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THE COUNCIL



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Committee on Community Development
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Oversight: Post Foreclosure: How is Community Development
Affected?

I INTRODUCTION

On Thursday, January 22, 2009, the New York City Council's Committee on Community Development, chaired by Council Member Albert Vann, will hold an oversight hearing titled "Post Foreclosure: How is Community Development Affected?"

Among those invited to testify are Robert C. Lieber, Deputy Mayor for Economic Development, Shaun Donovan, Commissioner, Department of Housing Preservation and Development, Ms. Vicki Been, Director, Furman Center for Real Estate and Urban Policy, New York University School of Law, Mr. Michael Hickey, Executive Director, Center for New York City Neighborhoods,

Also invited to testify, are representatives of, among others: Black Equity Alliance, Community Service Society of New York, Center for an Urban Future, Fiscal Policy Institute, Drum Major Institute for Public Policy, Neighborhood Economic Development Advocacy Project, and Harlem Congregations for Community Improvement, Inc.

II FORECLOSURE

In order to understand the post foreclosure effects on community development efforts and the organizations active in such efforts, a look at the foreclosure process would be instructive. A borrower who fails to make mortgage payments on the schedule required by the mortgage contract suffers from loan distress or mortgage default. When a borrower defaults on the mortgage, lenders can restructure the loan, forebear enforcement of the contract in hopes that the borrower will resume making payments, or begin the process to reclaim the property, through a mortgage foreclosure procedure. After a mortgage has gone unpaid for a minimum of three consecutive months, the lender can file

a *lis pendens*, a notice of the intention to sue the property owner and reclaim the property if the loan is not repaid.¹

A *lis pendens* can be filed for a number of reasons other than default on a mortgage loan, including unpaid taxes, unpaid condominium fees, or mechanic's or contractor's liens.² In order to prevent foreclosure, a borrower may seek to restructure the loan with the existing lender, refinance the property with a different lender, or sell the property outright and satisfy the mortgage from the proceeds.³

After the *lis pendens* has been filed, if the loan distress or mortgage default can not be cured by the borrower, the lender may request that the court appoint a referee to conduct the foreclosure sale and schedule an auction of the property. The Judge must sign a Judgment of Foreclosure and Sale that directs a Notice of Sale to be published (which will include the date, time, and location of the auction, the property address, and the names of the borrower and lender) in newspapers and other media for four successive weeks prior to the auction.⁴

The winning bidder at the auction, which may be the original lender if no private investors bid higher than the amount of the outstanding loan, must pay 10% of the purchase price immediately after the auction with the remainder due in thirty days. In New York City, the time between the filing of a *lis pendens* and the auction of the property is typically 18 months.⁵

¹ Jenny Schuetz, Vicki Been, Ingrid Gould Ellen, Furman Center for Real Estate & Urban Policy, New York University School of Law, Wagner School of Public Policy, *Neighboring Effects of Concentrated Mortgage Foreclosures*, October 1, 2008, p. 8-9.

² *Id.*, p. 9, note 4.

³ *Id.*, at 9.

⁴ *Id.*

⁵ *Id.* at 10.

In August 2008, the Center for Responsible Lending (CRL) released a report, “Updated Projections of Subprime Foreclosures in the United States and Their Impact on Home Values and Communities.” CRL projects there will occur 2.2 million subprime foreclosures in late 2008 through the end of 2009, along with 40.6 million homes in neighborhoods surrounding those foreclosures suffering price declines averaging over \$8,667 per home and resulting in a \$352 billion total decline in property values. CRL sees New York State suffering 122,192 foreclosures in 2008-2009 with 3,552,642 surrounding homes experiencing price declines cause by nearby foreclosures with an average decrease in home value of \$18,117 per unit affected.⁶

III NEW YORK CITY’S ECONOMIC OUTLOOK

On January 8, 2009, the New York City Independent Budget Office (IBO) released a report, “As Economy Weakens, City’s Budget Gaps Swell”, which highlights the struggles the City and its citizens face. The IBO projects the City will lose 243,000 jobs from the peak during the first quarter of 2008 with tax revenues declining by \$2.8 billion in fiscal year 2009 to \$34.7 billion and then decline by \$380 million more in 2010. The IBO projects the budget gap for fiscal year 2010 will grow to \$4.3 billion (10.4 percent of the city-funded revenues) and with little recovery of the local economy anticipated before the end of calendar year 2010, the expected fiscal year 2010 gap will reach nearly \$7 billion (15.9 percent of city-funded revenues).

IV EFFECTS OF ECONOMIC OUTLOOK ON DIFFERENT SEGMENTS OF POPULATION

On August 1, 2008, the Joint Economic Committee of the United States Congress, chaired by Senator Charles Schumer and vice-chaired by Representative Carolyn

⁶ Center for Responsible Lending, Updated Projections of Subprime Foreclosures in the United States and Their Impact on Home Values and Communities, p 1-2.

Maloney, released a series of snapshots that examine the impact of the economy on certain segments of the population, specifically addressing the effect of the subprime mortgage crises.

Female Homeowners

Unregulated mortgage originators who targeted minority, elderly, and female borrowers received financial incentives to sell risky, unaffordable subprime mortgages to vulnerable borrowers. During the subprime boom – despite having higher credit scores on average – female home-buyers were 32 percent more likely than males to receive a high cost subprime mortgage loan.

Families Near Retirement

Families own less of their homes than ever before, owning an average of just 46 percent of their home, down from almost 58 percent in 2000. A 10 percent further decline in real home prices could result in a 35 percent decline in the net worth of households with a family member between the ages of 45 and 54 by 2009 leaving a family in the middle-wealth bracket with an average of only \$97,600 in assets for their retirement.

African American and Hispanic Families

African American home-buyers were nearly three times more likely than whites to receive a high cost home loan. Hispanic home-buyers were nearly two and a half times more likely than whites to receive a high cost home loan. The Joint Economic Committee estimated that the number of subprime foreclosures in the United States will total 2 million by the end of 2009 with a disproportionate share likely to be African American and Hispanic homeowners.

IV NEGATIVE IMPACTS OF FORECLOSURE ON COMMUNITIES

Communities with large numbers of foreclosed properties face many of the same challenges as communities with large numbers of abandoned properties. Properties that are not occupied or well-maintained, whether due to foreclosure or other economic factors, can reduce nearby property values, foster criminal activity, and create a downward spiral of community decline. In cases of foreclosures, enforcing the responsibilities of property ownership can also be difficult as the property shifts hands from the homeowner, who has little incentive to maintain a home he or she is about to lose.⁷

Negative impacts of foreclosure include:

- Long periods of vacancy which, in turn, can result in visible signs of neglect, reducing the value of neighboring properties;
- Increases in the supply of housing on the market, lowering the value of similar properties;
- Tenants at risk of eviction in multi-unit properties, even if they are current with their rent;
- Properties left vacant and abandoned as a result of foreclosure can attract criminals, diminishing the quality of life of neighborhoods in non-financial ways;
- Properties left vacant and abandoned as a result of foreclosure require increased direct expenditures by local governments, for added police and fire protection, emergency repairs and demolition;
- The displacement of employed residents and erosion of property values results in reduced income and property tax collection by local governments.⁸

⁷ Maya Brenan, Center for Housing Policy, *Stabilizing Communities Affected by Foreclosures: Lessons Learned from Vacant and Abandoned Properties Initiatives*.

⁸ Furman Center for Real Estate & Urban Policy, New York University, *Transforming Foreclosed Properties Into Community Assets*, p. 5.

A case study of Chicago in *Collateral Damage: The Municipal Impact of Today's Mortgage Foreclosure Boom*, estimated the cost to municipal governments of foreclosures. Municipal governments lose between \$500 to \$34,000 per single foreclosed property, with the highest loss associated with foreclosed property that is abandoned and damaged by property. In addition to having high municipal costs, the blight caused by properties left vacant by foreclosure negatively affects neighborhoods and nearby property owners.⁹

In the presence of weak housing markets and depressed economic conditions, the rate at which homes sit vacant for many months post-foreclosure increases, and the higher prevalence of vacancy the greater incidence of abandonment. The external costs of vacant and abandoned properties occur across a number of categories:

- Declining property values of adjacent properties;
- Declining property tax revenues from non-payment of taxes;
- Declining property tax revenues from declining property values of adjacent properties;
- Increased costs of police and public safety surveillance and responses;
- Increased incidence of arson and fire prevention;
- Increased costs of local government code enforcement activities;
- Increased costs of judicial actions.¹⁰

In addition to these objective and empirical costs, vacant and abandoned properties result in a broad range of intangible costs to the community:

⁹ William C. Apgar and Mark Duda, Homeownership Preservation Foundation, *Collateral Damage: The Municipal Impact of Today's Mortgage Foreclosure Boom*, May 11, 2005.

¹⁰ Testimony of Frank S. Alexander, Professor of Law, Emory University School of Law, before the Domestic Policy Subcommittee and Oversight and Government Reform Committee, U.S. House of Representatives, May 22, 2008.

- Decline in neighborhood confidence and social cohesion;
- Instability in school age populations and weakening of public school resources;
- Loss of incentives to invest and maintain existing occupied properties.¹¹

Effects of neighborhood destabilization cause by foreclosure include:

- Foreclosed families vacate their neighborhood and community; sometimes leaving their local church and social groups – causing holes in the fabric of the community;
- Most foreclosed families still have at least one income so can not qualify for public assistance programs. They are on their own to find housing, place their pet, and repair their credit;
- Children are removed from their schools – interrupting the child’s need for stability and continuity at a critical stage of their development. Additionally, this degrades school funding and ability to teach children with a consistent program;
- Little to no funding or resources for relocation - furniture and other personal belongings are abandoned;
- Some families are “doubling up” moving in with friends or relatives, others are moving to houses as tenants, some are living in their cars;
- Investors who want to purchase a cash-flow property are the primary customers for most foreclosed homes - increasing the number of rental units in the neighborhood. Many of these landlords are new to real estate investing and have not made a long-term business plan for this investment, risking further destabilization by inexperienced absentee ownership.¹²

V NEW YORK CITY NEIGHBORHOOD STABILIZATION PROGRAM

On January 14, 2009 Mayor Michael R. Bloomberg, United States Department of Housing and Urban Development (HUD) Secretary Steve Preston and City Council Speaker Christine C. Quinn announced the approval of \$24 million in emergency assistance to allow New York City to buy, renovate and resell foreclosed properties. The

¹¹ *Id.*

¹² <http://northcitypark.wordpress.com/2008/07/28/post-foreclosure-program-to-offest-neighborhood-destabilization/>, accessed January 12, 008.

first phase of the City's program - known as the Neighborhood Stabilization Program - will begin with four homes: two in Staten Island, one in Queens and one in the Bronx. In total, the program, one of 18 initiatives announced by Mayor Bloomberg and Speaker Quinn in October to help New Yorkers face current economic challenges, will result in the purchase and redevelopment of roughly 115 buildings, providing affordable homes for between 250 and 300 New York City families.

VI FEDERAL NEIGHBORHOOD STABILIZATION PROGRAM

On January 15, 2009, Governor David A. Paterson announced that the United States Department of Housing and Urban Development (HUD) has approved the New York State Housing Finance Agency's (HFA) plan to distribute \$54.5 million in Federal Neighborhood Stabilization Program (NSP) funds to buy, renovate and resell foreclosed and abandoned properties. The decision enables HFA, the agency responsible for overseeing the State's NSP program, to approve grants to local governments, nonprofits and other organizations that will help rebuild communities most affected by the foreclosure crisis.

The \$54.5 million will come from Federal funds authorized by the Housing and Economic Recovery Act of 2008 passed by Congress last July. It is expected that most of the NSP funds will be used to purchase and rehabilitate foreclosed and abandoned residential properties, as well as to redevelop vacant sites. HFA has used HUD data and recommendations to set caps, or maximums, on the amount of funding that can go to each county in the State. New York City's funding cap or maximum is set at \$5,301,213.

VII CONCLUSION

Today's hearing will examine how the economic climate and subprime mortgage crises, "post foreclosure," effects on community development efforts and organizations. The committee is interested in hearing from those on the "front lines" in order to learn their view of the effects on the people, neighborhoods, and their community development efforts.