if a homeowner contests the foreclosure in the District Court, the judge is going to rubber-stamp the foreclosure anyway,” he said. “Now what you have are the two entities (Public Trustee and District Court) working hand in hand leaving a homeowner virtually no chance in defending a foreclosure.”

Cooper also is dismayed, on the federal level, at the results of Pres. Obama's 2009 “Homeowner Affordability and Stability Plan” which aimed to help nine million property owners with refinancing, loan modifications or reduced mortgage rates. “Obama had issued that you would not lose your house and the banks were to work with you,” Cooper said. “I have worked with a number of individuals who've stated the banking company gave them the runaround and they, consequently, lost their home.” She noted that the banks were bailed out but the number of foreclosures “skyrocketed” despite the President's plan.

AG's unite against bank fraud

Not only were the banks bailed out, but many took part in the “robo-signing” scandal last year that moved the Attorneys General of all 50 states

to unite against the practice which saw banks “doctoring up paperwork,” as Napolitano described it, “to create the illusion that they have standing,” or the right to sue and enforce a note, and foreclose on a property. “The paperwork that was being filed by the banks and the bank's attorneys was not accurate.” He recalled that the controversy broke last fall and led the collective of AG's to “protect homeowners from the banks.”

Wagner explained that robo-signing primarily affected the East coast where foreclosures are handled through the courts, rather than a Public Trustee's office. “Underneath Colorado statute, there's a huge layer of protection, multiple checking over of documents, making sure everything is based on what Colorado statute requires so we don't really have too much of an issue as far as the robo-signing is concerned,” she said, even after admitting that the Trustee's office does not perform verification of the accuracy of what lenders and banks submit on their documents prior to filing for foreclosure against a homeowner. She said only the City Attorney's office would know if there have been past cases in which it was later discovered that banks had submitted fraudulent documents to the Trustee.

Homeowners to meet with AG

Even if Colorado is far removed from the robo-signing scandal, the Colorado Progressive Coalition is moving forward with their campaign to “Make Banks Pay” for their role in the foreclosure and housing crisis. Homeowners will meet with Deputy Attorney General Jan Zavislin on Feb. 23 and discussion will center around “the settlement goals [CPC] would like to see represented by our Attorney General” at the national AG conference to be held in early March in Washington, D.C. Space at next Wednesday's meeting is limited and an RSVP is required. Contact Priyal Karecha for more information, 303-867-0308 or priyal@progressivecoalition.org.