

The Independent Democratic Conference & Senator Terrence Murphy

The Next Great American Bank Robbery



***40th Senate District & Dutchess
and Putnam Counties***

May 2016



INTRODUCTION

In December 2015, the Independent Democratic Conference (IDC) launched a statewide series, “The Next Great American Bank Robbery,” highlighting the financial and societal problems induced by bank-owned foreclosed homes and zombie properties. The reports bring to light the building violations accumulated by such properties, their negative effect on privately-owned neighboring property value, and the disparate impact these homes have had communities of color and high-poverty neighborhoods.

The IDC first examined the problem in New York City and Westchester County. In this analysis, the IDC, in conjunction with the Office of Senator Terrence Murphy, examined the burden that bank-owned foreclosed homes and zombie properties place on communities across the 40th Senate District and Dutchess and Putnam Counties. The IDC confirmed 49 bank-owned homes and 91 zombie properties in the 40th Senate District, 247 zombie properties in Dutchess County, and 114 zombie properties in Putnam County. **Bank-owned and zombie properties in the 40th Senate District have depreciated the value of surrounding property in the district by an aggregate \$2.23 million, and all zombie properties across Dutchess and Putnam counties are responsible for decreasing the value of surrounding property in the county by \$3.82 million.**

To address the issue of bank-owned homes, the IDC and Senator Murphy demand the Department of Financial services establish a registry of bank-owned properties across the state to be openly shared with municipalities and, upon a Freedom of Information Law request, with non-government entities, to ensure banks fulfill their property maintenance requirement. To best enforce the duty to maintain, the IDC and Senator Murphy propose that the State Attorney General should have the right to impose fines of up to \$1,000 per property financial institution that fails to maintain and initiate any legal procedures against such financial institutions. As for zombie properties, the IDC and Senator Murphy seek to gain the attention of the state legislature and governor to respectively pass and sign Senator Klein’s zombie property legislation, drafted at the request of State Attorney General Eric Schneiderman. Finally, the IDC and Senator Murphy propose the creation of the Community Reinvestment Program, allowing the state to acquire properties from federal distressed asset stabilization programs in order to convert them to affordable housing, refinance them, repair them, or demolish as necessary, to reduce community blight and vacant properties.

KEY FINDINGS

- There are 49 bank-owned and 91 zombie properties across the 40th Senate District, negatively affecting the property value of 492 surrounding homes.
- Bank-owned foreclosed homes and zombie properties in the 40th Senate District are respectively responsible for \$846,003 and \$1.38 million in property value depreciation in the district.
- There are 247 zombie properties in Dutchess County and 114 in Putnam County, negatively affecting the property value of 781 and 289 neighboring properties in each respective county.
- Wells Fargo has the largest amount of zombie properties across Dutchess and Putnam Counties—a total of 87, with 54 in Dutchess County and 33 in Putnam County.
- Zombie properties in Dutchess County have caused \$2.59 million in property value depreciation, and zombie properties in Putnam County are responsible for \$1.23 million in property value depreciation.

PART I: BANK-OWNED PROPERTIES IN 40th SENATE DISTRICT

The Duty to Maintain

On December 15, 2009 Governor Paterson signed into law one of the strongest foreclosure protection bills in the nation. Within the legislation, a provision championed by Senator Klein was embedded to amend Chapter 507 of the New York State Real Property Law to protect foreclosed properties in the wake of the subprime foreclosure crisis. The provision, known as the property maintenance requirement, requires that property owners, such as financial institutions that have been awarded a judgment of foreclosure, be responsible for meeting the property maintenance standards, as prescribed by the New York State Property Maintenance Code Chapter Three. Furthermore, the provision gives municipalities, tenants, or boards of managers, with regards to condos, the right to enforce the duty to maintain as well as have a cause of action to recover costs incurred as a result of maintaining the property.

Identifying Bank-Owned Properties

In the spring of 2016, the IDC and the Office of Senator Murphy conducted a survey of bank-owned properties in the 40th Senate District. First, analysts searched the reputable real estate tracking site RealtyTrac.com to identify all real estate owned properties in the district. Using the site's database on all real estate-owned properties, a total of 71 properties were identified. This means a financial institution had been awarded a judgment of foreclosure on each of the 71 properties, thus falling under the obligation laid out in Section 6 of Chapter 507 of the Laws of 2009, known as the property maintenance requirement.

The IDC then sought to confirm the list of 71 owners retrieved from the RealtyTrac.com site, and confirm that each property is in fact bank-owned. To do so, analysts contacted the Office of the Assessor in each municipality containing a real estate-owned property. After going through this process, properties owned by private citizens, state agencies, corporations, and limited liability companies were removed. **In the end, a grand total of 49 properties were confirmed as bank-owned.**

House Value Depreciation

While the New York State property maintenance code was written to primarily preserve housing stock and guarantee safe and habitable conditions for tenants, house price value conservation and appreciation is a key result of the code. Homes are in part valued by the state of their surrounding community, and proper maintenance of neighboring homes positively contributes to the state of a home's surrounding community. In other words, homes that are located in communities with properly maintained surrounding properties either preserve their value or experience an appreciation in value. Conversely, homes located in dilapidated neighborhoods with, for example, multiple foreclosed homes having accumulated numerous complaints and violations, tend to depreciate in value.

Since the start of the subprime mortgage crisis, myriad studies have been conducted to measure the effect that bank-owned foreclosed homes have on the house value of surrounding homes. A paper published in 2012 by the Center for Responsible Learning cites the study, "The Contagion Effect of Foreclosed Properties," where the authors, Harding et al., estimate that, on average, a foreclosed home reduces the house price value of homes located within a 300-foot radius by 1.3 percent.¹ Ultimately,

¹ Harding, J., Rosenblatt, E., Yao, V. (2008). *The Contagion Effect of Foreclosed Properties*. Journal of Urban Economics, Vol. 66, No. 3, pp. 164-178.

they concluded that this results in a house price value depreciation of, on average, \$5,000 per property within a 300-foot radius.

The IDC and the Office of Senator Murphy conducted a data analysis to determine the number of homes in the 40th Senate District whose values have depreciated due to the surrounding bank-owned properties. First, all properties were categorized by zip code. Then, each zip code was entered into the American Fact Finder website, managed by the United States Census Bureau, to extract the number of one-to-four family units located in each zip code. Next, using the site ProximityOne.com, which provides land area information for each zip code using 2010 census data, the square mileage of each zip code was converted into square footage. By dividing the total number of one-to-four family units in the zip code by the total square footage of the zip code, the analysts were able to determine the number of one-to-four family units per square footage. Finally, by multiplying the number of one-to-four family units per square footage by the area of a 300-foot radius, the analysts determined that a total of 183 properties lay within a 300-foot radius of a bank-owned home in the 40th Senate District.

To conclude the data analysis, the analysts calculated the approximate depreciation value of each privately-owned home within a 300-foot radius of a bank-owned home. Each zip code containing at least one bank-owned home was once again entered into the American Fact Finder website managed by the United States Census Bureau to extract the median value of homes in each zip code. Multiplying the median house value by the statistically estimated 1.3 percent depreciation figure provided the analyst an estimated value of depreciation for each home located in each zip code analyzed. Finally, by multiplying the estimated value of depreciation per home by the number of privately-owned homes within a 300-foot radius of a bank-owned home in each zip code, an aggregate value of depreciation per zip code was calculated. **The analysis concluded that the 177 privately-owned properties within a 300-foot radius of a bank-owned home in the 40th Senate District have experienced an aggregate depreciation of \$846,033.**

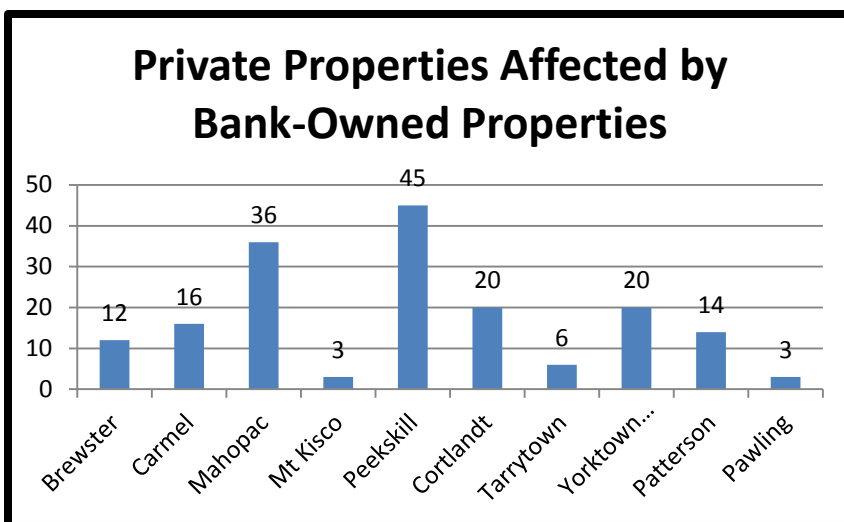


Table I. Summary of house value depreciation associated with bank-owned properties in 40th Senate District

| Municipality | Zip Code | Zombie Properties | Total Properties Affected | Median House Price Value | Average Property Depreciation | Total Depreciation |
|------------------|----------|-------------------|---------------------------|--------------------------|-------------------------------|--------------------|
| Brewster | 10509 | 7 | 12 | \$353,900 | \$4,601 | \$64,414 |
| Carmel | 10512 | 8 | 16 | \$322,000 | \$4,186 | \$66,976 |
| Mahopac | 10541 | 9 | 36 | \$384,100 | \$4,994 | \$179,784 |
| Mt Kisco | 10549 | 1 | 3 | \$560,700 | \$7,290 | \$21,870 |
| Peekskill | 10566 | 3 | 45 | \$310,200 | \$4,033 | \$181,485 |
| Cortlandt | 10567 | 5 | 20 | \$407,900 | \$5,303 | \$106,060 |
| Tarrytown | 10591 | 1 | 6 | \$537,200 | \$6,984 | \$41,904 |
| Yorktown Heights | 10598 | 5 | 20 | \$437,000 | \$5,681 | \$113,620 |
| Patterson | 12563 | 7 | 14 | \$311,600 | \$4,051 | \$56,714 |

| | | | | | | |
|---------------|-------|---|---|-----------|---------|-----------|
| Pawling | 12564 | 3 | 3 | \$338,600 | \$4,402 | \$13,206 |
| Total: | | | | | | \$846,033 |

PART II: ZOMBIE PROPERTIES IN 40th SENATE DISTRICT

Department of Financial Services Agreement

As a part of an ongoing effort to reduce blight and alleviate the burdens on local communities beyond just bank-owned properties, the Office of the Governor, in conjunction with the New York Division of Financial Services (NYDFS), prioritized the issue. In May 2015, NYDFS entered into an agreement with 11 financial institutions, representing nearly 70 percent of the New York State housing market, to address the problems associated with zombie properties.

The agreement called for NYDFS and lending companies to use a set of best practices beginning in August 2015. These best practices suggest that: (1) financial institutions will conduct an exterior inspection of a property within 60 days, and then 30 days thereafter, upon bankruptcy filing, cease and desist order, threats of violence, or active loss mitigation efforts; (2) financial institutions will perform their due diligence to determine vacancy and abandonment; (3) financial institutions will secure all properties seven days after it is legally found to be vacant and abandoned; (4) financial institutions will take the necessary steps to maintain properties secured as vacant and abandoned; and (5) financial institutions will, within 30 days of securing the property, notify NYDFS who will, upon review, then share the information with local authorities.

Zombie Property Legislation

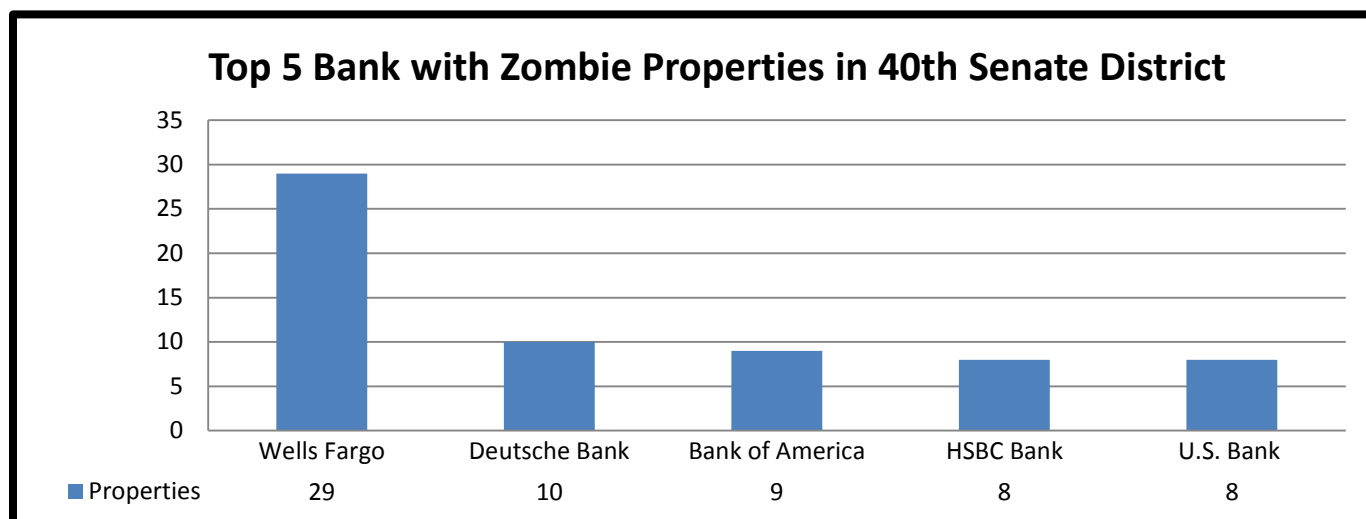
The IDC and Senator Murphy do not believe that this “gentlemen’s agreement” does enough to protect our communities. While 11 financial institutions, representing nearly 70 percent of the housing market, is a significant feat, it still does not cover all financial institutions or the entire state housing market. Furthermore, as highlighted in IDC reports, financial institutions currently fail to maintain properties they already legally possess, which is enough evidence to doubt they will adhere to the agreement and maintain properties they do not yet possess.

The agreement will be challenging to enforce if banks are under no duty or penalty of law. To that end, Senator Klein proposed zombie property maintenance legislation that will require that all banks and loan servicing companies maintain vacant and abandoned properties from the point in time it is discovered that the property is vacant or abandoned. Additionally, the legislation asks to establish and maintain a statewide registry of vacant and abandoned properties with pertinent contact information for each property. And lastly, the legislation calls for the attorney general to set up a toll-free hotline for neighbors and community residents to report properties they believe to be vacant and abandoned, report problems associated with the properties, and inquire about the foreclosure status of these properties.

Identifying Zombie Properties

A list of zombie properties in the 40th Senate District, otherwise known as vacant and abandoned homes in the process of foreclosure, was retrieved from the Office of the New York State Attorney General. The database revealed that as of January 2016, there are 91 zombie properties in the 40th Senate District. According to the database, properties were deemed abandoned if the owners had moved or vacated the premises. Forwarding U.S.P.S. mail was used as a proxy for an owner having moved, and a property not receiving any mail was used as a proxy for an owner having vacated the premises. **Data**

analysis on zombie properties concluded that Wells Fargo Bank has 29, or 32 percent, of zombie properties in the district, the bank with largest number of zombie properties in the district.



House Value Depreciation

Similar to the effect that vacant bank-owned properties have on the house value of neighboring properties, zombie properties also depreciate the value of homes in their surrounding areas. While a zombie property is not a legally foreclosed home, enough similarities exist between a zombie property and a bank-owned property to perform a similar analysis. As a result, the same 1.3 percent depreciation estimate as established by Harding, et al. in “The Contagion Effect of Foreclosed Properties,” was used to determine the house value depreciation caused by zombie properties. Upon retrieving all necessary geographical and housing data for each zip code with at least one zombie property, the investigation concluded that **91 zombie properties in the 40th Senate District have caused the value of 315 neighboring properties to fall by \$1.38 million.**

Table II. Summary of house value depreciation associated with zombie properties in 40th Senate District

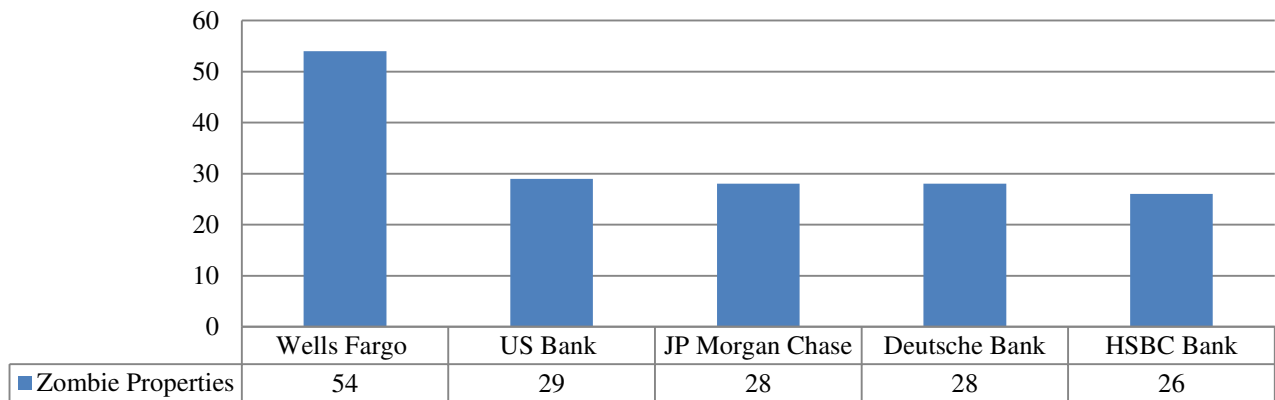
| Municipality | Zip Code | Zombie Properties | Total Properties Affected | Median House Price Value | Average Property Depreciation | Total Depreciation |
|------------------|----------|-------------------|---------------------------|--------------------------|-------------------------------|--------------------|
| Brewster | 10509 | 16 | 32 | \$353,900 | \$4,601 | \$147,232 |
| Carmel | 10512 | 39 | 78 | \$322,000 | \$4,186 | \$326,508 |
| Croton-on-Hudson | 10520 | 2 | 6 | \$492,800 | \$6,406 | \$38,436 |
| Peekskill | 10566 | 10 | 150 | \$310,200 | \$4,033 | \$604,950 |
| Cortlandt Manor | 10567 | 1 | 3 | \$407,900 | \$5,303 | \$15,909 |
| Pleasantville | 10570 | 1 | 6 | \$629,800 | \$8,187 | \$49,122 |
| Somers | 10589 | 3 | 15 | \$461,900 | \$6,005 | \$90,075 |
| Yorktown Heights | 10598 | 2 | 8 | \$437,000 | \$5,681 | \$45,448 |
| Patterson | 12563 | 10 | 10 | \$311,600 | \$4,051 | \$40,510 |
| Pawling | 12564 | 7 | 7 | \$338,600 | \$4,402 | \$30,814 |
| Total: | | | | | | \$1,389,004 |

PART III: ZOMBIE PROPERTIES IN DUTCHESS AND PUTNAM COUNTIES

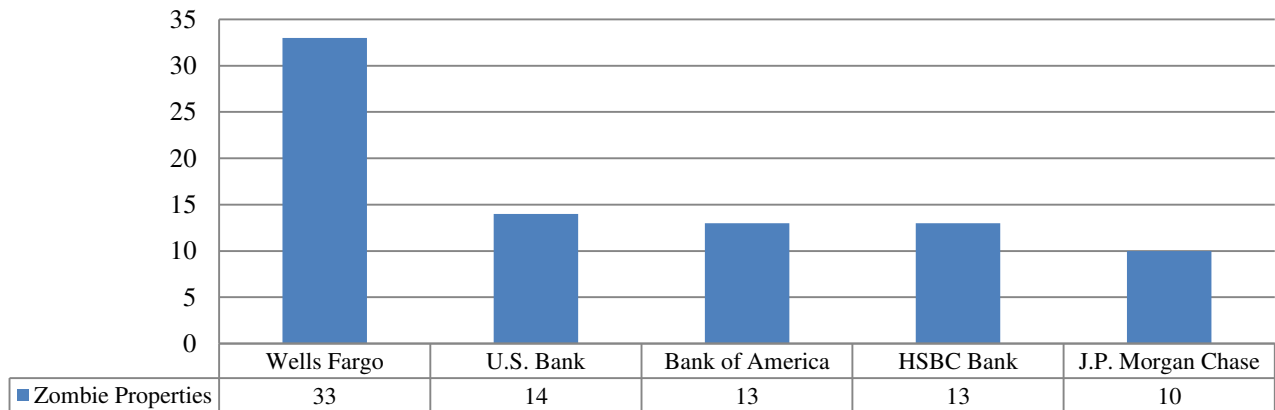
Identifying Zombie Properties

With the data on zombie properties made available by the Office of the Attorney General, analysts were also able to determine the number of zombie properties across Dutchess and Putnam Counties. As of January 2016, there were a total of 247 zombie properties in Dutchess County and 114 across Putnam County. **Data analysis on zombie properties concluded that Wells Fargo Bank has the largest number of zombie properties across both counties with 54, or 20 percent, in Dutchess County and 33, or 28 percent, in Putnam County.**

Top 5 Banks with Zombie Properties in Dutchess County



Top 5 Banks with Zombie Properties in Putnam County



House Value Depreciation

Data analysis was conducted to determine the effect zombie properties across the two counties have had on properties within a 300 foot radius. The 247 zombie properties in Dutchess County have caused the value of 781 neighboring properties to fall by \$2.59 million, and similarly the 114 zombie properties in Putnam County have caused the value of 289 neighboring properties to drop by \$1.23 million.

PART III: LEGISLATIVE SOLUTIONS

Policy Proposal I: Bank Owned Property Legislation

Section Six of Chapter 507 of the New York State Real Property Law extends the duty to maintain property to owners, such as financial institutions that were awarded a judgment of foreclosure, and allows municipalities, tenants, or boards of managers with regards to a condo, the right to enforce the duty to maintain after at least seven days' notice, unless emergency repairs are required, as well as to have a cause of action to recover costs incurred as a result of maintaining the property. However, evidence shows that municipalities face many difficulties in identifying lenders when attempting to enforce the duty to maintain; and the legal process for municipalities to recover the costs incurred has proven to be cumbersome and costly. In an effort to increase transparency for municipalities and hold financial institutions accountable for their actions, the IDC and Senator Murphy propose:

1. The Department of Financial Services establish a registry that tracks bank-owned properties in New York State, recording the owner of each property and for those properties with mortgages, tracking the name and direct contact information for individuals responsible for the property on behalf of the lien holder and mortgage servicer.
2. Local governments be granted permission to use the registry to track complaints and violations accumulated by each bank-owned foreclosed property to enforce their right to maintain and recover all costs incurred.
3. Upon filing a Freedom of Information Law request, nonprofits, homeowners associations, and all other non-government entities have access to the bank-owned properties database to enforce the duty of maintenance requirement.
4. The Department of Financial Services set up a toll-free hotline for neighbors and community residents to report properties they believe to be foreclosed and vacant or abandoned, report problems, as well as to find out information regarding the foreclosure status of these properties.
5. The Office of the Attorney General use the registry to track complaints and violations accumulated by foreclosed properties. The Attorney General can impose a \$1,000 per property fine against financial institutions that fail to uphold their duty to maintain and initiate any legal procedures against such financial institutions.

Policy Proposal II: Zombie Property Maintenance Legislation

The conversation on vacant and abandoned properties has recently shifted to include properties that are not just bank-owned, but also properties that are deemed vacant and abandoned and stalled somewhere in the foreclosure process—colloquially known as zombie properties. At the request of New York State Attorney General Eric Schneiderman, Senator Klein introduced legislation to address the blight associated with vacant and abandoned properties and zombie properties in New York. However, much to the Senator and Attorney General's dismay, the zombie property legislation has failed to move forward over the past two years. As a first step, and with the instruction of the executive, the NYDFS entered into an agreement with 11 financial institutions to use best practices that would reduce blight and alleviate burdens on local communities by identifying, reporting, and maintaining zombie properties. But as the IDC reports highlight, financial institutions currently fail to maintain properties they legally possess. Who is to say they will adhere to the terms of the agreement and maintain, for

example, the 361 zombie properties in Dutchess and Putnam Counties they do not yet legally own if there is no duty or penalty of law? To that end, the IDC and Senator Murphy propose that the legislature and administration respectively pass and sign zombie property legislation that would:

1. Require mortgagees and their loan servicing agents to maintain vacant and abandoned properties from the point in time that it is discovered that the property is vacant and abandoned.
2. Create a statewide registry of vacant and abandoned properties, recording the owner of each property and for those properties with mortgages, tracking the name and direct contact information for an individual responsible for the property on behalf of the lien holder and mortgage servicer.
3. Require the attorney general to set up a toll-free hotline for neighbors and community residents to report properties that they believe to be vacant and abandoned, report problems, as well as find out information regarding the foreclosure status of these properties.

Policy Proposal III: Community Reinvestment Program

New York's communities have been devastated by the dramatic increase in foreclosures since the 2008 financial crisis. Tens of thousands of homeowners are working to keep their homes, but faced with a mortgage servicing system moving too slowly. Communities across the state struggle to cope with vacant and abandoned properties that, if repaired and returned to the market, would be affordable housing and generate tax income for municipalities.

Over the last year, the approach to markets like New York State's has shifted dramatically at the investor level. Fannie Mae, Freddie Mac, and the FHA are now selling distressed loans at sizable discounts to investors, primarily private equity firms. While small quantities of loans go to nonprofits and other mission-driven purchasers, they are dwarfed by sales to private equity firms that are driven only by the bottom line. If the state does not step in, tens of thousands of once-affordable homes will go to investors, unlikely to ever return to the middle-class. To that end, the IDC and Senator Murphy propose:

1. The creation of the Community Reinvestment Program, and its associated fund and council.
2. The funds be used to refinance mortgages to keep mortgage holders in their properties.
3. The funds be used to acquire properties from federal distressed asset stabilization programs to convert them to affordable housing, refinance them, repair them, or demolish as necessary to reduce community blight and vacant properties.
4. The fund council will be composed of housing experts across the state and representatives of the executive and legislative branches.
5. Localities, non-profits, land banks, etc. be allowed to identify properties they would like to acquire, request those properties from the council, and the council request those properties/notes from the federal pools.

CONCLUSION

Bank-owned foreclosed homes and zombie properties continue to place heavy burdens across many communities in New York State. The 49 bank-owned properties found in the 40th Senate District have caused approximately \$846,000 in property value depreciation. Realizing the cumbersome and costly nature of the process for the state, municipalities, and local citizens to ensure banks abide by state law and properly maintain the foreclosed homes they possess, the IDC and Senator Murphy propose the Department of Financial Services establish a registry to track all properties owned by financial institutions that can in turn be used by municipalities and, upon a Freedom of Information Law request, non-government entities including nonprofits and homeowners associations. Additionally, the IDC and Senator Murphy seek to grant the Office of the Attorney General the right to impose fines of up to \$1,000 per property for financial institutions that fail to maintain and begin any necessary legal procedures against financial institutions violating their duty to maintain requirement, as written in state law.

Furthermore, to address issues associated with properties stalled somewhere in the foreclosure process, such as the 91 zombie properties in the 40th Senate District and the 247 and 114 zombie properties in Dutchess and Putnam Counties, the IDC and Senator Murphy propose that the legislature and governor respectively pass and sign the zombie property maintenance bill into law. And lastly, to begin reinvesting in affected communities, the IDC and Senator Murphy propose the creation of the Community Reinvestment Program, allowing the state to acquire properties from federal distressed asset stabilization programs to convert them to affordable housing, refinance them, repair them, or demolish as necessary to reduce community blight and vacant properties. These efforts would facilitate the teamwork needed between the state, municipalities, financial institutions, and nonprofits to alleviate and protect our communities from the significant financial and societal burdens associated with these distressed properties.

Appendix: Visual Documentation of Bank-Owned Properties in 40th Senate District

