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New York State Housing Committee Testimony

Thank you for giving me the opportunity to address you today on the important subject of residential foreclosures. My name is Tanisha Bramwell and I am an attorney at the Western New York Law Center, a not for profit law and technology firm. I represent homeowners in Western New York whose homes are in foreclosure. Before I began working at the Law Center, I was an Associate Attorney and then the Lead Attorney in the Loss Mitigation Department at a major law firm that represented banks who were foreclosing on homes.

Because of my experience on both sides of the foreclosure issue, I am familiar with the depth of the foreclosure problem in New York State. There were nearly 34,000 new foreclosure filings in 2016 and there are 72,000 pending foreclosure cases in our courts. Foreclosures comprise 26% of the Supreme Courts' civil caseload. In Erie County alone, through September of last year, there were 1008 new filings against residences, making Erie County the 7th highest County in the state with foreclosure filings. Most of the other Counties ahead of Erie are downstate and more densely populated than is Erie. In the five Counties we serve (Erie, Niagara, Genesee, Orleans, and Wyoming), there were 1517 new foreclosure filings against homeowners through the first 9 months of 2016. And there are thousands of older cases still making their way through the judicial process.

Our office currently receives funds administered through the Attorney General's office, and we subcontract funds to the Center for Elder Law and Justice in Buffalo and the Legal Aid Bureau of Buffalo. From September 2012 to November 30, 2016, the three offices handled 2,820 cases and prevented foreclosures in nearly half the cases, 1,247. In the cases where we could not prevent foreclosures, we helped homeowners transition to other housing, often through short sales or private sales.

The people we help are not people who have overextended themselves by buying expensive homes they cannot afford. The median listing price of a home in the Buffalo area is \$110,000, (http://www.realtor.com/local/Buffalo_NY) and home prices were lower in previous years when the homes that are being foreclosed upon were purchased. According to statistics we keep on our cases, people fall behind on their mortgages for three main reasons: illness, divorce, and unemployment. Illnesses and unemployment are often temporary, and divorce settlements get worked out. But when a homeowner falls 90 days behind in mortgage payments, banks have the right, which they exercise in the majority of cases, to refuse any partial payments. The homeowner must pay the entire

amount of arrears, plus any additional fees, including any legal fees. This is something that most homeowners cannot do, and they then get caught up in the spiral of foreclosure.

I know from my experience on both sides of this issue that homeowners cannot get themselves out of this spiral without assistance. When a foreclosure case is filed, they need an attorney, but most homeowners cannot afford one. An attorney makes a dramatic difference. Homeowners cannot negotiate the bureaucracy of lenders, loan servicers, and the court system to save their homes. We've seen again and again that homeowners without legal representation lose their homes. Homeowners with an attorney have a great chance of keeping their home.

In testimony offered before a hearing held by then Chief Judge Lippman, one of our clients, a Vietnam veteran from Corfu, NY, in Genesee County, testified that after he was injured on a construction job, his bank refused to negotiate with him while he was waiting for disability payments. After his home was put into foreclosure, our office helped him negotiate a new payment rate on his home loan at a lower interest. He was able to remain in his home and his bank was able to continue to receive payments on his mortgage.

This is a typical case for us. Homeowners fall behind in their payments, cannot come up with the huge sum of past mortgage payments, interest and fees in one check, and have no success in negotiating with the lender or servicer. Our representation makes a difference in these cases. We keep people in their homes.

This representation is important to communities as well as to individual homeowners. Foreclosed homes vary in appearance. Many are not able to be returned to the market quickly. If a lender has a large inventory of foreclosed homes, the home may sit for years and not receive attention. A foreclosed home might be boarded up and have large signs advertising it as a bank-owned or REO property. One property in a neighborhood that is going through the foreclosure process can negatively affect the entire neighborhood, because properties in foreclosure bring property values down. Studies have also associated foreclosed properties with an increase in neighborhood crime, further affecting property values in a neighborhood. (The Impact of Foreclosures on Neighborhood Crime <https://www.ncjrs.gov/pdffiles1/nij/grants/248653.pdf>).

Keeping homeowners in their homes avoids these problems. Families who have raised their children in a neighborhood are able to stay; family life is not disrupted; and homeowners who care about the property they own are able to keep their property and maintain it. Representation during the foreclosure process is crucial for homeowners and for the stability of neighborhoods.

I hope that you can help ensure that our representation of homeowners can continue. Thank you.

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New York State Housing Committee Testimony

Good afternoon Senator Young, Chairman Farrell, Senators, Housing Committee Members, and everyone else here today. Thank you for giving me this opportunity to address you. My name is Jordan Zeranti and I am an attorney at the Western New York Law Center. As you have heard from my colleague, we have helped thousands of homeowners navigate the foreclosure process in New York.

I am here today to talk with you today about why funding is needed now more than ever. On June 23, 2016, New York's Zombie Property and Foreclosure Prevention Act was signed into law. All provisions of the law went into effect on December 20, 2016. Among the changes, Chapter 73 strengthens pre-foreclosure notices, which are sent at least 90 days before a foreclosure lawsuit is initiated. Now the notices must include a list of at least 5 non-profit housing counseling agencies serving the geographic region of the borrower.

However, foreclosure funding is set to expire in September of this year. Without additional foreclosure funding, several housing counseling agencies will no longer be able to offer their services. This means there will not be 5 housing counseling agencies to list on the pre-foreclosure notice.

Furthermore, homeowners will lose the protection of counsel throughout the stages of a foreclosure lawsuit. Without increased funding, several legal services agencies will no longer be able to operate in the same fashion. As distressed loan sales continue and more and more non-bank servicers are entering the market, cases are becoming more complicated. We as legal services attorneys help homeowners navigate complex foreclosure matters and hold banks accountable when they disregard mortgage servicing regulations. This helps to balance the scales while also improving the efficiency of our court system.

Under CPLR 3408, courts are required to hold mandatory settlement conferences to see if the parties can reach a mutually agreeable resolution. The new law, which took effect in December, gives homeowners the opportunity to file a late

answer within 30 days of their first settlement conference. Without funding, we would not be able to help homeowners draft answers nor negotiate during the settlement conference phase.

Right now, there is a fantastic foreclosure prevention team in place with 94 agencies throughout the state. This well-oiled network has kept thousands of people in their homes and avoided the creation of zombie properties, which drive down property values and increase crime in communities.

It is especially important that this network stay in place now that federal modification programs have ended. With the ending of the HAMP Program, a homeowner's ability to get a modification has significantly lessened. This could lead to an influx of zombie foreclosures. Funding is needed now more than ever to support foreclosure prevention services.

We urge the Senate and Assembly to pass a budget that will dedicate 30 million to preserve these vital services through 2018. We look forward to working with you to serve our communities.

Thank you.