

Joint Legislative Public Hearing on 2019-2020 Executive Budget
Proposal: Housing

Testimony of Jordan Zeranti, Western New York Law Center

Good afternoon. My name is Jordan Zeranti and I am an attorney at the Western New York Law Center. I represent homeowners in Western New York whose homes are in foreclosure. Our office also contracts with several municipalities in Western New York, including the towns of West Seneca, Cheektowaga, Amherst, and Tonawanda, and the cities of Buffalo, and North Tonawanda to assist them with addressing vacant and abandoned properties, or “zombie properties.”

I am here today to talk with you about why funding is needed now more than ever to address the problem of foreclosures and vacant and abandoned properties. 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 five non-profit housing counseling agencies serving the geographic region of the borrower.

For the last several years, funding streams have been available to support legal services attorneys and housing counselors to assist homeowners who are facing foreclosure. Foreclosure funding is set to expire at the end of March of this year. Without additional funding, legal services attorneys and non-profit housing counseling agencies will no longer be able to offer their services. This means that in many areas of the state, there will not be housing counseling agencies to list on the pre-foreclosure notice, and homeowners receiving the notices will not be able to access help.

The existing network of attorneys and housing counselors has helped thousands of people statewide stay in their homes by negotiating affordable loans and raising valid defenses to foreclosure actions. I want to emphasize that as we sit here today in 2019, the services of that network are still needed. In 2017, there were 20,000 new foreclosure cases filed and as the statistics are compiled for 2018, the number of 90-Day Pre-Foreclosure Notices, which go into the pipeline of distressed mortgages that end up in our court system, are projected to be even higher. Reverse mortgage foreclosures are on the rise and foreclosure rescue scams targeting seniors, communities of color and immigrants proliferate, exacerbating New York's affordable housing crisis and stripping neighborhoods of wealth.

Erie County alone posted 8 percent more 90-day pre-foreclosure notices in 2018 than in 2017. The problem is even worse in surrounding counties in Western New York.

In the last year, our office alone represented 865 low-income households and we were able to help many of those homeowners save their homes. We were also able to obtain \$866,450 in no interest loans for our foreclosure clients through the MAP program, a program funded by banks through settlements in foreclosure litigation.

If funding is not renewed, homeowners will lose the protection of counsel throughout the stages of a foreclosure lawsuit. Without increased funding, several legal services agencies statewide 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. A subsection of the law, which fairly recently went into effect, 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, further burdening the courts system.

Right now, there is a fantastic foreclosure prevention team in place with 89 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 all of you here today to ask the Governor to include \$20 million in funding in the Executive Budget for the Communities First program, which will fund the existing network of legal services attorneys and housing counselors and preserve these vital services through 2020.

We look forward to working with you and with your constituents to continue to preserve homeownership and prevent the spread of vacant and abandoned properties in our communities. Thank you.