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Foreclosure's Persistent Threat to New York City and its Minority Communities

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Introduction

As we are all too familiar, the Great Recession of 2008 was spurred in large part by the subprime mortgage crisis that rocked our nation. Large financial institutions brokered in practices that jeopardized the lives of millions of families and the economy as a whole. As a result, individuals not only lost their homes and lifetime earnings, but the societal fabric of many communities was torn apart as well.

After years of suffering, this is a struggle that the nation is finally starting to rise from. According to the Mortgage Bankers Association (MBA), the delinquency rate for mortgage loans fell 6.39% nationwide at the close of 2013's fourth quarter.[1] This represents the lowest level since the beginning of 2008. On top of that the foreclosure rate fell 2.86%; again the lowest since 2008.

Unfortunately, despite this rebound the foreclosure crisis persists in numerous areas throughout the country. In fact, the third highest foreclosure rate resides here in New York. This finding led Bloomberg News to conclude that the ***"epicenter of the U.S. foreclosure crisis"*** is now firmly implanted in our State.[2] In fact, this year foreclosures are on the rise again in New York City.[3] Not only are foreclosure notices up 15% from the previous year, but foreclosure activity in the region experienced an annual increase in 21 of the past 23 months.

While New Yorkers suffer, many of the financial institutions behind these mortgages continue to see their profits increase. Last year, commercial banks and savings institutions earned a net income of $154.7 billion.[4] Moreover, in 2013's fourth quarter these institutions reported a net income of $40.3 billion, marking the 17th time in the last 18 quarters that earnings saw an annual increase!

Simply put while the banks continue to earn billions of dollars, New Yorkers see little relief. Families on the cusp of foreclosure need all the help they can get to reach an agreement with their lender that will allow them to stay in their homes. Thankfully, these tools are currently available to New Yorkers due to the passage of the Mortgage Foreclosure Law in 2009.

Chief among them were a requirement that lenders send out a 90-Day Foreclosure Notice and hold Settlement Conferences with *all* home loan borrowers. These commonsense methods provide individuals with the information they need to take control of their situation, and hopefully modify their mortgage to reach a sustainable conclusion. Unfortunately, significant

[1] Mortgage Bankers Association, *Delinquency and Foreclosure Rates Decline to Lowest Level in Six Years*, February 20, 2014, http://www.mbaa.org/NewsandMedia/PressCenter/87218.htm.

[2] Prashant Gopal, "Foreclosures Surging in New York-New Jersey Market," *Bloomberg*, February 26, 2014, http://www.bloomberg.com/news/2014-02-26/foreclosures-climaxing-in-new-york-new-jersey-market-mortgages.html.

[3] Phyllis Furman, "More City Homeowners are at Risk of Losing Their Homes as Foreclosures Rise," *New York Daily News*, February 13, 2014, http://www.nydailynews.com/new-york/city-homeowners-risk-losing-homes-foreclosures-rise-article-1.1612089.

[4] Federal Deposit Insurance Corporation, *FDIC-Insured Institutions Earned $40.3 Billion in the Fourth Quarter of 2013*, February 26, 2014, http://www.fdic.gov/news/news/press/2014/pr14012.html.

portions of the 2009 Law are set to expire. Without these vital instruments, homeowners are more likely to fall into the foreclosure process.

The 90-Day Notice is extremely important because it explicitly warns homeowners that they are on the verge of losing their home. The document provides key information relaying how many days the mortgage is in default, how much is owed, and the deadline by which payment is due. Additionally, the lender must offer a list of at least five nonprofit housing counseling agencies that can provide free or low-cost counseling. With this information, the homeowner is given a critical amount of time in which they can rectify their situation.

Alongside this notice, the mandatory settlement conferences provided by the 2009 law are just as vital. This requires a court to hold a mandatory settlement conference in all residential foreclosure actions within sixty days after proof of service is filed with a county clerk. This law not only requires that a lender representative attend, but that litigants negotiate in good faith to reach a mutually agreeable resolution that will avoid foreclosure. This provides a critical "second opportunity" for homeowners after the 90-Day Notice period ends.

The Impact of Foreclosures in New York City

To determine the foreclosure crisis' continued toll on New Yorkers, my office undertook an extensive survey on the number of properties just starting down this treacherous path. As many are aware, foreclosure is often an especially long process. Over the last eight years, the average time it takes a property to move through this process is 35 months in judicial states like New York.[5] For all such owners, this path begins with their property entering into pre-foreclosure.

These are properties in which the owner becomes newly delinquent on their mortgage payments. While borrowers are considered in default after missing one payment, pre-foreclosure filings are typically not made until two to three months of payments are missed.[6] During this time, homeowners will receive the 90-Day Notice. Therefore, this is a critical stage in foreclosure proceedings. Essentially, it provides a last opportunity for homeowners to rectify their situation before it becomes increasingly dire.

Through surveying the number of homes in pre-foreclosure we can gauge how many individuals potentially may fall victim to foreclosure and will fail to have these key protections at their disposal. Addresses for such properties were obtained from the real estate information company RealtyTrac (www.realtytrac.com/). Pre-foreclosure filings were collected for each borough by zip code.

[5] Core Logic, *The Market Pulse,* Volume 2(3), March 2013, http://www.corelogic.com/downloadable-docs/marketpulse_2013-march-1.pdf.

[6] New York State Homes & Community Renewal, *Understanding New York State's Mortgage Foreclosure Process*, September 2012, http://www.nyshcr.org/Topics/Home/Owners/ForeclosurePrevention/FactSheets/Understanding-Foreclosure-Process-in-NYS-Fact-Sheet.pdf.

New York City Pre-Foreclosures by Borough, 2014

BOROUGH	PRE-FORECLOSURES
BRONX	4,408
BROOKLYN	10,308
MANHATTAN	843
QUEENS	10,060
STATEN ISLAND	4,110
TOTAL	29,729

Source: RealtyTrac.com, filings obtained on May 5, 2014.

As the chart above demonstrates, there are close to 30,000 properties in New York City alone that are in pre-foreclosure. Brooklyn is the most affected borough with 10,308 pre-foreclosures, and is narrowly trailed by Queens (10,060). These are followed by the Bronx and Staten Island, with each holding over 4,000 pre-foreclosure properties. While Manhattan holds only 843 such properties, this is still a devastating total.

This is an incredible burden that New York City's homeowners and families face, threatening to upend their lives as they know it. Without a home where will they be able to turn? Lacking the protections cited above, it is likely that an increased amount of homeowners will eventually lose their homes to foreclosure. How do we know this? Simply by looking at the success of settlement conferences and the notice requirement to date.

New York's Unified Court System annually reports on the adequacy and effectiveness of the settlement conferences.[7] From October 2012 to October 2013, a staggering 91,522 settlement conferences took place. While over 63,000 of these conferences were adjourned, only 10,346 ended in default. This means that only 11.3% of homeowners who enter a conference end the year with a foreclosure result. Applying that rate to the number above means that 26,370 of those entering pre-foreclosure will still be in their home in a year's time.

Aside from the personal trauma of foreclosure, what we often forget is that its impact stretches far beyond the individual. As the next section demonstrates, foreclosure is not merely an individual dilemma but a societal scourge. When a family loses their home to foreclosure, it unleashes broad ripple effects throughout the community.

Foreclosure's Terrifying Toll

The foreclosure crisis cannot be measured alone by those experiencing it themselves due to its expansive spillover effects. Sadly when a property is foreclosed it produces a number of

[7] A. Gail Prudenti, "2013 Report of the Chief Administrator of the Courts: Pursuant to Chapter 507 of the Laws of 2009," *State of New York Unified Court System*, November 13, 2013, http://www.ballardspahr.com/~/media/Files/Alerts/2013-11-13-NYcourts.pdf.

shockwaves crippling bystanders. As a result, there are a host of devastating consequences for personal finances and the economy-at-large.

According to a 2008 report from the Federal Reserve Bank of Boston, there are three main causes for decreases in surrounding property value.[8] They are blight, valuation, and supply. Regarding the first, homeowners not able to afford a mortgage are unlikely to maintain their property's conditions. Additionally, such homes may become vacant leading to increased vandalism in neighborhoods. Foreclosed properties also sell at reduced rates, therefore lowering the value of those homes around them. Finally, in areas suffering the most there will be a large supply of foreclosed homes thus lowering equity for other homeowners in the area.

The Center for Responsible Lending (CRL) is at the forefront in elucidating such costs. Its research focuses on the two largest spillovers: diminished property taxes and lost property value in surrounding homes.[9] CRL's finds that

> *Communities with high concentrations of foreclosures lose tax revenue and incur the financial and non-financial costs of abandoned properties and neighborhood blight, while homeowners living in close proximity to foreclosures suffer loss of wealth through depreciated home values.*[10]

Regarding the latter, CLR estimates that more than 95 million neighboring properties lost home equity due to their proximity to the 12.5 million foreclosures occurring since 2007. Therefore, one foreclosure affects 7.6 neighboring properties. Cumulatively, those residing near a foreclosure saw total property value losses of **$2.2 trillion**. This is an average rate of $23,157.89 in home equity lost for each surrounding property. An even higher rate was seen for Minority neighborhoods who lose an average of $40,297 of their property's value.[11]

Alongside this effect is that felt by local communities seeing reduction in property tax collections. For New York City, property taxes make up a quarter (27%) of the City's revenue.[12] When a property is foreclosed, New York City will lose out on that tax revenue it would otherwise collect. With nearly 30,000 homes in pre-foreclosure, there is clearly a large threat to the City's finances. If a portion of these cannot be saved from foreclosure, funding for schools and services could potentially be imperiled.

Using the pre-foreclosure findings above, we are able to estimate just what that impact would look like. In conjunction with the data from Realty Trac, statistics for median real estate property

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[8] Kai-yan Lee, "Foreclosure's Price-Depressing Spillover Effects on Local Properties: A Literature Review," *Federal Reserve Bank of Boston*, September 2008, 1, https://www.bostonfed.org/commdev/pcadp/2008/pcadp0801.pdf.
[9] Center for Responsible Lending, *2013 Update: The Spillover Effects of Foreclosures*, August 19, 2013, http://www.responsiblelending.org/mortgage-lending/research-analysis/2013-crl-research-update-foreclosure-spillover-effects-final-aug-19-docx.pdf.
[10] Ibid, 2.
[11] Ibid, 1.
[12] New York City Independent Budget Office, *Understanding New York City's* Budget, June 2013, 7, http://www.ibo.nyc.ny.us/iboreports/understandingthebudget.pdf.

taxes and median home/condo value for each zip code was obtained from City-Data.com.[13] Next we applied the rates at which foreclosed properties affect surrounding homes (7.6 properties per 1 foreclosure) and produce home equity loss ($23,158 average; $40,297 for Minority neighborhoods) to the number of pre-foreclosures per borough. This allows us to estimate the potential loss in property taxes and home value if these properties are foreclosed.

Potential Effect of Foreclosure on New York City

	Pre-Foreclosures	Surrounding Properties Affected	Total Potential Property Tax Loss	Total Potential Property Value Loss
Bronx	4,408	33,501	$ 12,061,538.00	$ 2,066,721,522.24
Brooklyn	10,308	78,341	$ 27,286,045.00	$ 5,984,584,073.28
Manhattan	843	6,407	$ 4,606,484.00	$ 525,274,806.27
Queens	10,060	76,456	$ 28,533,951.00	$ 5,389,949,475.84
Staten Island	4,110	31,236	$ 11,824,834.00	$ 1,588,892,218.56
TOTAL	**29,729**	**225,941**	**$ 84,312,852.00**	**$15,555,422,096.19**

What is first noticeable from the table is that the properties in pre-foreclosure may produce property tax losses of **$84 million** to the City of New York. This would be a massive blow to revenue, and clearly signals that it is in the best interests of the State to provide relief to these individuals. As for the individual boroughs, Queens faces the largest decline with the prospective reduction of $28.5 million in property taxes.

We also find that while there are only 30,000 pre-foreclosures currently throughout the City, they hold the potential to affect nearly 226,000 properties. At the rates seen above, the total loss in home values could reach **$15.5 billion**. As they hold the greatest number of pre-foreclosures, Brooklyn and Queens residents are especially at jeopardy. In each borough, over 75,000 properties may lose a significant portion of their value. Brooklyn also suffers the most sever potential loss in property value tallying nearly $6 billion.

This data allows us to see the greater picture of the foreclosure crisis. It is not simply home owners who cannot afford to pay their monthly bills. Foreclosures threaten the community at large, and brings with it destructive impacts to the lifetime wealth of those individuals and families neighboring such properties.

Minority Neighborhoods Face an Outsized Impact

CRL also found that the foreclosure crisis demonstrates a profoundly unequal impact on communities primarily composed of minority groups. According to their report, Minority neighborhoods account for $1.1 trillion of the $2.2 trillion in property value lost by properties surrounding a foreclosure.[14] On average, a family affected by a nearby foreclosures can expect a

[13] City-Data.com is an Illinois-based information site holding data relevant to U.s. Cities, and is owned and operated by Advameg Inc.

[14] Center for Responsible Lending, *2013 Update*, 1.

loss of $23,150, or 8.8% of their property's value. Homes in Minority neighborhoods face an even steeper cost. These families lose $40,297 on average, or 16% of a home's value.

To determine the extent New York City's Minority communities suffer, we obtained demographic data from the US Census American Community Survey for each zip code in New York City. This allowed us to classify these communities in the following fashion:

- **Predominantly White Neighborhoods**: Those in which White New Yorkers make up over 50% of the population; and
- **Minority Neighborhoods**: Those in which Minority groups make up over 50% of the population.

Our results, as seen in the table on the following page, confirm the Center for Responsible Lending's conclusion that minority groups experience the vast majority of foreclosure's consequences. In New York City as a whole, **Minority Neighborhoods experience the vast majority of pre-foreclosures with almost 24,000**. This accounts for 80% of the pre-foreclosure filings in all of NYC!

Additionally, this translates to 180,690 properties facing a potential loss in home equity. While dire, the situation is not nearly as grim for Predominantly White neighborhoods. These hold nearly 6,000 properties in pre-foreclosures, with the potential to affect 45,000 surrounding properties.

Disparities within the boroughs themselves are even greater. The Bronx and Queens demonstrated the greatest inequality between Predominantly White and Minority Neighborhoods. **In these boroughs, Minority neighborhoods experience 93% of pre-foreclosures.** The next largest gap is seen in Brooklyn, where 81% of pre-foreclosures impact Minority neighborhoods. In Manhattan and Staten Island, however, the situation is reversed. Here we find that Predominantly White neighborhoods possess the most pre-foreclosures with about 60% in each.

As Minority neighborhoods contain most pre-foreclosures they are also the focal point of its cascading effect on surrounding properties. Should these pre-foreclosures end in foreclosure, over 70,000 additional residents in Queen's Minority communities would be affected. Brooklyn (63,490) and Bronx (30,985) minorities would also face a heightened toll.

In regards to lost property taxes and home value, not surprisingly, Minority communities again bear the brunt. Should the properties foreclose **Minority neighborhoods would experience losses of $64 million in property taxes and $13 billion in home equity.** This is compared to Predominantly White neighborhoods that experience $21 million and $2 trillion in losses, respectively.

Foreclosure's Disproportionate Effect on Minority Communities, New York City

		Bronx	Brooklyn	Manhattan	Queens	Staten Island	TOTAL
Pre-foreclosures	Predominantly White	331	1,954	492	700	2,477	**5,954**
	Minority Neighborhoods	4,077	8,354	351	9,360	1,633	**23,775**
Potential Affected Surrounding Homes	Predominantly White	2,516	14,850	3,739	5,320	18,825	**45,250**
	Minority Neighborhoods	30,985	63,490	2,668	71,136	12,411	**180,690**
Total Potential Property Taxes Lost	Predominantly White	$1,060,000	$6,575,421	$3,341,484	$2,607,182	$7,841,729	**$ 21,425,816.00**
	Minority Neighborhoods	$11,001,538	$20,710,624	$1,265,000	$26,926,769	$3,983,105	**$ 63,887,036.00**
Total Potential Spillover Costs	Predominantly White	$ 100,859,922	$807,461,033	$283,249,795	$256,173,674	$790,827,041	**$ 2,238,571,465.24**
	Minority Neighborhoods	$1,965,861,600	$5,177,123,040	$242,025,011	$5,133,775,802	$798,065,178	**$13,316,850,631.00**

In Queens, an astounding $27 million dollars in property taxes could potentially be lost in Minority communities. Likewise, Brooklyn ($20 million) and the Bronx ($11 million) exhibit high losses in property tax revenue. Moreover these same boroughs may also see an incredibly disproportionate impact on the finances of Minority families in homes surrounding foreclosures. Queens ($5 billion), Brooklyn ($5 billion), and the Bronx ($2 billion) are all subject to losses of over $1 billion.

No other conclusion may be reached from looking at these numbers than that Minority neighborhoods are overwhelmingly impacted by the foreclosure crisis. In the City, these communities hold 80% of the properties in pre-foreclosure, and experience 75% and 86% of potential property tax and home equity losses, respectively.

The Banks Behind the Continuing Crisis

Without extending the tools currently available to homeowners facing a foreclosure, their properties will fall back to the institution holding the mortgage. Who exactly are the financial institutions behind the continuing foreclosure crisis? Our office investigated this very question.

Due to the overwhelming amount of properties in pre-foreclosure, we studied the top 5 zip codes in each borough by number of pre-foreclosures. Currently, these are the zip codes with the corresponding number of pre-foreclosures:

Bronx: 10462, 10466, 10467, 10469, 10473
Brooklyn: 11203, 11207, 11208, 11234, 11236
Manhattan: 10016, 10019, 10027, 10031, 10035
Queens: 11412, 11420, 11433, 11434, 11691
Staten Island: 10303, 10304, 10305, 10312, 10314

Each address within these zip codes featuring a pre-foreclosure was then entered into the New York City Automated City Register Information System (ACRIS). This is a database containing all documents and records associated with a property. Therefore, my office was able to not only view the outstanding mortgages associated with a pre-foreclosure, but the lending institution holding that mortgage. The results of this search are below.

Top 5 Zip Codes Across All NYC Boroughs

Institution	Outstanding Mortgages
Wells Fargo	1,273
US Bank	1,116
JP Morgan Chase	1,043
Deutsche Bank	760
HSBC	741

Across all top 5 zip codes in the boroughs, Wells Fargo was found to hold the most outstanding mortgages on pre-foreclosure properties with 1,273. US Bank and JP Morgan Chase closely followed this tally with 1,116 and 1,043 mortgages respectively. Deutsche Bank (760 mortgages) and HSBC (741 mortgages) completed the top five list of lending institutions.

The next set of charts highlights the banks holding the most mortgages in pre-foreclosed properties throughout the five most affected zip codes in each borough. As one can see, the five financial institutions seen dominate throughout all the boroughs. Little variety is seen, with Wells Fargo and JP Morgan Chase each holding the most mortgages in two of the five boroughs.

Top 5 Zip Codes in the Bronx

	Outstanding Mortgages
Wells Fargo	254
US Bank	221
JP Morgan Chase	201
Deutsche Bank	161
HSBC	148

Top 5 Zip Codes in Brooklyn

	Outstanding Mortgages
US Bank	480
Wells Fargo	431
JP Morgan Chase	322
HSBC	304
Deutsche Bank	303

Top 5 Zip Codes in Queens

	Outstanding Mortgages
Wells Fargo	335
US Bank	248
JP Morgan Chase	242
Deutsche Bank	171
HSBC	169

Top 5 Zip Codes in Manhattan

	Outstanding Mortgages
JP Morgan Chase	26
US Bank	19
Yellowbrick Real Estate Capital	17
Bank of America	14
HSBC	13
Wells Fargo	13

Across Top 5 Zip Codes in Staten Island

	Outstanding Mortgages
JP Morgan Chase	252
Wells Fargo	240
US Bank	148
Bank of America	125
Deutsche Bank	117

Conclusion

Without taking away any responsibility from homeowners for holding too much debt, it is difficult to conclude that financial institutions like the ones above don't share a good deal of it as well. Not only were irresponsible lending practices the norm, but since that time they have engaged in robo-signing and shown little enthusiasm for modifying loans.[15]

One way we can help these homeowners and ensure that lending institutions operate in a socially acceptable fashion is by the Legislature passing S. 7119/A.9354. This bill would extend various provisions of law that would otherwise expire this year. Regarding the issue at hand, the legislation amends Chapter 507 of the Laws of 2009 to extend the requirement for lenders to provide notice of foreclosure and mandatory settlement conferences for all home loans an additional five years. Both requirements are extremely important in easing the foreclosure process, and helping homeowners find their footing.

Absent these protections, homeowners across New York would face a much harsher landscape. After beginning to emerge from the crushing foreclosure wave of the late 2000s, it would be foolish to part ways with these requirements. At a time when financial institutions are racking in profits hand over fist, do we really want to place homeowners at anymore of a disadvantage? The answer is no, and we can ensure this does not occur by extending the 90-Day Notice and settlement conference requirements.

[15] Sumit Agarwal, et al., *Polcy Intervention in Debt Renegotiation: Evidence from the Home Affordable Modification Program*, Federal Reserve Bank of Chicago, November 2013, http://www.chicagofed.org/digital_assets/publications/working_papers/2013/wp2013_27.pdf.