

The Boston Globe

TUESDAY, FEBRUARY 26, 1991

Ex-ComFed customers win \$4m 'lender-liability' suit

By Lawrence Edelman
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A Middlesex Superior Court judge has ordered ComFed Savings Bank to pay more than \$4 million to a Hamilton couple for renegeing on a promise to lend them money to complete a real estate development pro-

ject.

Lawyers for the couple yesterday said that the ruling, issued late last month by Judge Katherine Liacos Izzo, marks the first time a borrower has won a "lender liability" lawsuit against a Bay State bank. They said it could encourage other borrowers to file such suits, which seek damages from a bank for back-

ing out of a loan agreement.

The lawsuit was filed by Rhetta and John Sweeney in an attempt to prevent Lowell-based ComFed from foreclosing on two Hamilton properties, including their nine-acre estate on Meyer Lane, which they planned to subdivide into residential lots. ComFed tried to foreclose after the couple could not repay a \$1.6 million

loan they had taken out to pay off previous debts on the properties and prepare them for development.

The Sweeneys charged that ComFed deceived them into taking the loan by promising them an additional \$900,000 loan to be used to construct homes on the newly created lots. Profits from sales of the

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subdivisions would be used to repay the loans.

But the couple alleged that the bank never intended to make the

second loan. Instead, they claimed, it wanted the Sweeneys to default on the \$1.6 million loan so it could foreclose on the properties, which the bank believed could be worth much more.

Their 1989 suit - which also named two ComFed subsidiaries and Dennis Furey, a former ComFed vice president who handled the loan - included charges of breach of contract, unfair trade practices and intentional infliction of emotional distress. ComFed denied the charges and sought repayment of the loan, plus interest.

In a ruling that the couple's law-

yers received yesterday, the judge supported the Sweeneys' allegations, finding that ComFed never planned to make the second loan. Saying that the bank's "unconscionable and oppressive" actions violated Massachusetts law prohibiting unfair or deceptive trade practices, the judge ordered the bank to pay the couple just under \$3 million, plus legal fees of \$97,000 and interest.