

The Center for New York City Neighborhoods

Testimony before the New York State
Joint Legislative Public Hearings on the
2011-2012 Executive Budget Proposal for Housing

February 16, 2011

Thank you members of the Assembly and Senate for this opportunity to submit testimony regarding the ongoing, critical nature of the foreclosure crisis in New York, and the urgent need for continued financial support of foreclosure prevention efforts. New York State can be proud that its leaders have routinely taken clear, assertive and innovative legislative action to insure critical homeowner protections, especially in combating the challenges of subprime, high cost and unconventional mortgage debt. The successes achieved in stemming foreclosures statewide are directly attributable to this hard work. New York State Homes and Community Renewal's (HCR's) Foreclosure Prevention Services Program has been a critical component of these efforts, and has allowed New York State to grow a "best in class" network of housing counseling and legal assistance providers who are achieving powerful results. We are still deep in the midst of this crisis, and ongoing support is critical to not just maintaining the leadership of this network, but to tapping new tools and resources from public and private sources to help keep families in their homes and stabilize communities. CNYCN therefore supports the request that legislative budget include \$15 million for ongoing support of Homes and Community Renewal's Foreclosure Prevention Services Program.

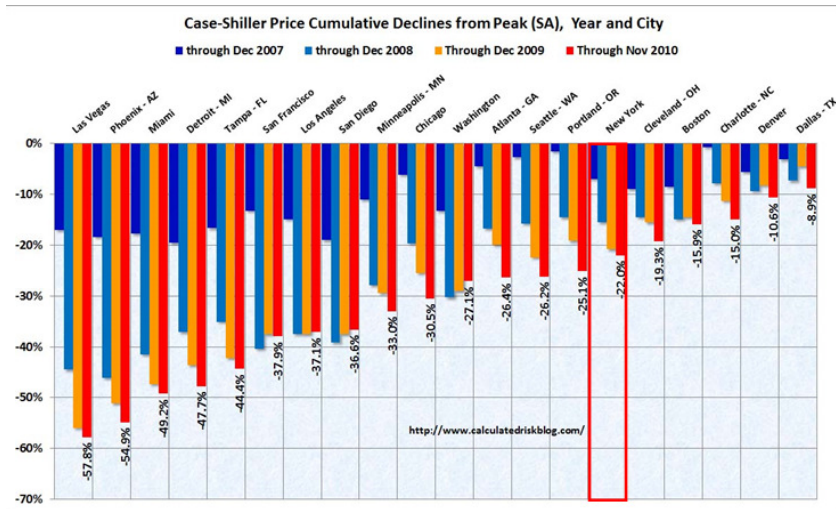
The Center for New York City Neighborhoods (CNYCN) was created in 2008 to coordinate foreclosure prevention throughout the five boroughs of New York City in four critical ways:

- By funding a network of nonprofit providers of free housing counseling and legal assistance at substantial levels to insure broad service to at risk homeowners;
- Through careful training to increase the capacity of this network, allowing it to achieve greater efficiencies and deeper benefits;
- By coordinating between this network and mortgage servicers to develop strategies streamlining loss mitigation efforts, improving the quality of modifications and other outcomes, and handling appeals for difficult cases; and
- In carefully documenting and recording the nature of its work, insuring high levels of transparency and accountability, but also shedding light on critical policy and practice issues.

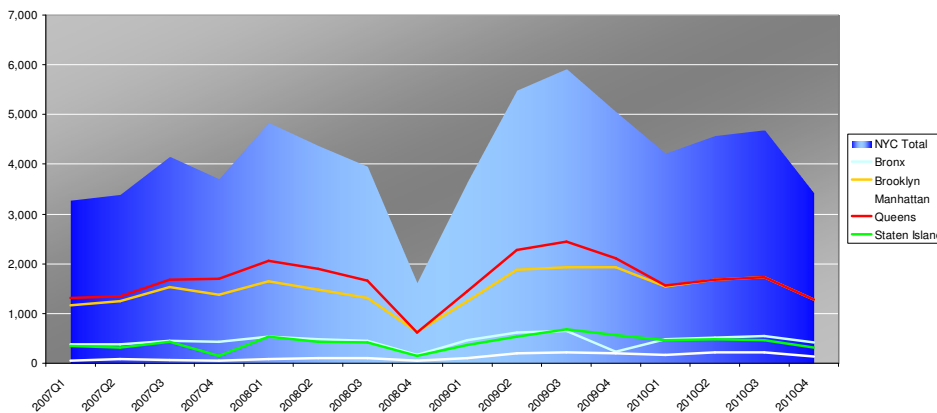
CNYCN's funding currently supports nearly 70 foreclosure prevention specialists throughout its network, and has already counseled over 12,000 homeowners. Based on this experience, we hope to shed some light on the present nature of the foreclosure crisis, the impact of state funding in foreclosure intervention and prevention, and the opportunities for continued improvement of services and supports to homeowners.

THE CURRENT CRISIS:

New York City continues to experience overall declines in property values, according to the Case Schiller index, down 22% from their peak. These declines actually grew worse in the 4th quarter of 2010.



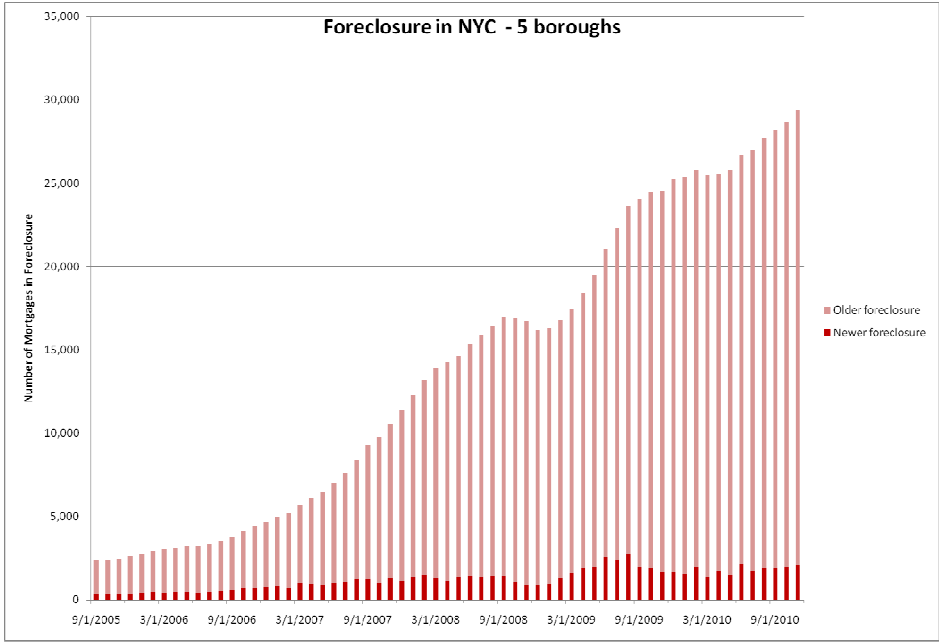
Meanwhile, foreclosure notices this past year continued at near record levels, ending the year at 17,000 filings in New York City, or just 15% below the previous year.



While foreclosure filings appear to be down slightly from prior years, we believe these reductions are due in large part to two non-market factors: (1) the short-term suspension of foreclosures which occurred in the 4th quarter as banks attempted to correct for improper promulgation of foreclosure actions (known more colloquially as "robo-signing"); and (2) substantial delays in foreclosure filings due to recently required Office of Court Administration attorney affirmations in foreclosure actions. CNYCN believes that once these variables are taken into account, foreclosure filings year over year are more likely to be holding steady on a high and dangerous plateau.

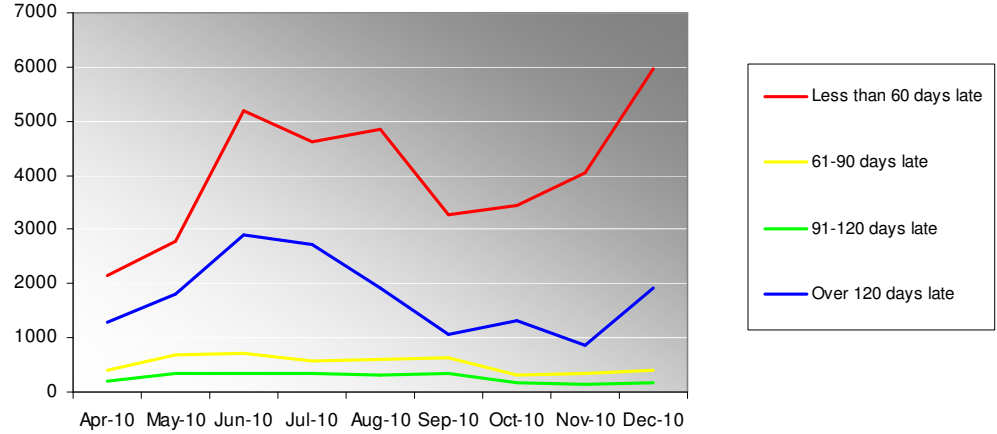
In addition, the number of pending foreclosure actions continues to grow rapidly, now at nearly 30,000 actions in New York City alone.





This is extremely worrisome, as already over-burdened markets must absorb a swelling backlog of distressed properties, and this trend is likely to continue for years to come. As a result, the housing market is likely to remain very soft, even fragile, for the foreseeable future, placing a drag on general economic conditions and perpetuating a cycle of mortgage distress which is already spreading beyond hard hit, highly speculative markets. Needless to say, this extraordinary wave of pending foreclosure actions, which we expect will continue to grow in 2011, is going to place enormous, ongoing demands on housing counselors, legal assistance providers, the courts and banks.

There are other signs of additional concern. In reviewing mortgage delinquency data provided to CNYCN through an agreement with the New York State Banking Department, overall delinquencies saw significant increases at the end of 2010.



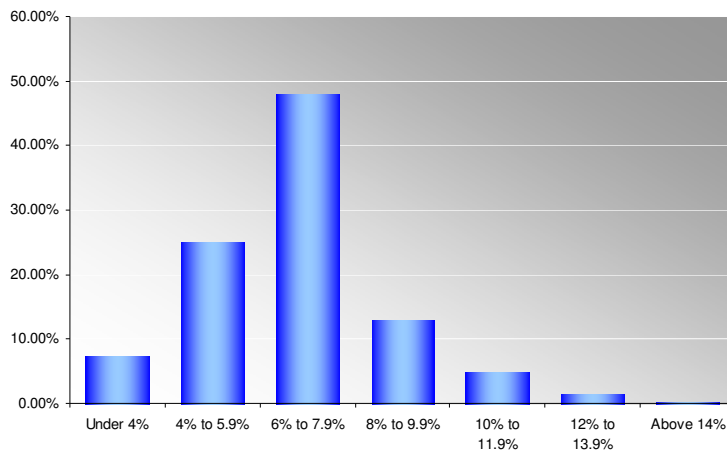
This was particularly true for homeowners less than 60 days delinquent and homeowners more than 120 days delinquent. There have been recent significant increases in the numbers of homeowners entering mortgage delinquency, and the



numbers of homeowners in long term delinquency is growing again after a short period of reduction.

Currently, only 19% of all mortgages are subprime or high cost, and yet 25% of all delinquencies occur in these categories. It's clear that subprime and high cost mortgages are more likely to enter default, and that existing priorities for the Foreclosure Prevention Service Program remain highly relevant. There has been a disturbing trend, however, as the numbers of delinquent homeowners in "good" mortgages (fixed rate mortgages less than 8%) continues to grow in proportion to homeowners in these more at-risk categories.

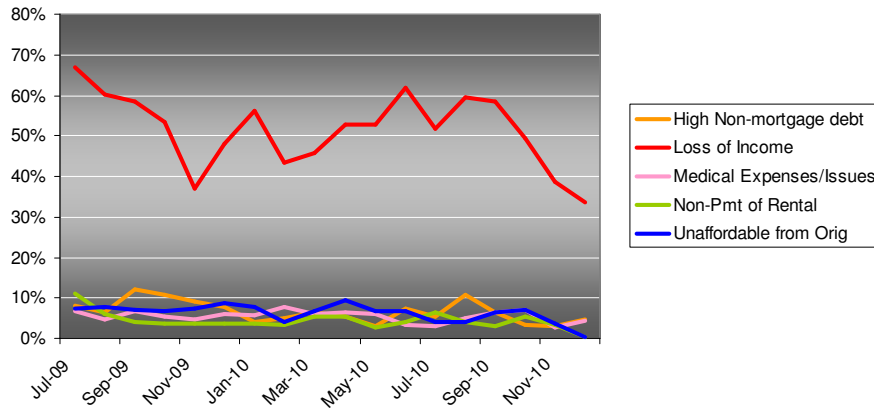
Previously, "good" mortgages made up less than 50% of all delinquencies: that number is now more than 75%. This trend is consistent throughout New York State.



CNYCN believes that this is an indication that the foreclosure crisis has expanded from one of predatory subprime and high cost mortgages unaffordable from inception, to now include conventional mortgage holders defaulting due to unforeseen economic difficulties. This is a reflection of the overall nature of the foreclosure crisis: it spreads to new communities by expanding vulnerabilities in housing markets through an effect like contagion. Weak markets build concentrations of distress, housing prices continue to soften, then neighboring markets begin to slump. The crisis spreads into the "prime" markets, the subprime and high cost markets remain dangerous drivers of general economic malaise.

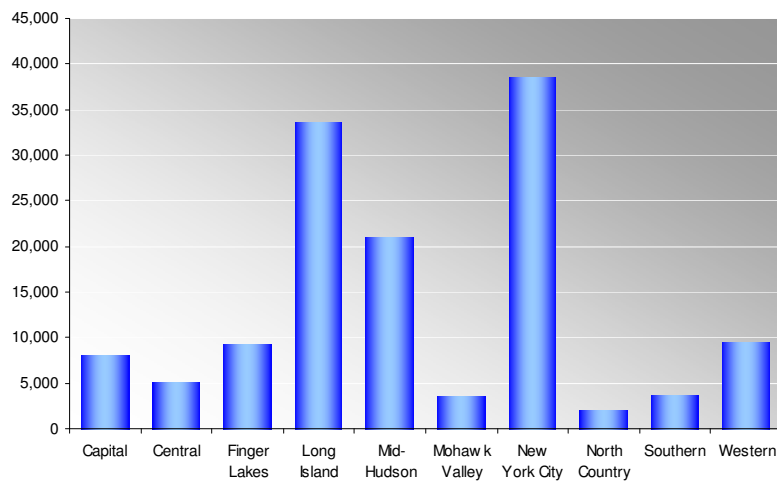
The impact of the foreclosure crisis on communities of color and working class families has been well-documented. Many of these neighborhoods appear to have been targeted with aggressive mortgage products and suffered disproportionately high levels of delinquency and foreclosure. Unfortunately, these are also the communities that feel first and deepest the impacts of a poor local economy, and they continue to struggle with unprecedented levels of mortgage distress.

An important driver of mortgage delinquency is loss of income.



While job loss certainly plays a significant role, pay reductions, curtailed work hours, diminished demand for services, and many other factors are substantial contributors to higher levels of economic distress. High mortgage delinquencies will continue until the overall economy improves and the labor market strengthens.

While the majority of all foreclosure actions are located in New York City and Long Island, over 40% of all foreclosure actions occur in upstate districts. Clearly, the foreclosure crisis continues to be a statewide issue.



Foreclosure actions are concentrated where greater densities of single and small multi-family households exist, and in markets where higher levels of speculation and imprudent lending occurred causing greater housing price bubbles.

THE IMPACT OF FORECLOSURE PREVENTION

As noted above, CNYCN and its network have now serviced over 12,000 homeowners since opening our doors in July 2009. CNYCN’s call center (which has a special partnership with NYC 311) is directly supported by HCR’s Foreclosure Prevention Services Program, as are many of our nonprofit member organizations. We believe the impacts and outcomes we are observing in our network are representative of the overall achievements of the many organizations providing free housing counseling and legal assistance through HCR’s support.

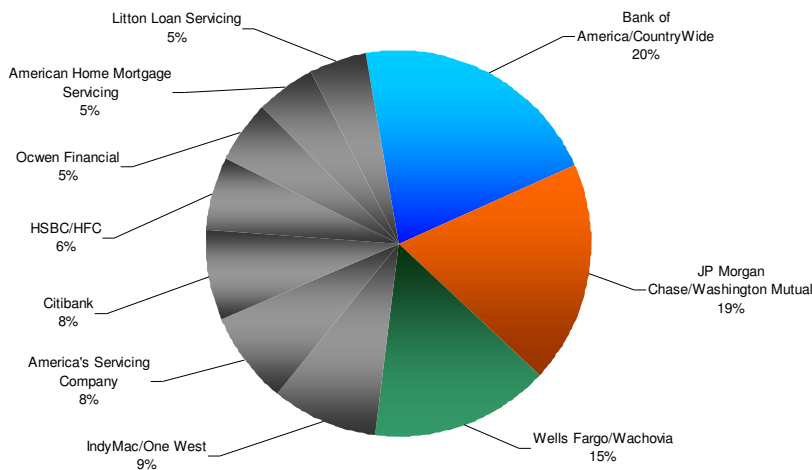
Within these 12,000 intakes, services and outcomes to date include:



- Conducting over 10,000 intakes through its call center in collaboration with New York City’s 311 (funded by HCR);
- Providing free legal assistance to over 1,600 homeowners in foreclosure;
- Matching an additional \$1 million worth of *pro bono* legal assistance in partnership with the City Bar Justice Center;
- Submitting modification requests on behalf of more than 6,000 homeowners;
- Receiving modifications for more than 1,700 homeowners;
- Reducing average annual mortgage payments by \$12,000;
- Assisting hundreds more with short sales, refinancings, bankruptcies, relocation supports, and so on.

According to a recently published study conducted by the Urban Institute, homeowners who receive foreclosure prevention counseling are 70% more likely to succeed in receiving a mortgage modification, and more likely to obtain a modification of better quality and sustainability¹. We believe that CNYCN’s network performs even better than these national averages.

In New York City, Bank of America, JP Morgan Chase, and Wells Fargo combined service more than one third of all delinquent mortgages.



While over 50 mortgage servicing entities are present in the market, the preponderance of these three institutions has required CNYCN and its network to develop special working relationships with their loss mitigation teams. CNYCN now has access to banking staff working exclusively with its network of nonprofit providers, allowing it to streamline applications, achieve faster responses, and escalate difficult cases with more efficiency. Indeed, non-CNYCN foreclosure prevention service providers in New York City funded by HCR report that they too are seeing improved response times and better results as a collateral effect.

CNYCN is involved in a number of efforts to expand and advance foreclosure prevention service provision through the courts. Thanks to legislation enacted in 2008 and strengthened in 2009, once a foreclosure action has started, the parties are required to

¹ **National Foreclosure Mitigation Counseling Program Evaluation: Preliminary Analysis of Program Effects.** Mayer, Tatian, Temkin, Calhoun. Urban Institute; December 2010.

negotiate in good faith at mandatory settlement conferences. Here, resolutions that can allow the homeowner to remain in his or her home are required to be considered. As the settlement conference process has evolved, the courts have come to play an integral role in implementing the federal Home Affordable Modification Program ("HAMP"), often facilitating the negotiation and finalization of HAMP modifications through the settlement conference process. The advocates made possible by the Foreclosure Prevention Services Program have contributed to the success the courts have achieved in brokering loan modifications at foreclosure settlement conferences by assisting homeowners in applying for HAMP modifications, and by representing homeowners at settlement conferences.

Indeed, the Office of Court Administration has recognized that the settlement conference process cannot function effectively or efficiently when homeowners do not have representation, and has urged the continuation of funding for the Foreclosure Prevention Services Program. Moreover, the Foreclosure Prevention Services Program has made possible trainings of judicial personnel implementing the settlement conference process, which has greatly enhanced the efficacy of the settlement conference process. If the funding is not maintained, the settlement conference process – already straining the courts' resources – will become clogged with unrepresented homeowners and will be a far less effective tool for addressing the foreclosure crisis than it presently is.

CNYCN also partners with various city agencies and local partners as well. In collaboration with the New York City Department of Housing Preservation and Development, CNYCN has launched the Mortgage Assistance Program (MAP). MAP provides 0% loans of up to \$25,000 to homeowners who can almost achieve a mortgage modification, but who need assistance paying down arrears, reducing their mortgage principal, or removing a second lien.

With the support of HCR, CNYCN is working with the New York City Department of Consumer Affairs Office of Financial Empowerment, placing their financial counselors within the offices of our mortgage distress counselors – creating wraparound supports for homeowners with high consumer debt and multiple financial challenges.

CNYCN conducts large scale homeowner outreach events entitled: "Rise Up & Stay Put." These events have drawn between 500 and 1,000 homeowners to each event, connecting them face-to-face with their mortgage servicer, housing counselors and legal service providers in a single day-long event.

The network is currently piloting efforts such as HOPE LoanPort, which allows counselors to submit loss mitigation documents electronically to the servicer (avoiding lost documents and much duplication of effort). In addition, CNYCN has customized CounselorMax, the primary national case management and reporting tool used by most housing counseling agencies, to improve efficiency and accuracy of reporting.

Finally, CNYCN is working with local and national partners to influence important policy and practice issues. CNYCN has met with Secretary Timothy Geithner and senior Treasury officials, federal and state banking regulators, state and city attorneys general,

state and local legislators, senior banking officials from Bank of America, JP Morgan Chase and Citibank, and many others to communicate about critically needed supports and procedural improvements. In the upcoming year, CNYCN's activities will include advancing new legislative proposals at the city and state level, and working with NeighborWorks America and foreclosure prevention networks from around the US to convene the first national conference on best practices and critical policy issues.

These are just a few of the efforts enabled by state funding provided through New York State HCR, the City of New York, corporations and private foundations.

OPPORTUNITIES, CHALLENGES & THE NEED FOR ONGOING SUPPORT

New York State has been a leader in foreclosure prevention. It has developed powerful procedures such as its required Settlement Conferences that are providing homeowners with unprecedented opportunities to negotiate and succeed in saving their homes. It has committed substantial resources through the Foreclosure Prevention Services Program for staffing, training and coordination of effort. From a mere three years ago, a sophisticated, highly regarded network of foreclosure prevention providers has developed and achieved remarkable results.

Furthermore, important opportunities are hovering on the horizon:

- HUD will soon release substantial funds to New York State through the Emergency Homeowners' Loan Program. These funds can provide loans of up to \$50,000 per homeowner to cover arrearages and mortgage payments for up to 24 months – a critical support to homeowners for whom temporary loss of income is making their mortgage unsustainable (note EHLP includes no operational support to housing counselors or legal assistance providers, who will bear the burden of implementing the program);
- The coalition of all 50 States Attorneys General, banking regulators, Treasury officials, and advocates continue to negotiate settlements with major banks regarding the recent "robo signing" scandals. Financial compensation, as well as important procedural and regulatory reforms, will be a part of these settlements;
- CNYCN's \$6.5 million Mortgage Assistance Program will be fully implemented in 2011, providing urgently needed resources to achieve modifications for homeowners in New York City on the cusp of saving their homes;
- New strategies are being developed to consider the purchase of promissory notes at a discounted prices to "sell the home back" to the homeowner at a reduced monthly mortgage rate. CNYCN is also looking into "distressed" refinancings that would allow troubled homeowners to obtain new mortgages on more favorable terms; and
- Consumer outreach strategies are being expanded with the direct support of major banking partners, connecting homeowners, counselors and loss mitigation specialists in "single stop" events where decisions can be effected within days instead of months.

The funding provided by HCR doesn't just support housing counselors and legal service providers in engaging one-on-one with troubled homeowners: it insures effective gateways to new and existing services and resources.

If funds are not available which enable these networks to bridge from December 31st, 2010 (the end of the current HCR funding cycle) to any future round of funding, vital staff will be let go by the hundreds. This will mean more than the immediate cessation of service provision: staffing and program infrastructure will be decimated. This capable network of providers will be atomized, and disabled at the moment when it must be poised for response.

Not only are we far from the end of the crisis, but we are at a tipping point when a new wave of tools and resources are nearly in hand. CNYCN therefore supports the request that legislative budget include \$15 million for ongoing support of HCR's Foreclosure Prevention Services Program.