EFFECTS OF THE SUBPRIME MORTGAGE CRISIS IN NEW YORK CITY AND EFFORTS TO HELP STRUGGLING HOMEOWNERS

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OF THE

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C O N T E N T S

EFFECTS OF THE SUBPRIME MORTGAGE CRISIS IN NEW YORK CITY AND EFFORTS TO HELP STRUGGLING HOMEOWNERS

Monday, February 11, 2008

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 11 a.m., in the City Council Chamber, New York City Hall, New York, New York, Hon. Carolyn B. Maloney [chairwoman of the subcommittee] presiding.

Members present: Representative Maloney.

Also present: Representatives Velazquez and Meeks.

Chairwoman MALONEY. I am Congresswoman Carolyn Maloney, and I'd like to call this hearing to order, this Federal hearing, and recognize the Speaker of the great City of New York, Speaker Christine Quinn.

She has graciously allowed us to use this chamber today, along with the entire Council, and they have been doing tremendous work on this challenge. Thank you, Christine.

Speaker QUINN. Thank you. I'd like to say that we have the nice chairs for you and Chairwoman Velazquez, but the truth is that Scott Stringer is giving his State of the Borough speech later. Seriously, though, I want to thank you both very much for holding this hearing here and for having us be a part of it.

I mentioned before we had a hearing not dissimilar from this that Congresswoman Maloney requested on the issue of TRIA, a very important insurance issue related to the City. And not long after the hearing, the legislation was passed in exactly the way the City of New York needed it to be passed. I raised that example because I think it shows the difference that the City and our congressional leaders can make, working together. I just want to thank Chairwoman Maloney and Chairwoman Velazquez again for being so receptive to the needs of this City, and for demonstrating that by being with us in our chambers and having our housing chair participate in today's hearing.

So, I really just wanted to take a moment to thank you both so much for your tremendous commitment to the City, and to thank you for working on an issue that is critically important to so many of the neighborhoods we all represent. You know, it's terrible to have to talk to somebody who is at risk of losing their home and not know what to say to them. We have tried to bring resources to this issue on the Council level, but ultimately we'll only be successful if the City, and the State, and the Federal Government are working together. And I know with your—both of your leadership, the response of the Federal Government will be expanded tremendously, because you both will really bring the urgency that this issue needs to Washington.

So I want to thank you both so much. I am excited at the idea of staying and grilling our housing chair, but I'm going to leave that to our two Congress people. And thank you, both, very, very much.

Thank you, Chairperson Dilan, as well.

Chairwoman MALONEY. Thank you so much, Christine, for your leadership, and for allowing us to be here today. Thank you. I hope we have the same success that we had with the TRIA bill, which was enacted and signed into law and is now helping commerce go forward in New York City and around the country.

This hearing is entitled, "The Effects of the Subprime Mortgage Crisis in New York City and Efforts to Help Struggling Homeowners." This is a hearing of the Subcommittee on Financial Institutions and Consumer Credit, which I chair.

Without objection, I'd like to invite any Members of Congress here today or those who were not able to come to put their statements in the record. Hearing no objection, I welcome their statements. And, without objection, I will now recognize myself for 5 minutes.

We are at a critical juncture in the subprime mortgage crisis. All of the data we have seen clearly demonstrates the severity of the problem. We have seen the perfect storm of stagnant wages, rising mortgage payments, and decreased home values, which have all led to a tsunami of foreclosures here in New York and across the country.

A look at the performance on subprime adjustable rate mortgages in New York City reveals a really startling picture. Of the almost 26,000 adjustable rate mortgages examined, the Federal Reserve Bank of New York reported in November that only 57 percent were current, 12 percent were more than 60 days delinquent, and 19 percent were in foreclosure. Couple this with the reports from the Mortgage Bankers Association that places foreclosures at an all time high nationwide, and estimates from the Center for Responsible Lending, that say we will see at least 2.2 million Americans with subprime loans lose their homes, it is very easy to see that we have a crisis on our hands. And this crisis is not just confined to the holders of these mortgages, but affects the community as a whole.

These foreclosures can have devastating effects on families, communities, and financial institutions. Consumers forced into foreclosure can lose many thousands of dollars in equity on top of substantial fees imposed prior to and during the foreclosure process. Communities are negatively affected as foreclosures drive down home prices overall, diminishing homeowners' equity in entire neighborhoods.

Costs also accrue to local governments in the form of lost tax revenue and direct expenses for securing policing and disposing of abandoned properties. And, financial institutions and holders of mortgage securities suffer losses if loans do not perform, particularly in the environment of flat or declining housing prices.

I think that one report that came out last week, from Freddie Mac, in one of their surveys it showed that over half of those who were delinquent in their subprime loans—57 percent—did not even know that there was help there, or that they could go for help. And that is one of the reasons that we're holding this hearing here in New York City. We want to hear from the City and the State as to what they are doing to help translate the programs and policies that we have on the Federal level. We just passed a funding, $180 million, for counseling to go to neighborhood groups. And I know of at least five neighborhood groups here in New York City that are applying for that funding. But we need to really take the City and State and have them take the initiative to work with the individuals in their communities.

My colleague, Nydia Velazquez, has already sponsored forums in her community. And the Governor and the Banking Superintendent, along with the New York State Senate, have started Operation Protect Your Home. They will be having day-long seminars around the State and in New York City to literally work with the lenders, the servicers—and my colleague, welcome—here in New York City and to help them in their home. The first will be in the Bronx, on Saturday, February 23rd.

We are welcomed by my good friend and colleague, Congressman Meeks.

We are focusing today on what we can do to help people stay in their homes, but I do want to mention what we have done on the Federal level. Last year, working together with Congressman Meeks, Congresswoman Velazquez, and Chairman Barney Frank, we passed H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act. This has passed the House, but regrettably, it has not passed the Senate. This comprehensive legislation will create a licensing system for residential mortgage loan originators and establish a minimum standard for underwriting, so that loans are not given to people who cannot afford to pay for them, a very fundamental change. It will also have limited liability to the secondary market securitizers, to build more discipline into that market.

We also passed legislation to reform and modernize the Federal Housing Authority and government-sponsored enterprises—Freddie Mac and Fannie Mae. This legislation will enhance the safety and soundness of these institutions, and with the FHA, provide a safe haven for subprime borrowers in desperate need of refinancing. It will give them extra tools to help people stay in their homes.

And we have pushed and succeeded in getting a change in the FASB rules—the Financial Accounting Standards Board—to clarify that its Standard Rule 140 allows for the modification of a loan when there is a reasonable idea that there will be a default. Otherwise, before we got it changed, they could only become involved after the default.

So, we are taking steps to help people stay in their homes. We have eliminated the tax on debt forgiveness, sparing families the double whammy of paying taxes on the lost value of their homes. And we are working now to eliminate the cruel anomaly under

Chapter 13 of the Bankruptcy Code which allows judges to modify mortgages on a borrower's vacation home or investment property, but not the home they actually live in. This change, again, will give us more tools to help people stay in their homes.

Beyond the work of Congress, industry and advocacy groups have formed important partnerships, such as the HOPE NOW Alliance, and they are working, and we'll be hearing more about that. And, just last week, we passed an economic stimulus plan that included raising the cap on the loan limit amounts of Fannie Mae and Freddie Mac. This will help high cost housing areas such as New York City.

And, the State of New York has formed a $100 million mortgage rescue fund in addition to their Operation Protect Your Home. They are coming forward with comprehensive legislation also to help people stay in their homes.

That is why we are here and we will keep on working. I have a lot more to say, but I'm going to put it into the record, because I'd like to hear from my good friend and colleague, Nydia Velazquez, chairwoman of the Committee on Small Business, who has led many efforts here in the City to help people stay in their homes.

Ms. VELAZQUEZ. I am the only Member from the New York delegation who sits on the Housing Subcommittee.

Good morning, Chairwoman Maloney, and thank you for holding this hearing today on such an important issue for New Yorkers.

Right now, New York City is at a crossroads with the current housing crisis threatening the pursuit of the American dream. Homeownership in New York City, in spite of slight growth recently, still lags behind the national average and that of other major cities. Also disappointing is that while Blacks and Hispanics make up a large portion of the population and contribute significantly to our local economy, they experience lower tenure rates than other groups. There is no question that it is paramount to identify the driving causes of these disparities in order to find constructive solutions to our crisis today.

I held a roundtable on mortgage foreclosure in my district 3 weeks ago, and some of the financial services institutions were saying, "Well, we are not at fault. It is not our fault. It is those mortgage brokers." Financial institutions have to ask themselves why it is that there is a perception in minority communities that they cannot walk into any bank to get a loan to purchase a home, and therefore, they are driven to go to unscrupulous lenders?

So, when we look at HMDA reports on data as to fair lending practices and we see that there is a disparity in terms of the mortgage loans that people get across the board in New York City compared to the lack of such loans in minority communities, we need to ask what is wrong and if there is any legislative fix that needs to take place in order to make sure that fair lending practices are the norm and not the exception when it comes to minority communities. Hispanic and Black New Yorkers are 3 to 4 times more likely to have a loan issued by a subprime lender than non-minorities. At 19.8 percent, New York has one of the highest subprime lending rates in the country. In 2007, the average subprime outstanding loan balance in New York City was nearly twice the national average.

Not only is this an issue in minority populations, but compounding the negative effects of subprime lending is the concentration of outstanding loans in particular neighborhoods. Last year, in at least 10 communities across the City, more than 34 percent of all loans were subprime. These places include Jamaica, Brownsville, Ocean Hill, Queens Village, my district—Bushwick, and East New York, Sunset Park, and Red Hook. It should come as no surprise to find that those areas are experiencing high rates of default and foreclosure. Clearly, certain populations and areas within our State are targets of faulty lending practices.

Although most of us know that this is not a simple problem that a quick fix will solve, foreclosures crush a family's dream for economic stability and success. If large numbers of families are only achieving homeownership for a short period of time, our policies are misguided. All those who want to enter the ranks of homeowners should not only have a fair opportunity to do so, but also the ability to remain there.

And so I take this opportunity once again to thank Chairwoman Carolyn Maloney for being here to listen to the recommendations not only that the State and the City Government can provide to us, but those who are on the ground, facing the pain and the struggle that so many hard-working families are suffering, today, in New York City, in our Nation, the most powerful, richest country in the world, robbing these families of their dreams. That's shameful, and we need to act. Thank you.

Chairwoman MALONEY. Thank you, so much, Nydia, for speaking so eloquently on the American dream and the assault that it is under.

We are very fortunate to be joined by my good friend and colleague on the Financial Services Committee, Gregory Meeks, from the great Borough of Queens.

Mr. MEEKS. Thank you, Madam Chairwoman, and I want to thank you for holding this timely hearing on this issue, which is particularly alarming to my constituents and deeply concerning for millions of Americans across this Nation.

I mean, it is very timely, and I just want to compliment you on all of the work that you do on this committee. I am having the opportunity to watch you operate, and I just wish that everyone in New York would tune in sometimes when you're doing your hearings, on C–SPAN, and see what a great job that you are doing and how focused you are, particularly on this issue.

And likewise, I want to thank my colleague, Nydia Velazquez, who makes us all proud. I mean, I couldn't agree more with her statements. She is chairing the Small Business Committee, as well as, you know, working on the Housing Subcommittee of this great committee. And, I always just want to take the time to take my hats off to both of you strong, strong, strong advocates here in New York.

The 6th Congressional District has been one of the hardest hit communities in New York with the crisis in subprime mortgage lending. In the next 2 years, it is estimated that 91,000 families across the State will be at risk of foreclosures. In the New York

Metropolitan Area alone, an estimated 53,000 families will see their mortgages reset to onerous rates.

The foreclosure rate in my district is up 90 percent over last year. This is predicted to continue as subprime adjustable rate mortgages from 1 to 3 years continue to reset to their higher level. These are, indeed, astronomical figures.

But, when I see the faces of constituents who are confronting financial ruin because they can no longer sustain the payments on their homes, I see something much more jarring than numbers. I see the American dream that Nydia Velazquez was talking about slipping away from them, and the pain that comes with that loss.

It isn't just an individual pain. The entire community becomes at risk in the form of lost tax revenue, at the cost of securing abandoned properties, and preventing blight. Everyone suffers.

My constituents, and indeed all New Yorkers, will experience some relief with the mortgage provisions of the economic stimulus package. But long term, much more is needed.

Raising the maximum size of mortgages that Fannie Mae and Freddie Mac can purchase in markets as a security from $417,000 to as high as $729,000 is critical to the expensive States like New York.

However, our challenge today is to determine what else can we do to stop this hemorrhaging before our communities fall too deep into an economic downturn, the likes of which our Nation has not seen since the Great Depression.

The subprime loan numbers in southeastern Queens are staggering. As of October, in the Jamaica and Hollis section of Queens, part of my district, there are over 609 foreclosure filings for two- to four-family properties in 2007. That's up from 223 in all of 2004.

And a New York University study from 2005 reveals that for the Jamaica/Hollis community, the proportion of subprime loans for homes purchased has surged to 51.8 percent, ranked number two in New York City, almost 6 times the rate it was in 2003, when it was only 9.3 percent.

Sadly, African Americans and Hispanics are disproportionately represented in the subprime market. The racial disparity between whites and minorities actually increases as incomes rise. So, this is not just on a poor level. But, as incomes rise we see the greater disparity.

In trying to attain the American dream of becoming a homeowner, many minorities have fallen prey to high interest rates, balloon payments, and excessive fees and other predatory lending practices. What is most disturbing about this reality is the fact that a majority of subprime borrowers would have qualified for conventional prime rate loans.

According to a Wall Street Journal study, 55 percent of subprime borrowers had credit scores that made them eligible for a conventional prime loan in 2005. By the end of last year, that percentage was up to 61 percent.

Now, those who could have had prime loans are struggling to stay afloat and, because of predatory practices, they have lost the financial upper hand. Today, I'm especially focused on exploring what we can do to better serve this group of individuals.

I commend my colleagues on this committee, who are working very hard with Chairman Barney Frank and Subcommittee Chairwoman Carolyn Maloney, for passing the Mortgage Reform and Anti-Predatory Lending Act of 2007. The bill includes language that prevents a lender from underwriting a loan if the borrower's income does not support the monthly payment at every interest rate during the life of the loan. The legislation also sets forth minimum repayment standards for residential mortgage loans and requires creditors to determine, based on verified and documented information, that a consumer has a reasonable ability to repay the loan according to its terms and all applicable taxes, insurance, and assessments.

While passing this bill is and was an important first step, it is simply not enough. We have to continue to educate individuals about how to avoid foreclosures and provide financial counseling services for those who are in danger of losing their homes. The housing crisis and the economic descent that comes with it demands that all stakeholders come together to help struggling homeowners. The business community needs to work with clergy and neighborhood organizations to highlight the crisis and offer assistance to people who need help.

We also must make sure that we begin to give financial education to individuals in our schools so that our young people and our seniors and our families will know and understand and become financially literate. It is something that we must do.

Again, I want to thank our chairwoman for holding this hearing, and I look forward to hearing from the panelists, to find out how we can work together to ensure that this crisis is remedied. I know that the State and the City look forward to working with you and the private industry, because if we're going to solve this issue, all of us have to come to the table; because the truth of the matter is all of us have something to lose.

Thank you, Madam Chairwoman.

Chairwoman MALONEY. Thank you so much, Congressman Meeks, for your work on this issue and so many others.

The City Council has many committees that are challenged with subprime lending and have jurisdiction over it. Speaking for the City Council today will be Erik Dilan, chairman of the Housing and Building Committee. I had the honor of serving with his father on the City Council.

I must point out that we have a 5-minute rule in Congress, and we will be enforcing it. Everyone's testimony can be put in the record, but we would like to give you 5 minutes to summarize your testimony, and at the end of everyone's presentation, there will be questions.

Thank you.

STATEMENT OF THE HONORABLE ERIK MARTIN DILAN, CHAIRMAN, HOUSING AND BUILDING COMMITTEE, NEW YORK CITY COUNCIL

Mr. DILAN. Thank you, Madam Chairwoman. And I certainly understand, as the chair of the committee that probably holds the record for the longest hearings, so I hope to be shorter than the 5-minute rule.

Good morning. My name is Erik Martin Dilan, and I am the chairman of the City Council's Committee on Housing and Buildings, and I would like at this time to thank the committee, Congresswoman Maloney, Congresswoman Velazquez, and Congressman Meeks, as well as the full committee chairman, Chairman Barney Frank, for convening this hearing and allowing me to testify today.

In November, the Committee on Housing and Buildings held a joint hearing with the Council's Consumer Affairs Committee, chaired by Council Member Leroy Comrie, entitled, "The City, State, and Federal Response to Subprime Lending and the Mortgage Foreclosure Crisis." Now briefly, some of the recommendations made at the hearing from community members on the Federal level were very simple: To enact laws that will further regulate the banking industry, in order to prevent predatory loans and deceptive practices.

Someone very simply stated during that testimony that had their mortgage broker been their stock broker, they would have gone to jail for a very, very long time. So we know this is something that the Federal Government can regulate, because they are financial markets, even though we're talking about homes.

We would also like the Federal Government to support restructuring of loans to clearly reflect what homeowners can afford. We'd also like to see the prohibiting of lending without the borrower's ability to repay—common sense; to restrict loan flipping; to mandate homeowner education and counseling for anyone entering into legitimate subprime loans, specifically seniors, because we have seen many seniors refinance their homes, many of them having full equity, and they have lost that upon refinancing; conduct anonymous testing of practices of brokers, realtors, attorneys, and lenders that are originating the lion's share of bad loans. And, this includes to fine, prosecute, and shut down the one-stop shops engaging in unscrupulous and illegal practices, perpetuating foreclosure rescue scams.

We'd like to see a strengthened regulation against investors profiting from the bundling and purchase of predatory loans that are stripping owners of their wealth. These are some of the things that you mentioned in your opening.

And then, in addition, we would like to see Federal legislation empower States' attorneys general. We see that many of the banks are hiding behind Federal laws, not giving the States' attorneys general the ability to prosecute fraud.

And then, in the event that foreclosure can't be prevented by any Federal, State, or City regulation, we'd like to see the ability for banks—and I know my Congresswoman is very familiar with this, because she started a similar program in my district—we'd like to see the banks be able to receive CRA tax credit to banks that do give foreclosed homes, to have to re-sell the foreclosed homes to returning veterans. How that gets structured, I don't know, but I know it is a program that has worked well in my district because of Congresswoman Velazquez's leadership.

You mentioned in your opening, Madam Chairwoman, but the City Council agrees that there should be an increase in the cap on

FHA loans. The current caps do very little to capture the high cost loans that have been originated here in New York City.

And finally, the legislation, again, should better protect seniors who have already seen a substantial loss of equity in their homes.

Now, just to add, and it's not part of my testimony, but I believe it's important enough to add in, I had a meeting with my local assembly member this past Friday, Assemblyman Darryl Towns, who chairs the Banking Committee on the State level. And part of his legislative package will include a code of conduct for appraisers. I think many appraisers have not been discussed on any level, and some appraisers wrongfully over-appraise the values of some of the homes that are not really real. So we'd like to, at least on the State level, we know they're going to strive to do that. We'd like to see that on the Federal level, as well.

Just recently here in the City, a colleague of mine, Council Member Lew Fidler, had come up with the initiative—oh, I broke my promise.

Chairwoman MALONEY. Let's hear that initiative, and then we have to call time.

Mr. DILAN. Okay, and I'll call time.

The initiative was called the "Center for New York City," that has been now a Council and administration initiative. This will provide major funding for the not-for-profits that will help the general public get out of bad loans.

So, with that, I have a lot of statistical data that is in my testimony. I'm sure that the information you have is probably much better, but I'd like to submit that for the record, and I thank you for your time.

[The prepared statement of Mr. Dilan can be found on page 47 of the appendix.]

Chairwoman MALONEY. I want to thank you for your testimony, for being here today, and for your hard work.

We will now hear from Jane Azia, director of non-depository institutions and consumer protection for the New York State Banking Department. Thank you, Jane, and thank you, superintendent, for all of the work and really creative initiatives that you have taken. And your new initiative, I think, is just absolutely terrific, Operation Protect Your Home, to have hands-on help. Thank you for being here.

STATEMENT OF JANE AZIA, DIRECTOR, NON-DEPOSITORY INSTITUTIONS AND CONSUMER PROTECTION, NEW YORK STATE BANKING DEPARTMENT

Ms. AZIA. Thank you, Madam Chairwoman, and the committee for the opportunity testify today.

New York State is hit hard by the mortgage crisis. New York City is especially hard hit, with 52 percent of foreclosure filings in New York City, and 40 percent of those in Brooklyn and Queens. And, as Congressman Meeks pointed out, there is a disproportionate impact on those minority communities. For every one borrower in a non-minority community who has a subprime loan, there are two in minority communities. So, this is a severe problem.

I would like to focus on some of the State initiatives that we have been undertaking. This is a priority for the Governor and for the Banking Department. Soon after taking office, Governor Spitzer created the HALT Task Force, to halt abusive lending transactions. We have had several summits through the State to bring together community groups, borrowers, government officials, and industry to discuss issues affecting different geographic areas and solutions.

One of the areas that we have focused most on are loan modifications. It's important to put borrowers in places with affordable loans that they can sustain over the long term. And we have been very active on two fronts:

First, we have been working with a group of State attorneys general and banking departments, particularly the North Carolina Banking Department and the Conference of State Bank Supervisors. We have met with loan servicers, over 90 percent of the industry, and got commitments from them that they were committed to long-term modifications where borrowers have the ability and desire to pay.

Yet, we requested the data to support these claims. And just last week, we issued a report of our findings, looking at the month of October. And, this report had some very interesting results. The key findings were:

The good news. Servicers are increasing their level of loan modification and home retention efforts, but these efforts fall far short of the need. At the end of October, 45 percent of loss mitigation efforts in process were directed to loan modifications. This is in contrast to mortgages closed in October, where only 9 percent were loan modifications.

The bad news is that payment resets on hybrid adjustable rate mortgages are not a driving force in foreclosures. A significant percentage of subprime adjustable rate loans are delinquent before they ever experience payment shock. This reflects weak underwriting or origination fraud. Thirty-two percent of subprime ARMs and Alt-A loans scheduled to reset in 2008 and 2009 are already delinquent by more than 30 days; 20 percent of loans that are scheduled to reset in the third quarter of 2009 are already delinquent.

Another key finding is that 7 out of 10 seriously delinquent borrowers are not currently on track for any loss mitigation option.

And finally, the refinance option, which had saved borrowers in the past, has nearly evaporated.

The State Working Group intends to put out monthly reports showing how we perceive going forward. But one unfortunate fact is that of the major loan servicers, only 13 contributed data to the report. The remaining national banks did not do so. And, we wrote to the Comptroller of the Currency, and his response was that to do so would provide inconsistent data. Well, we don't believe that is the case, and we urge action to encourage cooperation by the national banks and the Federal regulators. The forms that we used were developed in collaboration with Federal regulators, lenders, and servicers. These forms are short, they're not burdensome, and we believe that it is important to get full information out to the public.

Our other initiative with respect to loan modifications is at the grassroots local level. We have teamed up with State officials and State legislators, housing counselors, and community groups and lenders to schedule forums here in New York City that will take place February 23rd and 24th and the following weekend, March 1st and 2nd, to bring borrowers together with loan servicers to hopefully work out modifications where possible.

The State is also looking at legislative proposals, many of which contain ideas similar to what was in the Assembly's bill, and that would require protections for both all borrowers, as well as those who are in high cost loans.

I also think there's a greater role that the Federal Government could play in this area. As I mentioned, we were disappointed with the OCC's response to our request for data, and we feel that this should not be a turf issue. There are also legislative reforms that are needed, both with respect to Bankruptcy Code, tax relief, and affordable housing.

Chairwoman MALONEY. Your time is up. Can you summarize briefly? Are you finished?

Ms. AZIA. I am finished.

Chairwoman MALONEY. Okay, great. Thank you so much.

Ms. AZIA. Thank you.

[The prepared statement of Ms. Azia can be found on page 34 of the appendix.]

Chairwoman MALONEY. We now have Mr. Kieran P. Quinn, chairman of the Mortgage Bankers Association, and he is speaking on behalf of the HOPE NOW Alliance.

Thank you for being here.

STATEMENT OF KIERAN P. QUINN, CHAIRMAN, MORTGAGE BANKERS ASSOCIATION, ON BEHALF OF THE HOPE NOW ALLIANCE

Mr. QUINN. Thank you. Thank you for the opportunity to appear before you on behalf of the Mortgage Bankers Association and the HOPE NOW Alliance to discuss both the mortgage market and how we are helping homeowners.

HOPE NOW is a broad-based collaboration between counselors, lenders, investors, and trade associations, and is achieving real results in helping people avoid foreclosure. Our task is two-fold:

We want to increase the number of delinquent borrowers who respond to our efforts to contact them and create a streamlined system to help borrowers in differing circumstances. The most significant barrier we face in helping consumers in an historic and persistent reluctance of struggling borrowers to reply to or contact their servicer for help. With every passing week without contact from a delinquent borrower, fewer options are available to a homeowner.

We understand it is human nature to want to avoid the conversation with a lender, especially if you are behind on your payments. That is why we are working on innovative ways of reaching out to people, three of which I'd like to talk about this morning.

First, servicers began a monthly direct mail outreach campaign to at-risk borrowers. This direct mail effort on the HOPE NOW letterhead—not on ours—is in addition to the thousands of letters and telephone contacts made by individual servicers to their own customers. Over the last 3 months alone we sent out over half-a-million letters to at-risk homeowners who had not contacted their servicers. This third party contact has already increased borrower response rates.

The second tool we are using is the Homeowner's HOPE Hotline—888–995–HOPE. This hotline directly connects homeowners with trained counselors. This counseling is free and it is offered in English and in Spanish.

Counselors have direct access to servicers through single points of entry specially designed for this effort, and to help advise the consumer and act as his advocate as he goes through this process.

Third, we have undertaken a media campaign to promote the hotline. For example, HOPE NOW has created a series of Public Service Announcements with very effective and moving messages illustrating the real world impact a foreclosure can have on a family, and urging borrowers to call 888–995–HOPE, especially if they find themselves in trouble.

Public officials can help us spread the word. Thirty-eight mayors recently worked with the MBA to produce Public Service Announcements promoting the hotline. Hearings such as this are perfect to help us increase the awareness of the hotline and encourage more people to call.

All of these methods are having results. The hotline received over a quarter of a million calls in 2007, and this volume is increasing. In December alone, there were over 90,000 calls, producing over 15,000 counseling sessions. In New York, almost 4,000 New York homeowners were counseled through the hotline last year. My written testimony goes into much greater detail, detailing these results.

The second challenge we have is to ensure that we have the tools available to help borrowers in the most effective way possible. We have worked with the American Securitization Forum to create a framework that allows servicers to modify the securitized loans you were talking about this morning. The focus of the effort has been to identify different categories of subprime hybrid ARM borrowers who can benefit from work out solutions catered to their situation. The key is to find solutions which help borrowers but do not violate existing agreements with investors who now own the securities containing these loans.

The ASF framework covers securitized subprime adjustable rate mortgages—the 2/28s and the 3/27s. The framework provides solutions for homeowners who qualify for one of three different types of help: Refinancing, modification, or other loss mitigation efforts.

Now, I'm a native New Yorker who grew up up in Stuyvesant Town, so I have some more things to say about New York, where loan modifications and repayments plans are continuing to increase. Generally speaking, we are experiencing fewer loan problems and delinquencies than the national average. Nevertheless, there are a significant number of homeowners who need assistance.

For example, in November, we counseled 495 New Yorkers. It grew in December to 654. And last month, we helped 785 New Yorkers with counseling.

Loan modifications in New York by HOPE NOW servicers increased 138 percent between the first and fourth quarters of 2007, and repayment plans increased 27 percent during that timeframe. We believe the upward trend in counseling, the key aspect, loan modifications, and repayment plans will continue, and homeowners will receive the help they need.

It is my number one priority, and the number one priority of the member companies of the Mortgage Bankers Association to help people stay out of foreclosure and stay in their home. Thank you.

[The prepared statement of Mr. Quinn can be found on page 70 of the appendix.]

Chairwoman MALONEY. Thank you. We will now hear from Sarah Gerecke, the chief executive officer of the Neighborhood Housing Services of New York City. She is on the front line working with the pain and suffering of homeowners who are losing their homes. She has been hard working at the neighborhood level, and we want to hear what is happening. Thank you for being here.

STATEMENT OF SARAH GERECKE, CHIEF EXECUTIVE OFFICER, NEIGHBORHOOD HOUSING SERVICES OF NEW YORK CITY

Ms. GERECKE. Thank you for having me. And, I want to thank all of the representatives here for their hard work and successful efforts in bringing attention and, I know, solutions to this problem.

My name is Sarah Gerecke, and I am the CEO of Neighborhood Housing Services of New York City. Last year, we had 2,000 families come to us for help in paying their mortgage and preventing foreclosure.

The mortgage crisis is causing great damage to families and to neighborhoods in New York City. The damage to families I don't think is fully understood.

The families who walk in have begun abusing their charge cards, often as Congressman Meeks said, when their credit was good to begin with, but they find they can't keep up with the loan. They have taken on two and three jobs. A lot of times they're leaving their children unsupervised.

And, if they do lose the home, there is nowhere for them to go in New York City, where our rental vacancy rate is still around 3 percent and where landlords, frankly, look for satisfactory credit and don't want to see a bankruptcy or foreclosure in order to rent an alternative apartment.

But, the collateral damage to neighborhoods is awful, too. Most homes here, as you know, are two- to four-family homes, and the rental families are evicted if the mortgage is foreclosed.

Rescue scams are rampant. There are blocks in Bedford Stuyvesant, in South Ozone Park, and in Williamsbridge, where more than half of the homes on a single block have unsustainable loans.

You see signs of deferred maintenance on blocks that used to be spotless, blocks where NHS has worked for decades to bring them back from the horrors of the 1970's. We're seeing graffiti now, abandonment, foreclosures.

If you are the neighbor with a prime loan, not only is your home devalued, but you wonder why you remain. You wonder if your children are safe going past the vacant house down the street.

Investors are buying properties and speculators are very active, filling single-family homes illegally with 10 or more single adults who rent rooms or beds. This happened down the street from me. Infill construction sites are abandoned. Commercial businesses are closing shop.

The convergence of these New York City conditions has a major dampening effect on the entire economy. I know Congresswoman Velazquez mentioned the Joint Economic Committee's data.

I think the report released by the New York Conference of Mayors is even worse, estimating that the New York City Metropolitan area faces $10 billion in 2008 in losses relating to the mortgage crisis. That's the worst of any city it studied.

Your hearing today will bring recognition and resources, I hope, to stabilize neighborhoods. Federal tools are invaluable. And, first and foremost, I want to thank each of you for your support for the Neighborhood Reinvestment Corporation appropriation, doing business as NeighborWorks America. NHS received support for counseling, and we've just applied for additional counseling resources that you appropriated and were passed in December for $180 million total.

Chairwoman MALONEY. Well, we hope you will be successful in that, and we'll certainly support it.

But right now, your time is up. Could you summarize, please?

Ms. GERECKE. Sure. I'm sorry.

We urge additional support for capacity building for counselors, greater consumer protection, and flexible Federal funding for innovative programs that can help us.

Thank you.

[The prepared statement of Ms. Gerecke can be found on page 55 of the appendix.]

Chairwoman MALONEY. Thank you, so much.

And now, we will hear from Josh Zinner, who is the co-director of the Neighborhood Economic Development Advocacy Project, also working at the neighborhood level, helping people stay in their homes. Thank you for your hard work and for being here today.

STATEMENT OF JOSH ZINNER, CO-DIRECTOR, NEIGHBORHOOD ECONOMIC DEVELOPMENT ADVOCACY PROJECT

Mr. ZINNER. Thank you, Madam Chairwoman. And thank you, Congresswoman Velazquez and Congressman Meeks, for—particularly for your testimony. I had come here to testify in part about the situation on the ground in New York City, and I think you have all done such an eloquent job of describing the scope of the problem that, given the time, I'll jump right into some of the possible solutions.

I do want to mention a couple of points. One is that I can't overstate enough the responsibility that the secondary market, and particularly Wall Street investment banks, have for this fiasco. The securitization of subprime mortgages has provided easy liquidity to the subprime market and for abusive lenders who are doing loans that were unaffordable, that didn't have benefit to borrowers. It was so profitable to make unsustainable loans that the investment banks were actually marketing products such as "no doc" loans and piggyback loans, payment option, adjustable rate mortgages that were not sustainable and not advantageous to borrowers that mortgage lenders were actively and aggressively pushing on borrowers at the neighborhood level, which created huge profits on Wall Street.

There was no incentive at any level to make sustainable, responsible loans. Mortgage brokers were getting big fees for inducing borrowers into loans based on misrepresentation. And lenders were selling their loans into the secondary market regardless of their viability, and everybody was making a killing. So, it is time now to create some accountability in the secondary market and to change the incentives.

The Federal regulators and especially the Federal Reserve was asleep at the wheel, I think with a blind faith in the markets as a corrective. But of course, because the incentives were perverse, the market did not correct itself, creating this crisis.

As far as the mortgage servicers go, I think that loan modifications are obviously a key to helping borrowers out of foreclosure. And, there has been plenty of testimony about the scope of the foreclosure problem. Millions are facing foreclosure. But, there have been no signs that voluntary actions alone by servicers are going to solve the problem.

So, while I laud any initiatives by the industry to modify loans, and I hope that helps to solve the problem, I want to stress that it cannot alone solve the problem. And, I want to state that the Bush-Paulson plan, which really at most is only going to help 3 percent of borrowers at risk of foreclosure, is not nearly the answer.

So, I call on Congress to really push the industry to find a way to change the incentives so that servicers are offering loan modifications that are not only better for homeowners but better for investors.

I'm going to run through, because I know I'm running out of time, some of the policy recommendations that we have. And again, if there are questions more about neighborhood impacts or the civil rights implications here, I'm happy to answer them.

We strongly support House Bill 3609 to change the Bankruptcy Code. It goes without saying this is a sensible, simple, straightforward emergency fix that would save more than 600,000 homes. So, I think I speak for the advocacy community as a whole in New York State, or for many people, that this is sort of a no-brainer fix that will save homes.

We also favor a very strong preventative bill and we do laud House Bill 3915, but we call on the Congress to pass a bill that is more in line with the bill that Senator Dodd has introduced in the Senate, which does have stronger protections in several areas, including stronger prohibitions to prevent steering of borrowers into higher cost loans on the basis of race, has a wider scope of protection of ability to pay provisions, and in particular, widens assignee liability, which is critical—absolutely critical—for holding Wall Street accountable for the loans that they buy and for changing the incentives in this system.

Finally, I want to emphasize, as my time is running out, that remediation—you know, the bankruptcy fix is critical, but remediation efforts are needed on the Federal level and on the State level to fill gaps. I mean, this is absolutely critical to halt the bleeding from the foreclosure crisis.

There is a big problem, in that there is not a secondary market for loans that come out of rescue programs, for borrowers who are more than 60 days delinquent. New York and Massachusetts have started loan funds that are promising, but that are hamstrung because the requirements are less than 60 days delinquent in order for the loans to be made—I'll close.

Chairwoman MALONEY. You'll have to sum it up.

Mr. ZINNER. I'll sum it up.

And this needs to be fixed. You know, the bottom line is that borrowers come in later in the process, and so these programs have been able to close on very few refinance loans.

So, we welcome the FHA reform, but I do call on Congress to expand FHA reform to look for ways to create some flexibility in the secondary market so that FHA temporarily can guarantee loans that come out of special programs that are refinance loans that are for borrowers who are more than 60 days delinquent, and this is critical.

And finally, we call on Congress to expand funding—we laud Congress for expanding funding for loan counseling, but also funding needs to be expanded for legal services programs around the country that represent borrowers who are in foreclosure. This is critical, again.

Chairwoman MALONEY. Those are all good points.

Mr. ZINNER. Thank you very much.

[The prepared statement of Mr. Zinner can be found on page 82 of the appendix.]

Chairwoman MALONEY. We can recognize you later, but we have to stick to the 5-minute rule.

I'm going to ask one brief question, and then recognize my colleagues.

In response to the testimony from the Superintendent of Banks' office, Ms. Azia, you said that the data collected by the States show that the reset is not the only gateway to subprime loan foreclosure, and many subprime borrowers, the States found, are delinquent before the reset. We were under the impression that when you hit the reset, that's when the foreclosure happens. So, this is extremely interesting.

And, what are your conclusions from this data? Are we in for an increased rate of foreclosure? Because a lot of the estimates were based on the resets that are coming up this year and next year. But, you're saying it was before they even get to the reset they're foreclosing—

Ms. AZIA. Yes.

Chairwoman MALONEY. —so it looks far worse than the predictions that we have heard.

So, if you could, just elaborate, please.

Ms. AZIA. Well, what we're saying is that resets are only part of the problem and are only part of the solution, and that long-term modifications based on resets are missing huge chunks of the population, that over 30 percent of loans that are not even reset are already delinquent, and that these people need to be addressed. Otherwise, we will continue to have real problems.

Chairwoman MALONEY. Thank you. Congresswoman Velazquez is now recognized for 5 minutes.

Ms. VELAZQUEZ. Thank you, Chairwoman Maloney.

I would like to address my first question to Ms. Azia and Mr. Quinn, and also Sarah, if you could come respond.

What can we do to incentivize services to engage in mass modification of loans that could save thousands of New Yorkers from losing their homes?

Ms. AZIA. Well, I mean, services already have at the top levels the commitments to modify loans. I think, you know, they have expressed that quite clearly. But, it's not clear that they have the staff and the capacity themselves to engage in the full modifications.

And while at some levels we hear that their agreements with the investor community have been relaxed, other occasions we hear that those are still impediments. So, those issues need to be addressed.

Ms. VELAZQUEZ. Mr. Quinn.

Mr. QUINN. May I give the phone number one more time? It is 888–995–HOPE.

We cover, in the HOPE NOW Alliance, 90 percent of the servicers who service the subprime adjustable loans. They are there, at the ready. We have increased the number of people just answering the calls from roughly 64 to almost 400, over the course of 2007.

The NeighborWorks organization has 240 locations around the country. The increased funds for counseling that Congress recently passed are enabling us to expand that network.

And the beauty of a counselor is that he then becomes not just a counselor for the homeowner, but he is also the homeowners' advocate before the servicer. He has the hotline. He has the way to go.

Ms. VELAZQUEZ. Okay. But so, in that statement that you're providing us, are you saying that modification of at-risk loans is taking place among the Mortgage Bankers Association.

Mr. QUINN. As a trade association, we represent many members.

Ms. VELAZQUEZ. Sure.

Mr. QUINN. Our evidence, covering over 33 million loans that our servicers take care of, modified 230,000 loans in the third quarter alone. And, this was 2 months before the Paulson-Bush plan was announced.

And, with that publicity and all, we made every major newspaper in this country. The word has gotten out that homeowners should call their servicer.

Ms. VELAZQUEZ. Okay. Let me take this opportunity and ask you how expensive it has been for your members to provide the counseling, to do the outreach, and to have the staff to deal with borrowers who are at risk of losing their homes.

Mr. QUINN. It's expensive for our organizations, but it's free for the homeowners and—

Ms. VELAZQUEZ. I understand.

Mr. QUINN. —and each servicer is being asked to write a check as they go along.

Ms. VELAZQUEZ. So, do you think that housing counseling should be a part of any legislation, in terms of being mandatory? Or for— or to have opt-out provisions.

Mr. QUINN. Illinois passed the mandatory counseling, and I think the State revolted against it. We have tried, and we spent a lot of money last year, to improve our home loan learning center. In the late fall, we had a million hits a month for people trying to get more education before they went for a home.

The literacy programs that Congressman Meeks talked about, we desperately need to upgrade that, all across the country. I don't like mandatory counseling, personally.

Ms. VELAZQUEZ. I know that. I know. I am the one who has an amendment advocating for it, but you also mention the fact that borrowers are not, for whatever reason, reaching out to housing counseling providers or to those banks where they are—that are the originators, because they are embarrassed, because they are postponing it, for whatever reason.

So, if a borrower is delinquent the first month or second month, why is it so bad for the industry to have a mandatory provision that will get the lender to notify a housing counseling provider to contact that borrower?

Mr. QUINN. Well, we have sent the notices out to the borrowers. They need to take some initiative to call the counselor to prepare their financial information. It is the most critical tool we—

Ms. VELAZQUEZ. I know that I'm not going—

Mr. QUINN. —need to help them—

Ms. VELAZQUEZ. —to convince you. Let's go with—

Chairwoman MALONEY. We have one more minute.

Ms. VELAZQUEZ. —with Mr. Zinner.

Chairwoman MALONEY. One more minute.

Ms. VELAZQUEZ. Yes, okay.

Mr. ZINNER. If I could just speak for a minute on your question of how to change the incentives with servicers to promote more loan modifications? I have a lot to say on this topic, but let me be brief and say one thing. I think one of the problems even taking the servicers at face value that they do want to do more loan modifications, and I think that there is a need to change the culture of the mortgage servicers in that area.

But, you know, because of the way these loans have been securitized and, you know, they've been sold off in slices to different grades of investors, you know, there are "A" investors who get paid first out of the trust, and then there are slices at the bottom that only get paid when the investors above get paid first.

So, you know, the investor—the servicers say that they fear legal liability from investors if they engage in too many loan modifications. You know, part of the problem is that modifications might be good for investors with the lower slices, but whereas foreclosure is better for the investors with the top slicers. The legal obligation of the servicer is to act in the best interests of the investors, as a whole.

So, I think it would be very helpful if there was guidance received from the top, possibly from the SEC. But, if there were Federal guidance that sort of could assure mortgage servicers that if they're engaging in modifications that are in the best interests of the—to maximize the return to the trust as a whole that they don't have to fear liability from certain slices of investors. I think this is critical.

Ms. VELAZQUEZ. Thank you.

Chairwoman MALONEY. Thank you. I'll make one comment and I have a brief question, and then recognize my colleague Gregory Meeks.

I want to respond to one of the comments of Mr. Zinner, where he said that we need to negotiate and help people stay in their homes, but what do we do for the people who have already lost their homes? They need help right now, and what are we doing now?

One suggestion that I have heard recently is a revival of the Homeowners Loan Corporation. This agency was created during the Depression to manage defaulting mortgages in that crisis. I'd like to hear what your thoughts are about this.

By the way, at the Joint Economic Committee, we have heard some testimony from some economists who believe that the amount of people who will lose their homes during this crisis will be even greater than those who lost their homes during the Great Depression. And, the Homeowners Loan Corporation bought defaulting mortgages during the Depression for the Government, with backed bonds at lower rates.

And does the fact that the subprime mortgages are securitized now make the efforts of the Homeowners Loan Corporation more difficult than it was in the 1930's, to help in this situation?

Any ideas of any of the panelists on this?

Ms. GERECKE. I'll make one comment. I'm certainly not an expert on that proposal. But, I do want to say that the problem of families who have faced foreclosure already, and one of the limitations of the voluntary act, is that there is no ability to be geographically targeted with the solution. So, if you have a particular block where you have homeowners facing different levels of problem, it's very difficult to sit back and wait to receive the call and see which ones fit into which buckets.

So, to that extent, a centralized coordinated solution, I think, would stop the secondary and tertiary economic spillovers that are happening right now, and harm that's being done to the broader community.

Mr. QUINN. Our fear is that in just the time it will take to put all this in place, we can be modifying 230,000 loans a quarter or more.

We lose $30,000 to $50,000 at a minimum every time we foreclose on a home. We have every incentive to modify the loan. We just want the people to get in touch with us.

Mr. ZINNER. Yes, I would say again—excuse me. Again, we strongly support any efforts by the industry to improve the rate of modifications, but it can't be a replacement for effective Federal action.

And we do strongly support the initiatives to create a Federal fund. I think Representative Baca and Senator Dodd are both talking about such an initiative. As Ms. Gerecke said, there is a potential problem in that it doesn't give you necessarily the ability to respond on the local level. It would be sort of a top-down approach, because only borrowers whose mortgages were sold into this fund would get assistance.

So, while we strongly support this as a very appropriate, effective, and strong Federal response, there is also a need at local levels to have complementary programs. And, this is where it's critical, as I stated in my testimony, to have more flexibility possibly in FHA to enable those local programs, those State programs, to be effective.

Chairwoman MALONEY. We have passed an FHA reform bill that is flexible, if we could get it through the Senate. So, that's one of our goals.

And, I'd like now to recognize my colleague and good friend Gregory Meeks for 5 minutes.

Mr. MEEKS. Thank you, Madam Chairwoman. And, in my 5 minutes, just first I should have said when I opened up, is a strong thank you to Erik Dilan for the work that he's doing. We're in your house. It's good being in your house at the City Council and working with my friend and colleague that you mentioned in your statement, Leroy Comrie, doing a job focused on this.

I also, Mr. Zinner, want to say thank you to your organization. Sarah Ludwig, who works very closely with my office, helping my constituents who fall into problems, and referring her to people, your agency is doing a great job, and I want to make sure you say hello to Sarah for me, and we thank you for what you do.

I also want the record to be clear that we still believe that owning a home is the greatest thing that one can do. And we understand that the subprime market is a—you know, we don't want to throw the whole market out. We want to get rid of those predatory lenders, those that take advantage of individuals. Because some people, without subprime, would not be able to be in a house, period.

However, we want to make sure that steering is over, and all of these illegal and predatory practices don't begin—you know, don't continue.

And so the first thing that, in listening here, I was wondering if, in fact, Mr. Zinner, and you and Mr. Quinn, or your respective organizations, is there any direct communication? When someone comes to you, do you have any experience with that, referring to HOPE and back and forth, to try to see if there's some synergy there in this market or other markets?

Mr. ZINNER. Let me just say that NEDAP does not take direct referrals from borrowers. However, I can speak of prior to working at NEDAP, I ran the foreclosure prevention project at South Brooklyn Legal Services, and we had thousands of calls coming in from borrowers who were targeted for subprime abuses.

And, you know, I want to say historically, and I think I can speak for many, many advocates, that historically it has been very, very difficult for borrowers and advocates to work with servicers. That's not to say that we are not very hopeful that those bridges can be opened up, and HOPE NOW is a positive development.

We do have a concern, you know, since we are speaking of HOPE NOW, we do think that there's a need to train the counselors in the HOPE NOW Alliance, the counselors who are working with the Alliance to screen loans for illegalities, because borrowers go straight into loss mitigation without a look at whether their loans have illegalities that might create defenses to foreclosure. And, when they do sign those modification agreements, they waive those defenses.

So, with that caveat and saying that there is a need to be more careful in the screening of these loans, we welcome opening up any bridges. Historically, advocates and homeowners have had a lot of difficulty dealing with mortgage servicers, and it has been a negative experience, but we welcome a change in that.

Mr. QUINN. The HOPE NOW Alliance is an alliance of trade associations and neighborhood associations, so we welcome all the help we can get in this important endeavor.

Mr. MEEKS. But, I should hope—

Ms. GERECKE. I just want to add, because we do refer to and from the hotline a lot, and we've had experience with it, both in improving the levels of service on both sides. On the plus side, we find the hotline counselors very helpful in conducting triage and providing basic advice. They do refer back to us if people need more assistance.

The work with the servicers, I will say, is uneven. Some, we've seen incredible changes over the recent periods of time. Often though, within the same organization, you can get very different responses from person to person.

On Friday I was told by my director that he had personally placed a call to the nonprofit contact for the servicer about a customer, and had left five messages over the course of a week that had never been returned. So, I think that they are also facing capacity and volume issues that we all have to work through.

But very often, the answer, especially for the early payment delinquent that Jane was talking about, the answer is we cannot help you with that now. Many of the modifications are just forbearances on the interest that may be collected later, rather than a full loss mitigation.

Mr. MEEKS. Let me just throw two questions out there real quick, before that buzzer goes off.

One is I am concerned when you have someone who has been wronged, and clearly, we can identify a group of individuals who have been wronged, as I stated in my testimony. Those individuals who were steered into a subprime, when they could have had a prime rate, those individuals who had great credit, who were paying their mortgage until the rates went up. They clearly were wronged.

I was wondering if there's any focus that the industry, or whether we in Government, that we can do at the City and the State level, or counseling can do, that can focus on making sure that those individuals, that they're restored their credit ratings or something of that nature.

Because the statement is actually correct. Once their credit is gone, they probably can't buy another home again in their lifetime, which is affecting a generation of people. And, it is difficult for them even to rent a decent place when they were wronged.

So, is there any focus on helping those who clearly were wronged in this matter?

And secondly, I think Mr. Quinn indicated that individuals, you know, it's hard to get people to come. And, that's correct. And, we've appropriated millions of dollars for foreclosure prevention counselors.

And, I was wondering if, in fact—in fact, there was a study by Fannie Mae that showed the reason why some people go to subprime lenders in the first place is because they are afraid to be told "no" by others. So, surely, when they're foreclosed.

What other efforts—what else can we do—

Chairwoman MALONEY. The gentleman's time is up, and we welcome any responses to his questions.

Mr. QUINN. It absolutely starts with education. We have to get people better prepared when they go for a loan. I was blessed when my father worked in a bank, and I knew there was only one route for me to go. But, with the change in our population coming forward over the next 10 to 15 years, we have to have all our programs in multiple languages, and we have to get it down into the cities. The awareness that hearings like this help to create helps us immensely to get people more concerned.

But I want to get back to your point about the modification process or workout process. These processes will leave people with the best credit record coming out of this situation. If people go into bankruptcy, it is a 7-year blight on their record. And, we encourage people to exhaust every remedy available to them through the counselors, through the HOPE NOW Alliance, before you enter into any kind of bankruptcy action. It's going to make the cost of financing for all homeowners go up, and we're not sure it's really going to help people that they couldn't already be helped through the HOPE NOW Alliance.

Chairwoman MALONEY. Any responses?

Mr. DILAN. Yes, if I may, I would just like to re-emphasize some of the points that I made during my testimony. I think it's critical that practices such as one-stop shopping be eliminated, where you get your broker, your attorney, and everyone that's basically providing the bank with the client. I think it should be prohibited that they're all in league with each other. I think that the end user should be required to have their own attorney and a broker that's separate and apart from the bank.

And I think that practices such as yield spread premiums and other fees that serve no benefit to the homeowner should be eliminated. It's essentially a kickback for the mortgage broker for steering that loan to said bank.

And again, I would say that this committee, in an unrelated matter, should also study the impact on veterans who have their loans reset while they are overseas fighting wars, because they could be doing a service for this country and lose their home when they come back.

Chairwoman MALONEY. I'd like to ask Council Member Dilan how is the Council working with the State on Operation Protect Your Home or other initiatives? Obviously, one of the problems we're hearing is that people don't know where to go to get help, and certainly the City Council is the organization, the elected body closest to the people.

How are you working with the State Senators and the Banking Department to let people know about Operation Protect Your Home?

Mr. DILAN. We're just beginning. I met last Friday with, as I mentioned, Assembly Member Towns, who is the chair of the Banking Committee, to come forward with a strategy. I know that Senator Malcolm Smith has made this an issue for all of his members in the Senate. I've worked with Senator Jeff Klein in terms of getting some of the banks to come into communities and restructure loans, as well as conversations with the HUD Regional Director, Sean Moss, in terms of coming out to the community and letting neighborhoods know what the Federal packages are and what the Federal advantages are.

You know, clearly there's still more work for us to do. I will be submitting legislation to the Council that, as I said in the press conference earlier, that will potentially restrict the City from publishing online people's deeds, via the Registrar's Office. Right now, that's available to anyone in the world with no proof that you are the actual homeowner. Those are some of the things that we could do at least to prevent fraud.

And then, as a budget item, I'd like to at least ask my colleagues to consider funding specific units for property frauds in the five DA's offices.

Chairwoman MALONEY. Well, I want to thank you for your initiatives. And, I'd like to ask Mr. Quinn, we hear a great deal about the public/private efforts, and workouts, and certainly applaud your efforts. But the numbers that we're hearing from the State Superintendent's Office and others is that they're not happening, that all of these initiatives are taking place, yet the connection and the workouts are not happening.

And what more are you doing with HOPE NOW to offer more borrowers help? And, do you think it would be helpful if we kept statistics on actual success? If servicers are being told to reach out, just numbers reported back on how many have reached out, how many have negotiated a workout?

Because, the numbers we're seeing are really horrific. Everybody says they're helping, yet when we survey the homeowners, the individuals who are losing their homes, they say that they weren't aware, that no one is helping them, and there is not the reach out.

And, I'd like to add to it, and have the other panelists add to the really startling report that came out from Freddie Mac last week, that 57 percent of the borrowers who are paying late still don't know that their lenders might offer alternatives—57 percent. And, I'm wondering if that is the same situation in New York City. Do you think that half of New York City residents facing foreclosures still have absolutely no idea that there are workout options?

And again, the idea of having some oversight on what is happening. Not only are you reaching out, how many people have you reached out to? How many workouts are in the process now to help people stay in their homes? Because we are seeing a disconnect between what everyone says they're doing and what is actually happening to people in helping them stay in their homes.

Mr. Quinn?

Mr. QUINN. Part of the responsibility of the HOPE NOW Alliance is to report actual phone calls received on a monthly basis.

Chairwoman MALONEY. On a monthly basis. That's great. So, that's part of the plan.

Mr. QUINN. And, that all took off late November/early December. So, you're going to see December—

Chairwoman MALONEY. Great. So then, there's oversight on it.

And my question, do you believe that half of New Yorkers are not aware that there are workout options? To our panelists—Jane and others?

Ms. GERECKE. Yes, I absolutely do believe it. I—we see all the time that there is a lack of awareness of what the benefits of calling a servicer can be, and we view our job to help connect the borrower to the servicers.

Again, going back to the issue of early payment defaults, though, when a borrower was told that the loan would be affordable and then found out that the one percent teaser rate was only good for the first month, and the bill comes in at $500 or $700 higher the following month, asking for help from the servicer can be a very difficult experience. And, in many cases where they have been in contact from the servicer's collection department, there is a reluctance to believe that now, with a counselor, we can get you into a loss mitigation department, we can try to do other things.

But there isn't a lot of help for people. And I think the ones that are in the deepest, or the ones who faced predatory or improper practices to begin with are really very reluctant or have the negative experience, unfortunately.

Chairwoman MALONEY. What else can Congress do to help with the awareness program? We have allocated $180 million. They are going to start processing that next week. They are taking applications. We certainly urge the neighborhood groups to apply, and we certainly want to help you.

But, what else can Congress do to help with the awareness program? I'll ask Jane Azia.

Ms. AZIA. I think individual congressional offices can get information out to their constituents about programs. And in particular, in New York City, the foreclosure forums that are taking place at the end of February and the beginning of March. So, I think that's one very important thing.

But, there's lots of material out there. It's just getting it to the borrowers.

Chairwoman MALONEY. Thank you. My time is up. Chairwoman Velazquez.

Ms. VELAZQUEZ. Thank you. Mr. Quinn, you say that education is paramount, and I agree with you 100 percent. There is no doubt that an educated borrower will make a wiser financial decision.

With the sharp increase in financial sophistication, what is the industry doing to enhance transparency for borrowers?

Mr. QUINN. We supported the licensing provision in the recent House bill that required education, both up-front and on an ongoing basis for everyone who is involved in the loan origination business. We have to get our originators and our servicers on the same page about how these loans work.

We focus too much, I think, on getting people into a home. This is the American dream that everyone is chasing, and we have to focus on keeping people in their home. So, explaining the loan programs. We actually would welcome RESPA reform. We think the stack of documents that a homeowner faces should go from this to about this. And, that would eliminate a lot of the confusion and potential hiding of documents.

Ms. VELAZQUEZ. So, you're telling me that when HUD comes out with the next RESPA regs, that you are doing to design a grassroots mobilization from mortgage brokers to get members to oppose it.

Mr. QUINN. We will support simplification of the mortgage process in as many ways as we possibly can, Congresswoman.

Ms. VELAZQUEZ. Okay. Again, what can we do to restore confidence and bring transparency to the secondary market?

In the roundtable that I held 3 weeks ago, specifically the president of the Federal Home Loan Bank of New York said that some institutions had withdrawn from the secondary market unless they were purchasing securities issued by Freddie Mac and Fannie Mae.

Mr. QUINN. You've done the first two things that were excellent—the modernization of the FHA. If you go back to 2000, roughly, FHA had 13 percent of the market, and subprime was about 2 percent. If you go to 2006, those numbers were exactly the opposite.

The first-time home buyer, the person who needed the 93, the 95, the 97 percent loan, lost his access to FHA. The modernization of FHA, which you passed, was the critical first step.

Empowering Fannie Mae and Freddie Mac through higher loan limits helps California, New York, Massachusetts, Chicago, and so many more places in this country. That was the critical second step. And the money you spent for homeownership counseling was also critical.

Ms. VELAZQUEZ. Yes, and the issue of transparency.

Mr. ZINNER. Yes, I mean, well, just going back into your question about restoring stability, confidence towards the secondary market. I think the number one thing that's going to do that is strong preventative legislation, you know, such as the Frank bill in the House. And, you know—and, as I stated, I think there are some improvements in—

Ms. VELAZQUEZ. Senator Dodd.

Mr. ZINNER. —in the Dodd bill. But, what this is going to do, you know, I think this is the single most important thing, because the secondary market will then know that loans that are sold are viable loans. And, this will restore stability and integrity to the process, and there will be a secondary market that is confident that what they're buying is legitimate, and investors will respond accordingly. I think this is critical.

Ms. VELAZQUEZ. Okay. Thank you, very much.

Ms. AZIA. And, if I could just add that New York is considering various reforms, needed reforms with respect to lending, and it has already implemented some things, like the required registration of mortgage loan originators, not just the firms, but the actual employees who will be required to be registered, and the background check, and comply with ongoing education requirements. Because, it's not just the borrower who needs to be educated, it's the people in the industry who are making these loans.

But, there needs to be comparable Federal legislation at a national level, setting national minimum standards, so that New York is not just in the forefront, so that there is a level playing field for the whole country of these kind of preventative measures.

Chairwoman MALONEY. Thank you. Congressman Meeks.

Mr. MEEKS. Thank you, Madam Chairwoman, and I will be quick.

I think that Mr. Zinner and Mr. Quinn hit on part of what I wanted my last questions to be. And that is, you know, what—it only takes a few bad apples to taint the whole bunch. And, until we get rid of those bad apples, then this whole thing is going to be a problem.

And, the ways that those—the banks and the larger mortgagors are at fault, in my estimation, is that you buy the whole package without knowing that they're good loans, you know, and that there was more attention paid to the quality of the loan than looking at the buyers—the mortgagees. Then, you would know that this is a bad loan and that would, to some degree, I believe, begin to stop some of what's the practice that's going on.

And, I couldn't agree with you more, with the work that Nydia has done in strengthening the FHA is absolutely critical, because my parents wouldn't have had a home if it wasn't for FHA and Veterans—VA loans. That's tremendously important.

But, the real question I have is just Mr. Zinner's recommendation. He made two recommendations, and I ask Mr. Quinn what do you think about it? Changing the Bankruptcy Law? He said that was number one, changing the Bankruptcy Law.

I think we all agree about that we need remediation with reference to—it's critical, remediation is critical. But, what about that? What's your opinion on changing the Bankruptcy Law?

Mr. QUINN. I'm not in favor of changing the Bankruptcy Law, for a couple of reasons. I believe—and I said a minute ago—if you exhaust all the remedies available through HOPE NOW Alliance, I believe you will be able to effect the modification work out repayment plan on your loan, not by going through bankruptcy. The bankruptcy will not only cause a blight on your credit record for years to come, while a modification won't, it will also raise the rate for all borrowers. I don't know the exact percentage that are in bankruptcy, whether it is 1, 2, or 3 percent. You're going to be raising the rate for the other 97 percent.

It is something that is critical to our business. The reason that mortgages trade at the tightest spreads of any financial instrument is because you do have the sanctity of the mortgage document. It is a secured document. You control the duration risk.

If you all of a sudden make it an unsecured loan, available for a cram down, you are going to raise the borrowing cost for all Americans. I believe that the modifications, through the HOPE NOW Alliance, will continue to solve this problem.

Mr. ZINNER. I just want to state in response to that, you know, again, I think we would certainly support the notion that if a borrower can get an affordable modification from his or her servicer, that that's the number one option, that makes sense.

But I think we've seen, again and again, and the statistics bear it out, that we can't rely on voluntary loan modifications from servicers as a solution. So, what's critical about the bankruptcy fix, you know, this is an emergency fix, and it would be available to borrowers to have exhausted all of their remedies.

And, the critical thing to state is that, in the House compromise bill, it's only from already existing mortgages. It's not going to affect the mortgage markets, because it's not going to affect mortgages that are being originated and then sold. It's an emergency fix that's narrowly tailored to mortgages that are already out there and that already exist. And it's a critical backstop if voluntary modification efforts fail.

Mr. QUINN. To go back to the point you raised a minute ago, the number of people who stop making payments long before the reset date? Our evidence, and this is over a 38-year study that we track on delinquencies, is that in roughly 70 percent of the cases, the reason someone loses their home is because they lost their job, had a major illness, or they went through a change in their marital situation.

There will be a number of these defaults that are beyond the remedies available to a homeowner. And we think that the HOPE NOW Alliance will solve those people that are in their homes, with an income, that can stay in their home.

Mr. ZINNER. But—

Mr. QUINN. It will—it will distract—

Mr. ZINNER. But you—

Mr. QUINN. —and it will add to the cost of other mortgages. You've changed the nature of the instrument forever.

Ms. VELAZQUEZ. Will you yield?

Chairwoman MALONEY. Yes, absolutely.

Ms. VELAZQUEZ. Thank you. But we are not assessing here 30 years of numbers. We are assessing here what is happening to New York and families across the country in the last 2 to 3 years.

Mr. QUINN. But, you will affect the next 30 years for future homeowners.

Ms. VELAZQUEZ. I guess you need a strong message to know that we are serious, and that we're going to hold people accountable.

Chairwoman MALONEY. Well, as my colleagues know, legislation that Mr. Zinner commented about has passed out of the Judiciary Committee and is scheduled to go to the Floor of Congress for a vote. I predict that it will pass, because of the basic fairness argument of the need to keep people in their homes. But, why in the world would you allow them to renegotiate on their secondary home, their 5th home, their 10th home, but not their primary home that can keep many families in their homes.

I would—Speaker Quinn has indicated she needs her room back, and we're so pleased to have had time. But, I would like to end with one question.

And that is, what are other creative ways we can keep people in their homes? Any new initiatives that we have not already talked about?

I would like to mention one that came into my office. Although it would not affect a large group of people, it would affect some, and that is the idea that employers should be given incentives—

whether it's a tax break or any other type of incentive—to keep their employees in their homes. They have flexibilities in their budgets to allow for this crisis situation, to help them stay in their homes. That is one idea that a constituent wrote in to me, that I think is a good one, and deserves to be explored.

And so, I ask our panelists to respond to that particular idea, and any other idea that you can think of that would help us keep people in their homes. Obviously, we have ideas going forward to reform the system. But right now, we have a crisis in New York and across the country.

And oftentimes legislators ask me, what is happening in New York? What is New York doing to help people stay in their homes?

I congratulate the initiative from the Banking Department, but what other ideas do we have, that we can take back to Congress?

Thank you all for your excellent work throughout your lives, and for being here today. Thank you.

Yes?

Ms. AZIA. One idea that we are—that is being proposed at the State level are sort of modifications of the foreclosure procedures. Last year, we enacted a law that required a separate notice to go out at the time of foreclosure, on a separate colored piece of paper, that advised the borrower of the importance of the situation and to contact a housing counselor.

We have gotten so many responses to that, but it's kind of late in the process, because the foreclosure action has already commenced. So, being considered at the State level are modifications where a lender would be required to send a notice prior to foreclosure commencing, advising the borrower of the situation, that it's a good idea to see a housing counselor, and staying the foreclosure for a set period of time—say 30 days—in which the borrower and the lender or servicer can discuss possible solutions to the situation.

So, that's one idea at the State level.

Mr. QUINN. We've encouraged the Congress to allow more States to expand their tax exempt bond financing. There are several States that have much higher incidents of delinquencies and foreclosures—Ohio, Michigan, the places where we've had job losses. You're going to see more of it in California. That would be a very effective localized tool to expand relief.

Ms. GERECKE. I want to mention, too, one is the Center for New York City Neighborhoods here, that Council Member Dilan and Speaker Quinn have launched. I think it's going to show tremendous innovation. I think it's very exciting and a different way of creating a network.

The second is we're trying to work through how to intervene in the pre-foreclosure stage, trying to avoid some of these—the investors coming in and buying these homes. And so, we're looking at ideas like a nonprofit real estate brokerage and other innovations that we think could really matter in the process. We're talking to some servicers about that.

But it's very hard with how we're stretched right now to develop the capacity to actually plan for a program innovation at this time, to be honest with you.

Mr. ZINNER. I think it's critical to be available to offer support to creative State initiatives. And again, I mentioned this in my testimony, but I want to reiterate.

You know, there are many States that are trying to set up refinance programs for people at risk of foreclosure. And, if successful, these programs could help an enormous number of borrowers and prevent them from losing their homes—borrowers who are in unaffordable mortgages but would have the ability to pay if they were in a fairly priced loan.

And, for the Federal Government to step up and help to create a secondary market for these loans, so that these loan programs can flourish, I think, would be a huge contribution and would help State initiatives that look to keep borrowers in their homes.

Chairwoman MALONEY. Well, thank you so much. Mr. Dilan, Council Member, you have the last word. And, thank you for having us here in your City Council.

Mr. DILAN. Oh, thank you, and welcome back to the place where you launched your career.

I would just say that, right now, I don't have anything. But, I guess I would—I guess, in my future work, reserve the right to share our findings with your committee and my local Representative, Congresswoman Velazquez.

We intend to do more work on this issue, as well as you, and I think the best thing for us is just further communication on the topic. But, we're also mindful, as a City Council, that we can move slightly quicker than Washington but with not the same amount of effectiveness.

But, just keeping that in mind, we recognize that we want fairness for all New Yorkers who get a mortgage, but we also understand that we're the banking capital of the world, and we wouldn't want to do anything that would cause more layoffs in the banking industry, because that would certainly diminish our tax base here in the City, being as most of these jobs are from here.

So we have to move quickly and strongly, but also carefully and collaboratively.

Chairwoman MALONEY. Okay. Thank you, so much. I thank all of the panelists.

I'd like to note that some members were not able to be here. They are in Washington, so the record will remain open for 30 days for members to submit additional questions to the witnesses and to place their responses in the record.

I thank everyone. The hearing is adjourned.

[Whereupon, at 12:55 p.m., the hearing was adjourned.]

A P P E N D I X

February 11, 2008

STATEMENT OF REP. ELIOT L. ENGEL

FINANCIAL INSTITUTIONS AND CONSUMER CREDIT SUBCOMMITTEE FIELD HEARING: EFFECTS OF THE SUBPRIME MORTGAGE CRISIS IN NEW YORK CITY AND EFFORTS TO HELP STRUGGLING HOMEOWNERS FEBRUARY 11, 2008

Thank you for this opportunity to address the impact of the subprime mortgage crisis in New York City, and in particular this subcommittee's focus on identifying the most heavily impacted neighborhoods.

Americans in general, and New Yorkers in particular, are anxious. Many of our homes are worth less than they were just a year or two ago. Foreclosures are up, and analysts predict more foreclosures ahead. This is devastating to our families, our communities, and our financial institutions alike.

So much of this crisis, I believe, is a result of the Bush Administration's serious mishandling of our nation's economic and domestic policy priorities.

I am proud to report that the Democratic Congress is – with my support and the support of Representative Maloney and others – acting to strengthen the housing market and the economy.

On November 15, 2007, the House approved H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007, to establish a national standard to rein in the abusive lending practices that contributed to the current mortgage crisis. This comprehensive legislation will create a licensing system for residential mortgage loan originators, establish a minimum standard requiring that borrowers have a reasonable ability to repay a loan, and will attach a limited liability to secondary market securitizers. The legislation will also expand and enhance consumer protections for high-cost loans, will include protections for renters of foreclosed homes, and will establish an Office of Housing Counseling through the Department of Housing and Urban Development.

On October 10, 2007, the House passed H.R. 2895, The National Affordable Housing Trust Fund Act of 2007, to establish a national affordable housing trust fund to build or preserve 1.5 million homes or apartments over the next ten years, without increasing the federal deficit. Increasing the supply of affordable housing will help ensure that families who have lost their homes due to predatory lending or a family financial crisis, such as ill health or job loss, can find housing.

On September 18, 2007, the House passed H.R. 1852, the Expanding American Homeownership Act of 2007, a bill to enable the Federal Housing Administration (FHA) to serve more subprime borrowers at affordable rates and terms, recapture borrowers that have turned to predatory loans in recent years, and offer refinancing loan opportunities to borrowers struggling to meet their mortgage payments in the midst of the current turbulent mortgage markets. These reforms, including provisions that would lower down payments and increase loan limits, would help some 200,000 additional families, if not more, purchase or refinance into safe FHA-insured mortgages.

On May 22, 2007, the House passed H.R. 1427, the Federal Housing Finance Reform Act of 2007. The bill will overhaul the regulatory oversight of the government sponsored enterprises (GSE) of Fannie Mae, Freddie Mac and the Federal Home Loan Banks, and will put renewed emphasis on ensuring the safety and soundness of theses enterprises. It will also create an off-budget and non-taxpayer financed affordable housing fund, which will dedicate hundreds of millions of dollars for the construction, maintenance and preservation of affordable housing.

While we have taken affirmative steps toward resolving the subprime mortgage crisis, I realize that our work is not done. I look forward to hearing today practical and innovative ways we can protect Americans and New Yorkers alike from abusive lending practices, ensure that they get mortgages they can repay, and find other ways to help the economy, the housing market, our communities, and our families.

Thank you.

TESTIMONY OF

JANE M. AZIA
DIRECTOR OF NON-DEPOSITORY INSTITUTIONS AND
CONSUMER PROTECTION

On behalf of
THE NEW YORK STATE BANKING DEPARTMENT

On
"EFFECTS OF THE SUBPRIME MORTGAGES CRISIS IN NEW YORK CITY"

Before the
THE SUBCOMMITTE ON FINANCIAL INSTITIUTIONS AND CONSUMER CREDIT

U.S. HOUSE OF REPRESENTATIVES
Monday, February 11, 2008, 11:00 a.m.

Good morning. Chairwoman Maloney and distinguished members of the committee: on behalf of the New York State Banking Department, I appreciate this opportunity to speak with you today and discuss the subprime mortgage crisis as it pertains to New York City.

This crisis has a profoundly personal effect on New Yorkers throughout the State, and particularly in the five boroughs. It has been the major focus of the Department since I became Director of Consumer Protection this past April.

Governor Eliot Spitzer has made the subprime crisis a top priority for his administration. One of his first subprime initiatives was to create the interagency HALT Task Force to "Halt Abusive Lending Transactions," which is chaired by the Superintendent of Banking. The goal of the Task Force is to unite the efforts of all state agencies and departments related to the mortgage industry in responding to the subprime problem.

The issues facing the mortgage market are complex, and there is no single solution. An effective response requires cooperation across many levels of government and among government, community groups and industry.

Today I'd like to address the following areas:

- First, the magnitude of the problem in New York City and the communities most directly affected

- Second, what the State and HALT Task Force are doing to assist struggling homeowners
- Third, what should be done to prevent a future subprime mortgage crisis
- Fourth, the role of the federal government

A. THE CURRENT LEVEL OF THE PROBLEM IN NEW YORK CITY

While the rising rate of foreclosures is of tremendous concern throughout the State, New York City is the State's hardest hit region. At the end of the third quarter of 2007, one out of every 100 homes with a mortgage in New York State had a foreclosure filing. In New York City, the statistics were even starker. One out of every 40 homes with a mortgage in New York City had a foreclosure filing. For all of 2007, New York City accounted for more than 18,000 total foreclosure filings or just over 52% of all filings in the State. Queens and Kings Counties led the state with nearly 14,000 foreclosure filings, just under 40% of foreclosure filings statewide.[1] Of the remaining New York City counties, Bronx was fifth with 2,234 foreclosure filings, Staten Island eighth with 1,663 filings and Manhattan eleventh with 806.

Table I
Total foreclosure filings in NYC[2]
Year-end as of 12-31-07

Rank	Borough	Total Foreclosure Filings	Percentage of State
1	Queens	7373	20.87%
2	Kings	6464	18.29%
5	Bronx	2234	6.32%
8	Richmond	1663	4.71%
11	New York	806	2.28%

Source: Realty Trac

And, although the focus of today's hearing is New York City, the impact is even greater when the city is viewed in conjunction with the greater New York City metropolitan area. The surrounding metropolitan counties are also among the State's highest foreclosure rates. Suffolk and Nassau ranked third and fourth in foreclosure filings and along with Westchester, Rockland and Putnam counties experienced nearly 32% of last year's foreclosure filings. These counties, when combined with all of New York City, represent more than 80% of foreclosures statewide.

[1] *Source:* RealtyTrac

[2] These filings include lis pendens, notice of sale, etc.

Table 2[3]
Total foreclosure filings in Surrounding Metropolitan Counties Year-end as of 12-31-07

Rank	County	Total Foreclosure Filings	Percentage of State
3	Suffolk	4346	12.30%
4	Nassau	3523	9.97%
6	Westchester	2111	5.97%
10	Rockland	824	2.33%
12	Putnam	456	1.29%

Another grim reality is that four New York City boroughs – the Bronx, Queens, Brooklyn and Staten Island – make the list of top ten counties statewide of homes with a mortgage that are facing foreclosure. For the Bronx, Queens, and Kings counties, 1 in 40 homes with a mortgage is facing foreclosure.

Table 3[4]
Total Foreclosure Activity as a Percent of Owner-Occupied Units with a Mortgage

Rank	County	Percentage
1	Bronx	2.53%
2	Queens	2.46%
3	Kings	2.45%
8	Staten Island	1.38%

1. Minority Neighborhoods are the Hardest Hit

There is a disturbing correlation between foreclosures and subprime loans. As of 30 June 2007, subprime loans in New York were about 11 times more likely to be

[3] Source: RealtyTrac

[4] Source: RealtyTrac, as of 9/30/07 and US Census community survey 2006

in foreclosure than prime loans. Subprime loans made up 15% of the State's mortgages but 60% of its foreclosures.[5]

Even more disturbing is the evidence that minority borrowers and minority communities receive higher-cost loans at a disproportionate rate. An analysis of the recently released HMDA[6] data demonstrates that for every one borrower in neighborhood with a low Minority population that has a higher-cost or subprime loan, there are two borrowers in high-Minority neighborhood who received a subprime loan. Residents of minority neighborhoods in certain New York City boroughs received higher-cost or subprime loans at an even higher rate. For example, in 2006, residents of minority neighborhoods in New York county received subprime loans or a rate of 4 to 1, when compared to borrowers from white neighborhoods. For residents of Kings county, that rate was nearly 3 to 1.

Table 4
Total Subprime Originations in NYC in 2006

County	Total Subprime Originations	Originations in Minority Areas	Originations in Non-Minority Areas
Bronx	40.7%	46.5%	22.4%
Kings	35.1%	47.2%	15.4%
Queens	34.9%	46.3%	19.3%
Staten Island	28.6%	46.6%	20.9%
New York	4.2%	11.7%	2.3%
Total	31.4%	45.7%	14.4%

2. The Foreclosure Crisis Holds Profound Economic, as Well as Social, Implications for New York City

Foreclosures clearly hurt everyone. Families lose their homes and any equity they had and also face the emotional consequences of displacement. Lenders and investors lose the anticipated return on their investments. Communities also

[5] Foreclosure Trends in NY, NeighborWorks Report, Sept 2007

[6] HMDA stands for the Home Mortgage Disclosure Act. HMDA imposes annual reporting requirements for higher cost or "rate-spread" loans, defined as loans where the annual percentage rate exceeds the rate on the treasury security of corresponding maturity by 3% for a first lien and 5% for a subordinate lien. Rate spread status is a common proxy for subprime.

suffer as property values decline, vacancies increase and the local economy suffers. The U.S. Conference of Mayors estimates that New York City, which unlike many other parts of the country has not experienced a steep decline in overall property values, will nevertheless feel the negative effects of the mortgage crisis. In a report issued this past November, the Conference predicted that in 2008 New York City would lose more than $10 billion in economic growth, $686 million in property tax income, $97 million in sales taxes and $47 million in realty transfer taxes.[7]

B. RESPONSES BY THE BANKING DEPARTMENT AND HALT TASK

A problem of this magnitude requires a multi-pronged approach and there are a variety of state initiatives underway. While there is still much work to be done, the Task Force and the Department have been proactive in helping consumers to weather the turmoil in the mortgage market.

I'd like to highlight selected initiatives in the following five areas, as examples of the Banking Department and the HALT Task Force's response:

1. Outreach and consumer counseling;
2. Long-term, sustainable loan modifications
3. Affordable loan programs;
4. Heightened supervisory standards and enforcement; and
5. Needed legislative reforms

1. Outreach: The HALT Summits and Other Efforts

In connection with the HALT Task Force, the Banking Department has been holding day-long HALT Summits across the state. Each region is experiencing the crisis in unique ways, whether it is steering and the lack of traditional credit choices in minority neighborhoods in New York City, the vacant housing and property flipping in Buffalo, or the high housing costs on Long Island. We're already planning the next Summit, which is tentatively scheduled for Albany in early spring of next year.

The Department also has its own consumer help unit and hotline at 1- 1-877-BANK-NYS (1-877-226-5697). Staff in this unit are specially trained in mortgage issues and are available to assist consumers in filing a complaint or to make referrals to appropriate service providers. The Department through the HALT Task Force has also partnered with the major national nonprofit NeighborWorks America in promoting their foreclosure prevention hotline, 1-888-995-HOPE.

[7] The United States Conference of Mayors and the Council for the New American City, The Mortgage Crisis: Economic and Fiscal Implication for Metro Areas, prepared by Global Insight, November 2007, available at http://usmayors.org/metroeconomies/1107/report.pdf

2. *Working For Systemic and Sustainable Loan Modifications: Multi-state effort*

Since September, the Department has been participating in a multi-state working group of state banking departments, attorneys general and the Conference of State Bank Supervisors (CSBS) to reduce unnecessary foreclosures and promote a systematic approach to loan modifications. The State Working Group met with the nation's top servicers covering 90% of the market. In these meetings, the industry has stated that they are being proactive in offering modifications, and we asked for data to support that claim and to ensure that there's no disconnect between what we're hearing from servicers and what we're seeing in practice.

Last Thursday, the State Working Group released its first subprime mortgage servicing performance data report on Thursday.[8] The report summarizes the efforts of these servicers during October 2007. Its key findings are:

- ***Servicers are increasing their level of loan modifications and home retention efforts, but these efforts fall far short of the need.*** Servicers have tried to stem the foreclosure crisis through increased staffing and creative outreach, but delinquencies are increasing faster than loss mitigation efforts.
    - As of the end of October, 45% of all loss mitigation efforts in process were directed to loan modifications. This is in contrast to mortgages closed in October where 9% were loan modifications.
- ***Payment resets on hybrid ARMs have not yet been a driving force in foreclosures.*** A significant percentage of subprime adjustable rate loans are delinquent before they experience payment shock, reflecting weak underwriting or origination fraud. This portends increasing foreclosures if servicers do not find ways to fix loans before payments increase further.
    - 32% of subprime ARMs and ALT-A scheduled to reset in 2008 and 2009 are already delinquent by 30 days or more

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[8] To access the October report, go to http://www.csbs.org/Content/NavigationMenu/Home/StateForeclosurePreventionWorkGroupDataReport.pdf. Overall, the report finds over 150,000 delinquent loans were in the process of receiving a loan modification or other home retention accommodation at the end of October.

- 3% of the currently delinquent subprime and Alt-A loans were loans that entered delinquency in the first three months after an interest rate reset.
- Of the 1.1 million subprime loans reported, more than 22% are delinquent by 30 days or more

- ***Seven out of ten seriously delinquent borrowers are not currently on track for any loss mitigation option.*** The lack of interaction between mortgage servicers and homeonwers remains a major problem. While creative outreach efforts and increased staffing are helpful, the data shows a large gap between need and assistance.
  - The sum total of all loss mitigation efforts surveyed account for only 24% of seriously delinquent (60 days +) subprime loans.
- ***The refinance option has nearly evaporated.*** Historically, serial refinancing was the primary way that the mortgage industry and homeowners managed delinquencies in subprime loans. Despite recent interest rate cuts, the mortgage industry will not be able to refinance its way out of this crisis absent dramatic changes in available loan products. Only 4% of loss mitigation outcomes closed in October were refinanced or paid in full.

The State Working Group intends to continuing collecting monthly data from reporting servicers in order to provide public information on trends in the servicing industry as we move through this foreclosure crisis.

Unfortunately, the State Working Group reached the conclusions in its first monthly report based on somewhat limited data. Although the group collaborated with industry and federal regulators, including OFHEO, the FDIC and the Federal Reserve, to develop a uniform data reporting format to collect data, only 13 (or 58% of the subprime servicing market) of the top 20 servicers contributed data.[9] Some major national banks that service subprime loans, including Chase and Wells Fargo, declined to provide the State Working Group with data based on advice or direction from the Office of the Comptroller of the Currency (OCC). Another federally-chartered thrift refused to provide data based on its participation in the industry-led HOPE NOW data collection effort. The State Group contacted the OCC to encourage it to permit these banks to provide data to the State Working Group, but the Comptroller John Dugan declined to so, stating that the States' project would produce "inconsistent and incomplete" data

[9] These servicers represent approximately 58% of the total subprime servicing market. Reporting companies serviced 5,110,678 subprime and Alt-A loans.

that would "not be constructive to achieving an accurate picture of delinquencies and loss modification."[10]

The State Group continues to seek cooperation from the servicers that did not participate in the initial report. The Group also continues to call on the OCC to urge national banks to report data to the State Working Group, so that we will be able to provide a complete picture of the subprime servicing market. We believe that providing the public with this information is vitally important, that it complements the efforts of the HOPE NOW initiative and that it does not impinge on the OCC's jurisdiction with respect to its supervision over national banks. This is a time for cooperation – not jurisdictional battles.

3. Working For Systemic and Sustainable Loan Modifications: Local efforts

In addition to our work on a multi-state level, we are also supporting a number of initiatives at the local level to prevent unnecessary foreclosures and promote long-term, sustainable loan modifications.

- ***New York City Foreclosure Forums***

  Just yesterday, the Banking Department, in conjunction with State legislators, other public officials and community groups such as NeighborWorks and ACORN, announced a series of weekend forums in New York City to bring together mortgage servicers and borrowers facing resets or having difficulty paying their mortgage. These forums will present a unique opportunity for borrowers and lenders to identify possible solutions to enable borrowers to stay in their homes. Housing counselors will also be present to help assist borrowers. These forums are scheduled for:

  Saturday February 23 in the Bronx:
  Location: Cardinal Spellman High School
  Time: 12-8 pm

  Sunday, February 24 on Staten Island
  Location: College of Staten Island
  Time: 12-8 pm

  Saturday March 1 in Queens
  Location: Campus Magnet High School
  Time: 10 am-6 pm

[10] Letter to North Carolina Deputy Commissioner of Banks Mark Pearce from Comptroller of the Currency John Dugan, February 1, 2008

Sunday March 2 in Queens
Location: Medgar Evers College-CUNY
Time: 12-7 pm

Upcoming forums including ones in Westchester and Long Island on Saturday March 22 and another to follow in Western New York. The success of these forums depends in large part in reaching borrowers. Whatever help the Committee can extend in this regard will be greatly appreciated.

- ***Grants for consumer counseling***

We recognize the important role that consumer counselors, legal aid societies, and other nonprofits play in responding to the needs of financially distressed homeowners. Their efforts complement the work of the state agencies in meeting the needs of our residents. With the increasing case loads from the subprime crisis, however, we are concerned about the ability of these community groups to meet the expected demand.

Therefore, in November, Governor Spitzer announced the creation of a $2 million grant program with a matching feature, to provide ongoing support for consumer services. We consider partnership with these counseling groups to be one aspect of the state's outreach effort. The new grant money will help to ensure that community groups have the tools and training they need. The funds are being allocated from settlement funds recouped from prior enforcement actions by the Department.

This new grant proposal is on top of other substantial awards that the state has provided to consumer counselors. Two Task Force member agencies, SONYMA and the Division of Housing and Community Renewal, have already made awards in excess of 600,000 to support counseling services related to the launch of new affordable loan programs.

3. Affordable loan programs: The Governor has also announced two new loan programs.

- ***40-year fixed rate loans***
  Through SONYMA, the Task Force has developed new loan programs that provide affordable alternatives to the unsustainable nontraditional mortgages that have led to the subprime crisis. In May of 2007, SONYMA began offering a 40-year fixed rate loan, which offers the low monthly payment of the longer term with the security of a predictable monthly payment.

- ***"Keep the Dream" Program***
  Last July, SONYMA introduced the $100 million "Keep the Dream" refinance program, for eligible subprime borrowers facing a mortgage hardship.

4. Heightened supervisory standards and enforcement: The Banking Department has taken a number of steps to heighten its regulation of the mortgage industry.

- ***New mortgage lending standards***
  The Banking Department issued new guidance in May of 2007. These heightened standards, developed in conjunction with the Conference of State Bank Supervisors and modeled after the guidance adopted by the federal regulators, apply to non-bank mortgage providers. The guidance addresses the lack of underwriting discipline that has left so many consumers saddled with unaffordable loans. It contains provisions for documenting and calculating a borrower's ability to pay, especially at the fully indexed rate, not the introductory interest rate.

- ***Mortgage Fraud Unit***
  The Department also created a dedicated Mortgage Fraud Unit, to address the fraudulent practices that have contributed to the subprime crisis. The Unit is currently engaged in several joint investigations with prosecutorial agencies throughout the state. In addition, the Department is conducting joint examinations with the Department of State through HALT to uncover fraudulent practices such as inflated appraisals, which are a common device used in predatory lending schemes.

- ***Nationwide licensing system for mortgage loan originators***
  One of the most significant examples of our heightened supervisory standards is the roll-out of the new nationwide licensing system for mortgage loan originators (MLO) this past January. The MLO project will enroll individual mortgage originators, and not just the firms where they are employed. This nationwide licensing system, operated under the auspices of the Conference of State Bank Supervisors (CSBS), will help to curb mortgage abuse by making it more difficult for bad actors to evade enforcement and reopen shop simply by migrating across state lines. Components of the plan include authorization by the states, fingerprinting, and an education requirement.

5. Needed Legislative Reforms

Although the Department did adopt guidances on subprime and non-traditional mortgage products this past spring, we believe additional legislative measures are needed to ensure that the kind of lax underwriting and most abusive practices we have witnessed do not occur in the future. We have been closely monitoring proposals at the federal level and support the adoption of laws that will create minimum standards for lending nationwide. We are also reviewing the Federal Reserve's proposed changes to Truth-In-Lending and HOEPA and will be commenting on those proposed changes as part of a review with CSBS.

While these federal efforts are of great interest to us, we are working with the Governor's office on proposed legislative reforms at the state level to prevent future lending abuses. States have always been effective laboratories of experimentation. Indeed, we believe that had states not been preempted from enacting strong laws against predatory lending earlier in the decade, we would not be facing the extent of the crisis before us today. Governor Spitzer, as part of his state of the state message, announced the outlines of some key legislative reforms. These include:

- ***Enhanced protections for all borrowers***
  - Prohibit lenders from underwriting such loans without regard to the borrower's ability to repay the loan at the fully indexed rate
  - Impose a duty of care on all mortgage brokers to act in good faith and in the borrower's interest
  - Create the specific crime of mortgage fraud

- ***Expand protections for high cost loans***
  - Expand the protections in New York's current high cost loan statute to borrowers of subprime or "rate-spread" loans, defined by the current HMDA standard of 3 and 5 % over treasury yield for first and second lien loans respectively
  - Require verification and documentation of the borrower's income and expenses
  - Restrict stated income and negative amortizing loans
  - Prohibit refinancings that don't provide a net tangible benefit to the borrower

- ***Provide additional protections for borrowers facing foreclosure***
  - Require lenders to send pre-foreclosure notices to homeowners at least 60 days before a lender can start foreclosure proceedings in order to encourage borrowers from taking action before it is too late. If the borrower engages a housing counselor or reaches out to the lender the lender will be precluded from initiating or continuing a foreclosure action against the borrower for a specified period of time
  - Require lenders to prove that they have ownership of the note and mortgage when they initiate foreclosure proceedings

- Protect borrowers from foreclosure scams targeting homeowners in default

D. The Role of the Federal Government

As vital as cooperation between the states is, lasting solutions also demand an engaged federal partner. There has been progress on this front, but there have also been moments of frustration.

As the Superintendent noted recently in a letter to Secretary Paulson, it was disappointing that the Treasury Department's HOPE NOW Alliance did not include a state government representative. This omission could undermine the group's effectiveness, because it is missing the perspective from an important regulatory partner, which is the sole supervisor for a significant portion of the mortgage industry. Greater state involvement in federal initiatives is part of the recipe for success.

As I noted above, we were also disappointed that the OCC advised national banks not to participate in the State Working Group collection of data relating to their loss mitigation efforts. We urge Congress to use its authority to encourage greater cooperation.

Nevertheless, there are positive signs that a new era in state-federal cooperation may be in the offing, particularly in relation to supervision and examinations. Early in his tenure the Superintendent reached out to Comptroller Dugan to identify ways in which we could work cooperatively together, to move beyond the heated preemption debate and focus on the subprime problem.

There are two unique state-federal exam pilot programs under development. The first is a joint exam effort where the OCC would examine a national bank at the same time we are examining a mortgage broker who was originating mortgages for that national bank.

In another pilot, the states and the Federal Reserve, OTS, and FTC will be joining forces in the review of selected mortgage subsidiaries of bank and thrift holding companies. Both of these pilots are critical in connecting the dots and gaining a more comprehensive view of lending.

Beyond working together with federal regulators, there are a number of initiatives that are beyond the State's purview and must be addressed at the federal level. The federal government has the opportunity to: develop new standards for lending that will operate as a floor for states to expand upon; adopt tax and bankruptcy reforms to protect homeowners facing foreclosures; and most importantly, explore the establishment of a housing fund to assist borrowers.

CONCLUSION

I welcome your comments on the various initiatives I've described today. The Banking Department shares your concern for protecting consumers and restoring confidence in the mortgage market. We look forward to working with you in developing the best solutions for all New Yorkers. Thank you for the invitation to speak today, and I would be pleased to answer any questions you may have.

Testimony of City Council Member Erik Martin-Dilan

Before the US House of Representatives Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit

Hearing on the Effects of the Subprime Mortgage Crisis in New York City and Efforts to Help Struggling Homeowner

February 11, 2008

Good morning. I am Erik Martin Dilan, Chairman of the New York City Council's Committee on Housing and Buildings. I would like to take this opportunity to thank Congressman Barney Frank, Congresswoman Carolyn Maloney, and the Members of the Committee for convening this hearing and for inviting me to testify before you today.

In November, the Committee on Housing and Buildings held a joint hearing with the Council's Consumer Affairs Committee entitled, "The City, State, and Federal response to the sub-prime lending and mortgage foreclosure crisis." Some of the recommendations made at the hearing were for the Federal government to:

- Enact laws that will further regulate the Banking industry in order to prevent predatory loans and deceptive practices. For example, such legislation should:
  - Support the restructuring of loans to what homeowners can afford.

- Prohibit lending without regard to a borrowers ability to repay.
- Restrict loan flipping.
- Mandate homeowner education/counseling for anyone entering into legitimate sub-prime loans.
- Conduct anonymous testing of the practices of brokers, realtors, attorneys and lenders that are originating the lion's share of bad loans. To fine, prosecute and shut down the One-Stop shops engaging in unscrupulous and illegal practices and those perpetrating foreclosure rescue scams. And
- Strengthen rules against investors profiting from the bundling and purchase of predatory loans that are stripping owners of their wealth.

In addition, such Federal legislation should also:

- Empower Attorneys General to prosecute fraud in the mortgage industry. (Banks are hiding behind federal laws.)
- Grant CRA tax credits to banks that give veterans first priority to buy foreclosed homes.

- Increase the cap on FHA loans. The current cap of $362,000 basically captures a limited number of homes in New York City. The cap should be raised to match the $417,000 cap on Freddy Mac and Fanning Mae loans. And,
- Finally, the legislation should better protect the senior citizens who already have a substantial amount of equity in their homes.

We continue to work with our colleagues in government both at the City and the State level to help alleviate some of the pressures of the mortgage foreclosure crisis. In fact, just yesterday, "Operation Protect Your Home" was announced. The Council is proud to be cosponsoring this series of 4 forums along with **Governor Spitzer, Senator Schumer**, our City and State Comptrollers, the NYS Black, Puerto Rican, Hispanic, and Asian Legislative Caucus, and the NAACP NYS Conference. These forums, each in a different borough and including the State Banking Department, will provide homeowners who are late on their mortgage payments the opportunity to meet face-to-face with banks and mortgage services about payment programs. This has the potential to truly have a very real affect on keeping people in their homes.

In addition to this work with our colleagues at the City and State level, I appreciate this hearing and any opportunity for the Council to collaborate with you on addressing this crisis. I'd like to take this opportunity to voice my support for HR 3609, the Emergency Home Ownership and Mortgage Equity Protection Act of 2007, reported out of the House Judiciary Committee in December. I thank those of you who have already, through your work on the Committee, had the chance to support this important piece of legislation. It corrects the existing inequity in the law that allows the courts to modify virtually all forms of debt other than a mortgage on a primary residence. Allowing judges the authority to modify these mortgages would, according to the Center for Responsible Lending, help more than 600,000 families stuck in bad loans to keep their homes.

My testimony includes additional statistics and background information, which I will not read but submit for the record.

Again, thank you for holding this hearing. I look forward to continuing to work with you to help the many families that have been hit hard by this crisis.

STATISTICS and BACKGROUND HISTORY

According to the Furman Center for Real Estate and Urban Policy at New York University, the rate of subprime lending in New York City remains much higher than in the rest of the country. In fact, in 2006, the rate of subprime lending in New York City as compared to the country as a whole increased. These loans are most concentrated in neighborhoods of color. 51.3% of the loans made to African Americans and 41.8% of those made to Latinos were high cost while 19% of the loans made to white borrowers were high cost. One example of a sub-prime loan I am referring to is an Exploding Adjustable Rate Mortgage, or ARM, that has a beginning short-term fixed interest rate, followed by later increases. Usually, the initial interest rate is very low, which results in a dramatic increase for the mortgage holders. Additionally, subprime mortgages are often accompanied by prepayment penalties, a type of monetary fee charged by a mortgage lender in cases where the borrower pays off the mortgage before all payments are due. Up to 80% of subprime mortgages include prepayment penalties, while they are rare in prime mortgages.

In New York City, the rate of subprime home purchase lending rose to about 23 percent in 2005, and in some lower income neighborhoods the share of new home purchase loans was 50 percent or higher according to a recent study from NYU's Furman Center. These loans made in 2005 are among those that are now resetting, those whose new rates could force homeowners into delinquency and foreclosure. This is quite clear when we look at all of the boroughs' foreclosure rates for last month. January represented the most intense rise in foreclosures seen by any month in the past two years. In

December, Staten Island saw a 184% increase in foreclosure auctions, in January, Queens saw a 150% increase, Manhattan an 80% increase, Brooklyn a 46% increase, and the Bronx a 14% increase. The rate of foreclosure filings (lis pendens) in the City is also on the rise, practically doubling between 2004 and 2007 according to the Neighborhood Economic Development Project.

The City Council has been working to do its part in addressing the problems of predatory lending and mortgage foreclosures. In 2002, we attempted to enact Local Law 36, a law that I sponsored, which prohibited the City from doing business with institutions that engaged, directly or indirectly, in predatory lending practices, and regulated the participation of home improvement contractors in the home-loan market. Although the Council overrode the Mayor's veto of the bill, the merits of the legislation were eventually argued in State Supreme Court. The court concluded that Local Law 36 was an attempt to regulate the banking industry and was therefore preempted by federal law. Further, each budget year since fiscal year 2006, the Council has funded an Anti-Predatory Lending Initiative. Since fiscal year 2007, my colleague, **Council Member Lew Fidler** has been sponsoring a Mortgage Foreclosure Prevention Initiative, a program that acted in a proactive and preventative manner to aid in averting a potential crisis and ameliorate financial harm to individual, at-risk homeowners.

The Council, through the work of **Speaker Christine Quinn, Council Member Fidler**, and myself, recently created the Center for New York City Neighborhoods. This organization was designed to create a coordinated approach to remedying the subprime lending and mortgage foreclosure crisis in our City. It is the most comprehensive program of its kind in the nation with the ability to assure adequate delivery of quality service where needed while simultaneously tracking the problem and the progress being made in attacking it so as to be able to maximize the effectiveness of its work.

In April of last year, the City Council's Committee on Civil Rights and the Committee on Consumer Affairs held a joint hearing on predatory lending in New York City. In October 2007, **Speaker Quinn**, 7 of my Council Member colleagues, and I, sent letters to the New York State Banking Department and to the relevant Federal agencies (Federal Reserve, Office of the Controller of Currency, Federal Deposit Insurance Corporation, and Office of Thrift Supervision) to call on them to use their authority under the Community Reinvestment Act (CRA) to encourage lenders to address the recent surge in foreclosure filings precipitated in part by predatory and sub-prime lending. These letters requested to receive CRA credit, institutions would be required to (1) ensure that loans are based on the borrower's ability to repay according to the terms of the loan; (2) disseminate information to allow consumers to understand the costs, risks and terms associated with the loan;

and (3) provide guidance about the features and risks associated with particular loans. Further, the letters called for the denial of "outstanding" and "satisfactory" CRA ratings to banking institutions that fail to institute due diligence against predatory lending or fail to set forth specific loan eligibility criteria when originating or brokering sub-prime mortgages. A key element of these calls for action was to require that non-depository institutions also comply with the CRA.

Neighborhood Housing Services of New York City

Written Testimony of Sarah Gerecke before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit

Effects of the Subprime Mortgage Crisis in New York City and Efforts to Help Struggling Homeowners February 11, 2007

To Representative Maloney and the honorable members of the Subcommittee:

Summary

My name is Sarah Gerecke and I am the Chief Executive Officer of Neighborhood Housing Services of New York City (NHS). For 25 years, NHS has provided New Yorkers with the affordable loans and housing education they need to buy, improve and keep their homes and keep their neighborhoods strong. Our nine offices partner with corporations and government to help more than 10,000 people each year. In our efforts to build strong communities, we are led by local residents and guided by local needs. Since 1982, we have invested $2 billion into underserved communities, helping thousands of New York City homeowners.

In 2007 alone, NHS with its corporate and government partners invested nearly $230 million in New York City communities, leading our national NeighborWorks America network. We educated more than 9,700 residents, helping them to build wealth and avoid scams. More than eighty percent of our customers are African-American, Asian or Latino; most are first-generation immigrants; and most have critical jobs like bus drivers, health aides, teachers and police officers. And I'm sorry to say that last year we had more than 2,000 people contact our offices for help in avoiding foreclosure, many more than we could serve with existing resources.

The high rate and geographic concentration of mortgage defaults and foreclosures in certain neighborhoods will exacerbate the already severe effects of the current economic recession. This testimony outlines some of the devastating consequences of recent mortgage lending on New York City neighborhoods. In addition, it documents the widening circle of the economic costs of foreclosure and default affecting individual homeowners, neighboring homes, local businesses, municipal government and the local and regional economy.

We propose several types of intervention to stem the continued decline and boost the local economic base. Using existing and new tools, a vibrant network of nonprofits, governments, private sector and philanthropies is poised to tackle the problem, building on lessons learned from the successful resurgence of New York City from the 1977 fiscal crisis.

Federal tools can be a powerful source of leverage and stability. We recommend the following:

- Increased support for pre-purchase counseling, foreclosure prevention counseling and legal services, including funding to increase capacity of counseling organizations;

- Greater consumer protection during the mortgage origination, refinancing and loan modification process;
- Flexible federal funding for innovative programs targeted to help affected homeowners and stabilize neighborhoods

Overview

Commentators will say that the foreclosure situation is not as bad in New York City as it is in Las Vegas or Cleveland. But the situation here is very grave; the condition of some neighborhoods has declined dramatically even in the last three months and we think it will be much worse in 2008 and 2009. Sarah Ludwig of NEDAP will tell you that more than 14,000 homeowners faced mortgage default in 2007. NEDAP maps show the strong correlation between subprime lending, mortgage foreclosures, race, and the lack of bank branches. NHS neighborhoods in four counties are hardest hit: Southeast Queens, Northeast Bronx, Central Brooklyn and the north shore of Staten Island. And the data reporting does not keep up with the rapid changes taking place today.

I think it's important to remember the role that the home plays in a family and in a neighborhood. The traditional 30-year, fixed rate mortgage—invented in the Great Depression—is a beautiful thing. A family gets started and learns to save in order to afford the 20% down payment and closing costs. By their mid-30s, they are ready to buy a house; their family size and income are stable, and they do not expect to move. They purchase with a prime loan and pay a fixed amount that provides certainty and stability to the family as they plan for college, a rainy day fund for home repairs or illness, and eventually for retirement. At age 65, just when they need it, the home is paid off and the cost of housing drops dramatically as they transition to a fixed-income from their pension or social security.

Until a few years ago, this was the model for working class New York City neighborhoods. Most families lived in their home until they passed away. Turnover was very rare, and often the estate sold the home or it was passed to a family member as a form of intergenerational wealth. Fewer than two or three homes on a block in NHS neighborhoods were sold in any given year before the late 1990s.

I think it's important to remember this in order to understand the impact that subprime lending is having on NYC neighborhoods today. You are familiar with the primary impact of foreclosures on a family: the loss of savings, equity, and ultimately a home. But the collateral damage is worse, frankly, and it is taking two forms:

<u>Collateral Damage to Families</u>

The families who come from us for help are struggling to keep up with unaffordable loans. They take on two or three jobs, leaving children unsupervised and unsupported emotionally. They burn through their savings, using credit cards to pay for necessities, and causing their credit scores to plummet as a result. They have less disposable income for food or health care. A City University study documented that "People experience a range of intense emotions such as depression, anxiety, hopelessness, confusion, fear, and victimization when they are behind on their mortgage payments."[1] They are targets for many scams the minute their house appears on lists of mortgages in default.

If they have to leave the home through foreclosure or distress sale, their lack of savings and poor credit limits their options in the New York City rental market which still has only a 3% vacancy rate.[2] Children are pulled from school mid-year, and it may be harder to maintain employment while looking for a new place to live. They worry about becoming homeless, and some of them do. A bankruptcy or foreclosure remains on the public record for years, limiting choices in employment, housing and education. Regardless of the reasons that the family loses the home, the entire family and especially the children bear the costs for many years to come.

Collateral Damage to Neighborhoods and the Local Economy:

Many others are deeply affected by a family in distress. For families renting units in 2-4 family homes (the predominant ownership form in New York City), a foreclosure imposed on the building's owner (their landlord) results in the termination of the renter families' underlying leases; lenders usually insist on vacating an entire building following foreclosure.

[1] Desirèe Fields, Kimberly Libman, Susan Saegert, PhD, Heléne Clark, PhD, & Fran Justa, PhD, "*Understanding Responses to the Threat of Foreclosure Among Low-Income Homeowners" (*City University of New York: July 2007).

[2] New York City Housing and Vacancy Survey (2006).

These homes are not scattered evenly throughout the city. Studies conducted by NHS indicate the tremendous concentration of subprime lending in target neighborhoods. Our research shows that 50% of the homes on some blocks in South Ozone Park or Bedford-Stuyvesant or Williamsbridge, for example, have mortgages with features most likely to result in default: 2/28 ARMs, prepayment penalties, piggybacks, high loan-to-value ratios and/or investor-owned homes.

And the signs of distress are quite visible now. Formerly pristine blocks in Corona or Bushwick are showing signs of deferred maintenance. For sale signs – ten on some blocks—are distress sales, not the normal desire to retire and relocate. Saddest to me are the "for rent signs" on the windows as homeowners take in boarders to help make ends meet. More tragic for neighborhoods are investor-owned properties. Some remain vacant—four or five on a block—and some are stuffed with renters who are living in dangerous and sometimes illegal conditions. The vacant homes do not always show up as recorded foreclosures. It is difficult for nonprofits to identify the servicer so that we can intervene and get the properties into the hands of qualified owner-occupants rather than speculators.

The impacts are not always predictable. "Many times, if there's a foreclosure, people just walk away," said Mark Loffredo, president of Post Exterminating Co. in Tompkinsville, Staten Island. "The yards get overgrown and rodents find it conducive to habitation. If they recognize that there's nothing to stop them getting in, they will nest in the house. They do search for habitat and they're always searching for food."[3]

Districts that finally emerged from the blackout of 1977 such as Broadway in Bushwick or White Plains Road in Williamsbridge are now seeing the "broken teeth" effect where three or four businesses on the strip are suddenly shuttered. The New York Times[4] documented the hardship faced by commercial strips where stores have gone out of business for lack of customers. In some areas business was off by 50% or more, as strapped homeowners cut costs. Infill construction sites have become ghost towns, scattered with abandoned construction equipment as buildings languish on the market without sale. The latter problem is particularly dangerous, as the sites invite criminal activity and safety risks, and deplorable as New York City still faces a major housing shortage.

Once the bank moves to foreclose, short-term investor interest continues to outweigh the local neighborhood interests, and can lead to accelerated declines in property values. While some servicers take their obligation seriously to maintain the property and find a responsible new buyer, others let the properties fall into disrepair and sell to speculators. Moreover, the ownership of defaulted and foreclosed property is fragmented among different servicers and investors, and difficult to ascertain from

[3] Glenn Nyback, "Slumping Real Estate Market a Boon for Rodents" (Staten Island Advance, January 26, 2008)

[4] David Gonzalez, "Holidays Find Loan Crisis Spreading to Businesses and Neighbors" (New York Times, December 17, 2007)

public data. The current system of default and foreclosure is wreaking havoc on the neighbors: responsible homeowners who are paying their loans but watching their home become devalued because of their neighbor's default.

The end result is a massive damper on the regional economy that is affecting the entire nation. A November 2007 report prepared for the US Conference of Mayors identifies the New York City Metropolitan Area as facing the highest projected loss of Gross Metropolitan Product during 2008 of any city they studied... more than $10 billion relating to the mortgage crisis, taking into account losses from employment, taxes, spending and property values. The same report estimates New York State losses due to reduced tax revenue of nearly $900 million.[5]

Resources Available and Needed:

NHS has been providing foreclosure prevention services since 1996, when we first noticed abusive lenders coming into our communities. In addition to providing one-one-one counseling, loss-mitigation counseling and education seminars on the issues at hand, NHS provides outreach to its communities. Our grassroots techniques will continue to include a massive educational effort to empower consumers to ask questions before borrowing and seek assistance when necessary.

Last year NHS received additional funding from local and state government to add more foreclosure prevention counseling staff, so that today we have five counselors and two

[5] Global Insight, "US Metro Economies: The Mortgage Crisis; A Report for the US Conference of Mayors" (November 2007).

support staff. It's not nearly enough to handle the 10 or more customers asking for help every day, and my fellow counseling agencies throughout the city feel similarly overwhelmed. Our toolbox is limited to providing unbiased advice, connecting borrowers to servicers, and providing referrals to legal or social services where appropriate. We don't really have the tools to stabilize families or target entire blocks for the long term.

We have received assistance at all levels of government that is helpful. The money that Congress appropriates for Neighborhood Reinvestment Corp. (d/b/a NeighborWorks America) is by far the most useful, and comes to us in several forms: both direct financial support and technical assistance to help us with best practices and maximizing our impact. Congressional appropriations for housing counseling will let us recover some of the direct service costs we can't cover otherwise. We are extremely grateful for Congress' recent increased funding of foreclosure prevention counseling (through NeighborWorks America) in FY 2008. This additional money for foreclosure prevention counseling will enable NHS of NYC and the hundreds of HUD-certified counseling agencies citywide and nationwide to assist the rising number of families facing default. However, additional federal investment is still needed.

The national partnerships with the HOPE hotline and the HOPE NOW alliance benefit our customers directly, and we have seen some increased flexibility from those lenders; however I must say that servicers vary widely in their willingness or ability to help. We use state Housing Finance Agency and the Federal Housing Administration refinancing products wherever possible. HUD-insured reverse mortgages can also be helpful tools in some situations.

At the state and local level, we have been involved in the launch of the Center for New York City Neighborhoods, a new organization to create a comprehensive, coordinated, citywide network to respond to the threat of foreclosures. The Governor's HALT (Halt Abusive Lending Now) initiatives have been creative and effective. At the neighborhood level, NHS has developed with key partners several innovative programs, including neighborhood outreach collaborations, a Rescue Loan Fund, a nonprofit mortgage brokerage, and limited charitable funding to assist families facing immediate hardship. Some foundations and corporations have begun to provide support for these innovations.

However, all of these resources available to fight the problem are a fraction of the need. Funding for additional counselors is helpful, but we also need funding to build capacity: data systems, management expertise, research, policy, program design and evaluation, etc. We need mental health support for our counselors. They are burning out and taking work home and giving out their personal cell phone numbers because the needs are so heartbreaking and urgent. For a nonprofit, funding for increased capacity is extremely difficult to come by yet it is essential for creating an effective, efficient and quickly scalable program. Finally, none of these tools allow us to target an entire block or neighborhood to stop the downward spiral and help the market to stabilize.

What Can Congress Do?

Our traditional sources of funding—charitable contributions from the financial services industry—are at great risk this year, at the time of our greatest need. As banks post record losses, they are also cutting back substantially on their foundation contributions which provide one-third of our operating budget. Investment banks and hedge funds do not participate in our programs right now and perhaps some federal incentive funding or expansion of the community investment act requirements could attract these entities. We desperately need support to build our organizational capacity to do what is asked of us: provide unbiased counseling on a large scale, match borrowers to their servicers, and quickly refinance those who qualify into responsible loans. Our partners providing legal services, outreach and education need similar support to build their organizational capacity.

Support for pre-purchase counseling should also be widened; prevention is much cheaper and more effective than loss mitigation. Studies show that borrowers who receive qualified pre-purchase counseling have 34% fewer mortgage delinquencies than borrowers who received none.[6] People are still buying homes today, and they need the knowledge to make homeownership a success. And strong consumer protection standards are needed in the lending process, for mortgage originations, refinances and for loan modifications too.

[6] Harad,Abdighani and Peter Zorn, "A Little Knowledge is a Good Thing: Empirical Evidence of the Effectiveness of Pre-Purchase Counseling" (Harvard Joint Center for Housing Studies, 2003)

Congress can provide a quick win through an emergency allocation of Federal funds to stabilize the worst-hit blocks. As demonstrated by The Enterprise Foundation and others, direct federal investment through the Community Development Block Grant (CDBG) program would allow existing partnerships to work effectively with investors, lenders, servicers and government to immediately address neighborhood impacts. CDBG flexibility is particularly useful to generate the maximum leveraging of private resources, encouraging servicers to negotiate with borrowers and to quickly mark loans to new market values. This temporary investment will thus stop the overcorrection of the market that is currently occurring.

Each community is different, and CDBG is flexible enough to meet a wide variety of conditions and markets. Federal funding could be used to purchase foreclosed property, or promote the purchase or restructuring of marked-down loans, or develop a model response to buy properties prior to foreclosure in order to avoid investor ownership. And direct federal funding can encourage innovation and unique solutions for unique markets, leveraging local and private resources as it has for decades. There are too many actors, and too much disruption in the market, to stop the downward spiral of default, foreclosure, vacancy, lower values, job loss and re-default. A targeted and coordinated response on the hardest-hit blocks would provide the confidence and tools to restore economic health. Any Federal funds that are needed to address particular neighborhood conditions would be recycled as properties are developed and sold and values are stabilized.

For New York City, some CDBG rules should be streamlined or waived. Many families targeted for abusive loans earn more than current CDBG income limits, especially if they are receiving rental income from any of the units in a 2- to 4-family home. Geographic targeting to mortgage default hot zones would allow for the most effective forms of intervention.

NHS and similar organizations have the experience and the infrastructure to restructure mortgages and to purchase, repair and resell foreclosed property to responsible owner-occupants. For twelve years we have renovated and sold HUD- and HPD-foreclosed properties. A model program targeted to hardest-hit areas, working with investors, servicers, government and nonprofits, could acquire, rehab and resell the properties quickly and efficiently—as we did during the New York City fiscal crisis of the 1970s. Properties would be repaired to meet HUD housing quality standards, and sold to counseled buyers who could afford them for the long term.

Conclusion

We are deeply grateful to Representative Maloney and the Subcommittee Members for focusing attention on this terrible problem. The conventional wisdom is that New York City is not as hard hit as other parts of the country. My organization believes that this conventional wisdom is wrong. Our neighborhoods and local businesses are in desperate trouble today. An immediate, significant and geographically targeted intervention is needed to staunch the flow of equity and investment that is draining New York City neighborhoods of their hardworking residents and draining them of hope. NHS is eager to join our colleagues and partners to address the current crisis quickly, creatively and energetically to restore healthy communities and stable homes to the neighborhoods that are the backbone of the city, regional and national economy.

	Funding Source	Total	2005- 2006	2006 - 2007	2007-2008
1	**<u>US Dept of Housing and Urban Development</u>**				
	Direct Program:				
	Comprehensive Counseling	108,096.90	20,157.00	24,555.00	63,384.90
	Pass through from City of New York HPD:				
		-	-	-	-
	Community Development Block Grant- Home First & ADDI	7,712,500.00	988,000.00	4,724,500.00	2,000,000.00
	Community Development Block Grant- HIP OP GRANT	328,296.12	164,148.06	164,148.06	-
	Pass through from NYS Housing Trust Fund Corp:				
	NYS Home Program	2,450,000.00	2,050,000.00	400,000.00	-
2	**<u>Direct Appropriation from the US Congress</u>**				
	Pass through from Neighbor Works America :				
	Revolving Loan and Capiral Project Fund	1,038,846.00	-	525,846.00	513,000.00
	Various Expendable Grants	1,727,773.00	673,823.00	576,450.00	477,500.00
4	**<u>US Department of Justice</u>**				
	Direct Program:				
	Consumer Education and Financial Literacy Program	150,000.00	50,000.00	50,000.00	50,000.00
		13,515,512.02			

MORTGAGE BANKERS ASSOCIATION
Investing in communities

HOPENOW
Support & Guidance For Homeowners

Statement of

Kieran P. Quinn, CMB

Chairman, Mortgage Bankers Association

On Behalf of the

HOPE NOW Alliance

Before the

Subcommittee on Financial Institutions & Consumer Credit
Committee on Financial Services
United States House of Representatives

February 11, 2008, 11:00am

Field Hearing on

"Effects of the Subprime Mortgage Crisis in New York City and Efforts to Help Struggling Homeowners"

City Hall
260 Broadway
New York City, New York

Madam Chairwoman, Ranking Member Biggert and Members of the Subcommittee, I am Kieran P. Quinn, CMB, Chairman of the Mortgage Bankers Association (MBA)[1], a member of the HOPE NOW Alliance. I appreciate the opportunity to testify before you today on behalf of MBA and HOPE NOW regarding the effects of the subprime mortgage situation in New York City and efforts to help homeowners.

The HOPE NOW Alliance is a broad-based collaboration between credit and homeownership counselors, lenders, investors, mortgage market participants and trade associations. The Secretaries of the US Departments of the Treasury and Housing & Urban Development encouraged us to work together to build on the efforts Members of Congress, state and local leaders and federal regulators urged us to undertake. HOPE NOW is establishing a coordinated, national approach among servicers, investors[2], non-profit housing counselors and other industry participants to enhance our ability to reach out to borrowers who may have or expect to have difficulty making their mortgage payments and to offer them workable options to avoid foreclosure. The HOPE NOW Alliance is achieving real results in reaching at-risk borrowers and in providing positive solutions that avoid foreclosure.

Progress in Helping Struggling Homeowners

The members of the HOPE NOW Alliance recognize the urgency of this issue, and are working to reach new weekly milestones. I am pleased to have the opportunity to share our progress with you, including our most recent data results.

First, the Alliance is continuing to expand and add members who commit to specific efforts to reach and assist borrowers. As of February 7th, we had 25 loan servicers in the Alliance who represent over 90 percent of the subprime market. In addition, we have strong participation from respected non-profits, led by NeighborWorks America and the Homeownership Preservation Foundation, with its network of trained telephone counselors. We are also expanding our network of non-profits every day.

One of the Alliance's first steps was to demonstrate a commitment to results by adopting a Statement of Principles to help distressed homeowners stay in their homes. These principles will help ensure all borrowers receive quality service and assistance when they contact their lender/servicer in the Alliance.

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[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 400,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,500 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

[2] After a mortgage is made, the lender will often sell the loan to investors. A loan servicer acts as the intermediary between the borrower and the investor. The servicer's role is to collect payments, handle escrow accounts, forward principal and interest payments to the investor and deal with issues that arise from delinquency and foreclosure. A servicer is typically compensated 25 basis points (0.25%) of the loan balance for performing this service, or $250 on a $100,000 loan balance.

The following are the principles embraced by HOPE NOW servicers, which are consistent with calls for the industry to expedite solutions for borrowers:

- HOPE NOW members agree to attempt to contact at-risk borrowers 120 days, at a minimum, prior to the initial Adjustable Rate Mortgage (ARM) reset on all 2/28 and 3/27 ARM loan products;
- HOPE NOW members agree to inform borrowers of the potential increase in payment and terms of the loan, in an effort to determine if the borrower may face financial difficulty in keeping their mortgage current;
- HOPE NOW members agree to establish a single port of entry for all participating counselors to use; and
- HOPE NOW members agree to make available dedicated e-mail and fax connections to support counselor and consumer contacts.

By establishing these principles, HOPE NOW members are improving the infrastructure needed to help more borrowers on a much larger scale. In addition to improving lender/servicer systems for working with counselors and borrowers, we must redouble our efforts to reach out to at-risk borrowers.

The most significant barrier to helping consumers is a persistent reluctance of struggling borrowers to respond to multiple servicers' efforts to contact them offering help. Historically, about half of borrowers who go into foreclosure never contact their servicer for help or reply to outreach efforts. Freddie Mac reported at the end of January that 57 percent of the nation's late-paying borrowers still don't know their lenders may offer alternatives to help avoid foreclosure.[3] We are working to drastically reduce that percentage and help as many troubled homeowners as possible avoid foreclosure.

In November, HOPE NOW servicer participants began a monthly direct mail outreach campaign to at-risk borrowers. This direct mail effort --on the HOPE NOW letterhead-- is in addition to the thousands of letters and telephone contacts made by individual servicers to their own customers.

In the first direct mail effort in November, HOPE NOW members sent more than 215,000 letters to borrowers who are behind on their mortgage payments and who have not had contact with their servicer. In November, 7,236 New York homeowners received this letter. The November letter provided a dedicated phone number for the individual borrower to use to call their own servicer for help. As a result of these letters, more than 16 percent of borrowers contacted their servicer, far more than the normal 2-3 percent.

In December, HOPE NOW began a second wave of direct mail outreach to 250,000 at-risk homeowners, providing individual servicer hotlines as well as the 888-995-HOPE Hotline hosted by the Homeownership Preservation Foundation. In December, over

[3] http://www.freddiemac.com/news/archives/corporate/2008/20080131_07ropersurvey.html

9,000 New York homeowners received this letter. A third direct mail effort was launched on January 22nd. HOPE NOW will report the results as data are compiled.

The Homeowner's HOPE Hotline is a key component of the outreach and assistance effort for at-risk homeowners. The hotline directly connects homeowners with trained counselors at US Department of Housing and Urban Development (HUD)-certified non-profit counseling agencies. This counseling service is completely free and is offered in English and Spanish. The counselors have direct access to the lender/servicers through improved single points of entry all HOPE NOW Alliance members agreed to create.

The Homeowner's HOPE Hotline is having a dramatic and positive impact for at-risk homeowners. The HOPE NOW Alliance will continue to expand the Hotline's capacity and promote it to reach more at-risk borrowers.

- Since the Homeowner's HOPE Hotline's inception in 2003, it has received over 323,904 calls, over 245,000 calls received in 2007;
- 124,357 homeowners received counseling after calling the Hotline, 83,000 occurred in 2007 and almost 20,000 in January 2008;
- Calls are increasing monthly. In December 2007, there were 93,794 calls to the Hotline that produced 15,462 counseling sessions;
- In 2007, almost 4,000 New York homeowners were counseled through the HOPE Hotline, 41 percent in the 4th Quarter:
  - October 2007: 517 New York homeowners counseled;
  - November 2007: 495 New York homeowners counseled;
  - December 2007: 654 New York homeowners counseled;
- In January 2008, there were 82,569 calls that produced 19,558 counseling sessions. In January 2008, 785 New York homeowners were counseled;
- The counseling sessions produced results. Through October 26, 2007, more than half of all homeowners counseled have been connected with their lender for assistance, and one quarter of all homeowners counseled in the fourth quarter of 2007 were referred to their lender for a recommended workout;
- Counseling sessions are rapidly increasing. Call volume increased nearly 10-fold between first quarter 2007 and fourth quarter 2007;
- Lenders/servicers are urging borrowers to call for counseling. Homeowners primarily hear about the Homeowner's HOPE hotline from their lender;
- More homeowners with ARMs are calling – 49 percent of callers in the fourth quarter of 2007 were ARM borrowers, up from 34 percent in the first quarter.

Publicity for the Homeowner's HOPE Hotline continues to increase. We are proud that the Homeowner's HOPE Hotline provides a resource for free, non-profit counseling to any homeowner, anywhere in the country. President Bush, Treasury Secretary Paulson and HUD Secretary Jackson have mentioned the Homeowner's HOPE Hotline several times in public statements and have urged homeowners in trouble to seek help. Members of Congress, including Members of this Committee, have also highlighted the hotline. Thirty-eight mayors from across the country recently created public service announcements for their local media markets urging borrowers to use the hotline. Any time the Homeowner's HOPE Hotline is mentioned by public officials or on television, calls to the hotline increase dramatically. We welcome that support and continue to work to expand the counseling network for the hotline.

Members of Congress, in an effort to help their constituents avoid foreclosure, have asked on many occasions what they could do to help. The single most important thing Members and other community leaders can do to help people stay out of foreclosure is to publicize the HOPE NOW efforts, particularly the Homeowner's HOPE Hotline, 888-995-HOPE.

The Homeownership Preservation Foundation, the HOPE NOW Alliance member managing the telephone network, continues to add trained, experienced counselors to the program to handle the increasing call volume from concerned homeowners. Tremendous progress has been made in just the last few months. The hotline now has 385 trained counselors assisting borrowers, up from 64 at the beginning of 2007. The agencies providing counseling include Auriton Solutions, CCCS Atlanta, CCCS San Francisco, Novadebt, Springboard and Money Management International.

NeighborWorks America, known formally as the Neighborhood Reinvestment Corporation, is a Congressionally-chartered non-profit organization with a national network of more than 240 community-based organizations in 50 states. NeighborWorks is a leader in the HOPE NOW Alliance, and with its partners, is actively providing in-person counseling services to consumers across the country. NeighborWorks is also working with the Ad Council on the national advertising campaign for the Homeowners' HOPE hotline, which includes television, radio and print materials.

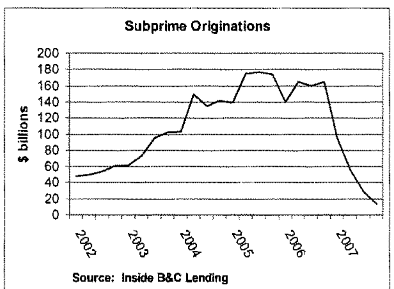
HOPE NOW is working to add more non-profit agencies to the effort. In December, NeighborWorks and other HOPE NOW Alliance members met with HUD and other HUD counseling intermediaries to review ways to include additional grass-roots counseling groups. We are working to broaden the HOPE NOW effort to ensure it is a model that works broadly for consumers, industry and non-profits to maximize the ability to reach troubled borrowers.

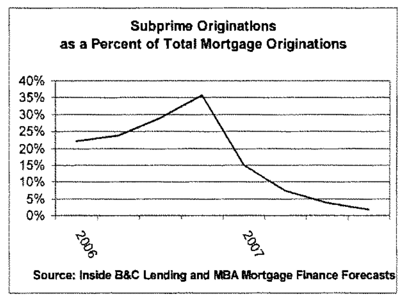
Servicers' ability to reach borrowers, either directly or through an intermediary, is the key to helping them stay in their homes. The solutions will vary with each individual borrower's circumstances. Prudent and responsible loan modifications, repayment plans and other types of workout options are solutions to help borrowers keep their homes and minimize losses to investors. The HOPE NOW Alliance is committed to pursuing all viable solutions to help people stay in their homes.

Current Market Conditions
Fundamentally, the demand for housing is driven by household formation and job creation. The single most important step Congress can take to support the housing market is to encourage long-term economic growth through sound fiscal and tax policy. Members of Congress should also recognize housing and mortgage delinquencies react

to economic conditions and are not a key driver of those conditions. States such as Ohio and Michigan have seen an exodus of jobs and population, stranding a significant amount of housing stock and lowering home prices in the region. States such as California, Florida, Arizona and Nevada experienced speculative home purchases that far outpaced the rate of household growth, causing home prices to retreat to levels of about two years ago. As long as economic growth continues, these Sunbelt states should be able to grow out of their problems. Other sections of the country face more long-term and intractable problems.

It is significant to note subprime lending has already essentially stopped, due entirely to the reaction of the world capital markets to how these loans are performing. While quarterly originations of subprime loans hit a high of $177 billion in the third quarter of 2005, and were as high as $165 billion as recently as the fourth quarter of 2006, one year later they were down to $14 billion in the fourth quarter of 2007, according to the publication, "Inside B&C Lending." This is a 92 percent decline. As a percent of total mortgage originations, subprime loans were 36 percent of MBA's estimated total origination in the fourth quarter of 2006, and were 2 percent of mortgage originations by the end of 2007.





Historically, the major cause of delinquencies and foreclosures is job-related, as can be seen in the upper Midwest. However, in the last year, delinquency and foreclosure rates have increased due to upward rate adjustments on ARMs combined with falling home prices. With the recent decline in interest rates, more homeowners are receiving favorable mortgage rates, either through lessening the burden on ARM adjustments or more favorable refinance opportunities. However, housing price declines make it harder for borrowers to qualify for certain mortgages, such as a loan taken out with a 10 percent downpayment (90 percent loan-to-value), for example, may now be a 100 percent LTV loan due to a 10 percent house price decrease.

Given increased delinquency and foreclosure rates, lenders are taking significant action to help borrowers.

Tools for Helping Struggling Borrowers
It makes good economic sense for mortgage servicers to help borrowers who are in trouble. Borrowers who are not able to stay current on their loans are very costly to the servicer. Servicers must forward principal and interest payments to investors as well as remit taxes and insurance payments, even if borrowers are not paying them. In addition, significant staff resources must be employed to contact borrowers, assess the situation, work on repayment plans and other loss mitigation solutions, and if these efforts do not resolve the situation, initiate and manage the foreclosure process.

Informal forbearance plans are generally the first tool servicers employ to help borrowers. Servicers allow mortgagors to miss a payment, with the explicit understanding the payment(s) will be made up some time soon. If the situation is more involved than a short-term cash crunch due to temporary unemployment or illness, a servicer may turn to a special forbearance plan, which will typically combine a period of postponed or reduced payments followed by repayment of the arrearage over an extended time frame.

Loan modifications are the next level of loss mitigation options. A loan modification is a change in the underlying loan document. It might extend the course of the loan, change the rate, change repayment terms or make other alterations. Similarly, a servicer may attempt to refinance the delinquent borrower into a new loan. Loan modifications are one solution for borrowers who have an ability to repay a loan, and have the desire to keep their home, but may need some help in meeting this goal because the current loan terms are not sustainable for that borrower.

HOPE NOW members have worked aggressively to make all of the available tools as efficient as possible. Lenders and servicers worked diligently with the American Securitization Forum (ASF) to create a framework to more readily modify certain at-risk loans securitized in the secondary market. This effort has received the backing of the US Departments of the Treasury and HUD, many Members of Congress, the federal banking agencies and state and local officials.

The focus of the effort has been to identify categories of current subprime hybrid ARM borrowers who can be streamlined into refinance or modifications. We believe the ASF-established framework will add to existing efforts to assist distressed borrowers. The key is to find solutions which help borrowers but do not violate the agreements with investors who now own the securities containing these loans.

The ASF has worked with servicers and investors to implement a system which identifies, in advance of loan resets, borrowers who would qualify for refinancing, loan modifications or other workout options. To ensure investors accept and support far-reaching loan modification and other workout solutions, this system cannot violate pooling and servicing agreements with investors. The goal is to minimize the risk of legal action by investors against servicers who help borrowers.

The ASF framework covers securitized subprime adjustable rate mortgage loans, the 2/28's and 3/27's originated between January 1, 2005 and July 31 2007 with an initial interest rate that resets between January 1, 2008 and July 31, 2010. In other words, the framework is for loans that have just begun to adjust. The ASF framework will help provide solutions for homeowners with these subprime hybrid ARMs who qualify for three different types of help: refinancing, modification and other loss mitigation efforts.

- *Refinancing:* One segment of borrowers is comprised of those who are current, likely to remain current even after reset, or likely to be able to refinance into available mortgage products, including the Federal Housing Administration (FHA), FHA Secure or industry products. Generally, the servicer will determine whether loans may be eligible for refinancing into various available products based on readily available data such as LTV, loan amount, FICO and payment history. The servicer will facilitate a refinance in a manner that avoids the imposition of prepayment penalties whenever feasible. HOPE NOW will continue to work with the alliance to ensure all servicers have access to products and programs generally available in the market to refinance eligible borrowers.

- *Loan Modifications:* A second segment of borrowers is comprised of those with good payment records who will not qualify for refinancing for any variety of reasons, such as a drop in home equity or insufficient credit score. These borrowers will be targeted for streamlined loan modifications if the loan is a primary residence (i.e., not an investment or vacation property) and meets additional criteria. Borrowers in this category will be offered a loan modification under which the interest rate will be kept at the existing rate of the loan for five years. This fast track option does not in any way preclude a servicer from conducting a more individual in-depth review, analysis and unique modification for a borrower to determine if a longer term modification would be appropriate.

  The fast track framework allows the servicer to make these decisions:

    - Whether the borrower is unable to pay under the original loan terms after the upcoming reset and default is reasonably foreseeable, based on the size of the payment increase, and the current income if the borrower did not pass the FICO improvement test;

    - Whether the borrower will be able to pay a modified loan based on payment history prior to the reset date;

    - Whether the borrower is willing to pay a modified loan; and

    - Whether the modification will maximize the net present value of recoveries to the securitization trust and is in the best interests of investors in the aggregate, because refinancing opportunities are not available and the borrower is able and willing to pay under the modified terms.

- *Loss Mitigation:* This third segment of borrowers is comprised of those for whom the loan is not current and will be unable to refinance into any available product. These borrowers are significantly behind in their payments before the loan resets and their situations need to be individually evaluated. It is especially important for us to reach this group of borrowers through efforts such as the HOPE NOW direct mail campaign and through the national advertising campaign for the Homeowner's HOPE hotline. For loans in this category, the servicer will determine the appropriate workout and loss mitigation approach on a loan-by-loan basis. Referrals from counselors if the borrowers contact the Homeowners' HOPE hotline will also be important. Approaches for these borrowers may include loan modification (including longer-term rate reductions, capitalization of arrearages and term extensions), forbearance, short sale, deeds in lieu of foreclosure or foreclosure. Because these borrowers are already behind in their payments, and may face challenges such as a loss of income or other issues, they require a more intensive analysis, including current debt and income analysis, to determine the appropriate loss mitigation approach.

Servicers, however, can only help borrowers who come forward for help. Borrowers must respond to servicers' notices and phone calls. At some point, the servicer has to assume the homeowner has no intention of paying off the obligation. It is also important to note the options for helping borrowers who purchased homes as investments are limited. During the housing boom of the last several years, there were many speculators and investors looking to profit from price appreciation. The strength of our economy relies on the willingness of people to take risks, but risk means you do not always win. During this time, a majority of these properties were purchased to try to capitalize on appreciating home values or to use rents as a source of investment income, or some combination of both. With the downturn in the housing market, a number of these investors are walking away from their properties and defaulting on their loans. In the third quarter of 2007, 18 percent of foreclosure actions started were on non-owner occupied properties. Foreclosure starts for the same period for non-owner occupied properties in Arizona, Florida, Nevada and Ohio were at 22 percent.

HOPE NOW helps all borrowers at risk, not just subprime ARM borrowers eligible for fast track refinance or modifications. The ASF framework for a streamlined, scalable solution for current borrowers facing a reset allows servicers to give more detailed attention to at-risk, hard-to-reach, delinquent borrowers. Servicers will be able to work closely with credit counselors and/or homeowners to ensure all options are explored to avoid foreclosures. The scalable outreach and modification effort in no way precludes on-going workout solutions for the highest risk delinquent borrowers. By having this framework in place, human capital and other resources are able to focus on the cases that require the most attention.

Measuring Our Results

The Mortgage Bankers Association and the HOPE NOW Alliance recognize results are the key to this national effort to assist at-risk homeowners. The latest results from HOPE NOW servicers on their foreclosure prevention efforts in the second half of 2007 are attached. This latest HOPE NOW data, released on February 6^{th}, shows significantly more homeowners received assistance than previously estimated.

Fourteen HOPE NOW servicers responsible for more than 33.3 millions home loans (about 62 percent of both prime and subprime loans outstanding nationwide), as of September 2007, provided the data. The latest report shows an estimated 869,000 homeowners were helped in the second half of 2007 through either formal repayment plans (652,000) or loan modifications (217,000).

During the same period, 283,000 foreclosure sales were completed. Based on 1,446,000 average monthly delinquencies of 60 days or more past due during the second half of 2007, 45.3 percent received a formal repayment plan, 14.8 percent received a modification and 19.7 percent resulted in a completed foreclosure sale.

The data for the second half of 2007 reveal 324,000 prime borrowers and 545,000 subprime borrowers were helped:

- 20.7 percent of prime borrowers received a modification;
- 27.5 percent of subprime borrowers received a modification; and
- 34.8 percent of subprime borrowers, during the fourth quarter, received a modification, indicating a rapid increase in the use of modifications as a loss mitigation solution.

In addition, information was collected on foreclosure activity and trends. These statistics are revealing. While there appears to be a large number of foreclosures initiated by servicers, only one-third of foreclosures initiated actually result in a completed sale. Frequently borrowers do not respond to servicers' attempts to contact them until they receive their first legal action notice. HOPE NOW's borrower outreach initiatives are already increasing the number of borrowers who respond before a foreclosure action is initiated.

In addition to aggregate nationwide data, the report includes quarterly data for the 50 states and the District of Columbia. Given your particular interest in results from New York, HOPE NOW is pleased to report results from your state. Unfortunately the data are only available on a state-wide level, so we are not able to tell you what specifically is happening in the City of New York.

The latest state level data from HOPE NOW servicers show that efforts to help borrowers are rapidly increasing. The trend in formal repayment plans is up in all states but more so in the states that experienced rapid and substantial increases and now declines in home prices. That is to be expected because of the more rapid increase in delinquencies in those states, However, it is clear in all states the upward trend in loan modifications completed is much greater than the upward trends in delinquencies and in formal repayment plans, which clearly indicates servicers increasingly are working with borrowers to modify the terms of their loans. The upward trend in loan modifications is much more pronounced in the states with substantial increases in home prices.

Loan modifications and repayment plans are continuing to increase in New York and other states. New York generally is experiencing fewer loan problems and delinquencies than the national average. Nevertheless, there are significant numbers of homeowners in New York who need assistance. Loan modifications in New York by HOPE NOW servicers increased from 1,662 in the first quarter of 2007 to 3,960 in the fourth quarter of 2007, an increase of 138 percent. Repayment plans increased from 4,871in the first quarter to 6,171 in the fourth quarter of 2007, an increase of 27%.

We believe the upward trend in loan modifications and repayment plans will continue and more homeowners will receive the help they need to stay in their homes.

As you can see, we are tracking and measuring outcomes through HOPE NOW and other efforts. In addition to the data reported here, we are measuring trends in delinquencies and resolution outcomes (i.e. reinstatement, repayment plans, modifications, short sales, deeds in lieu of foreclosure, partial claims and foreclosure). We want to provide consistent and informative data reports based on common definitions and to provide insights into the nature and extent of the current mortgage crisis that will help in the development of workable solutions that avoid foreclosure whenever possible.

As promised at the start of HOPE NOW, as data collection initiatives mature and the data are validated, we are providing more detailed information nationally and on a state-by-state basis. As noted, our alliance is growing weekly. Participating servicers have been engaged in developing standard definitions for key loss mitigation data. The data collection effort is an enormous undertaking, which will take time to fully develop and perfect. We are confident, however, to be able to deliver information at the state level to help measure what servicers are doing to resolve difficult situations and to assist homeowners.

Misinterpretation of Key Report Fuels Public Concern
On January 17, MBA released a study of actions lenders took to assist borrowers in the third quarter of 2007. The paper also discussed something known in our industry as the "Moody's 1% Number." In September 2007, Moody's released a study suggesting the mortgage industry had only assisted one percent of the people who needed help. A later report in December showed an increase of this number to 3.5 percent.[4] In that same report Moody's made a much-overlooked but critical statement: "The ratio of loans that were modified or on a workout plan as a percentage of seriously delinquent loans active as of September 30th (60+ days), a meaningful barometer of the extent to which servicers are undertaking loss mitigation activity, was 24 percent." Servicers had

[4] Various groups have used the 3.5 percent figure as a political rally cry despite the fact that this admittedly flawed indicator represents a tripling of loan modification activity since the September report.

undertaken loss mitigation activity for nearly one in four distressed borrowers and this was before any of the streamlined modifications had begun or the HOPE NOW efforts had really expanded.

Despite this important statement, some continue to focus on the 3.5 percent number when Moody's itself has made it clear the 24 percent number is the "meaningful" indicator. This is the case because not every subprime ARM borrower needs help; in the third quarter of 2007, according to MBA's National Delinquency Survey, approximately 70 percent of subprime ARM borrowers were paying on time. The December 2007 Moody's report itself reveals that more than half of the loans evaluated prepaid or re-financed before resets occurred.

Conclusion

The HOPE NOW Alliance and those working with it are committed to enhanced and on-going efforts to contact at-risk homeowners and to offer workable solutions. The top priority is to keep people in their homes and to avoid foreclosures whenever possible. As reported today, 869,000 homeowners were helped through modifications or work-outs in the second half of 2007. HOPE NOW is working to help many more at-risk homeowners.

The active involvement of all Members of Congress is vital to alert constituents that help is available when they contact either their lender/servicers or a non-profit counselor through the Homeowner's HOPE Hotline.

The HOPE NOW Alliance will continue its work until the problems in the housing and mortgage markets abate. The testimony today includes initial, but real and significant results on the number of homeowners who have been helped. HOPE NOW will provide updates to Congress and other concerned policymakers in the coming weeks.

Thank you for this opportunity to share this information on our efforts with the Subcommittee.

NEDAP

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STATEMENT OF JOSH ZINNER, CO-DIRECTOR OF THE NEIGHBORHOOD ECONOMIC DEVELOPMENT ADVOCACY PROJECT (NEDAP)

HEARING ON "EFFECTS OF THE SUBPRIME MORTGAGE CRISIS IN NEW YORK CITY AND EFFORTS TO HELP STRUGGLING HOMEOWNERS"

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

February 11, 2008

Thank you Congresswoman Maloney and other members of the Subcommittee for holding today's hearing and for inviting me to testify. I am Co-Director of the Neighborhood Economic Development Advocacy Project, known as NEDAP. NEDAP is a non-profit resource and advocacy center that works with community groups in New York City and State to promote economic justice and to eliminate discriminatory economic practices that harm communities and perpetuate inequality and poverty.

NEDAP has been at the forefront of fighting abusive lending in New York City and State since the mid-1990s, using a variety of strategies, including policy advocacy, community education and outreach, coalition-building, and research and documentation. My experience with this issue began with my prior job, where I served for a decade as the Director of the Foreclosure Prevention Project at South Brooklyn Legal Services; we represented hundreds of lower income homeowners facing foreclosure as a result of abusive lending practices.

Unfortunately, abusive subprime lending is not a new phenomenon in New York City. Particularly since the mid-1990s, when the expanded securitization of subprime mortgages provided easy liquidity to the subprime market, subprime lenders targeted low and moderate income neighborhoods of color with an array of abusive mortgage products. A common characteristic of many of these high-cost loans has been their lack of affordability at inception. Loan flipping—or repeated refinancing of loans with little benefit to the borrower – has been rampant, as have hidden fees, prepayment penalties that lock borrowers into loans, and widespread misrepresentation by brokers and lenders about the true terms of a loan. Borrowers were routinely steered to higher cost subprime loan products – particularly on the basis of race-- when they otherwise should have qualified for a lower cost loan.

More recently, lenders have flooded the subprime market with non-traditional mortgage loans – such as 2/28 adjustable rate mortgages (ARMs), Payment Option ARMs, no-doc or low-doc mortgages, and piggyback mortgages – that are highly profitable for the industry, difficult for borrowers to understand, and based on dubious underwriting standards.

Unscrupulous speculators also have relied on lax underwriting standards in the industry to induce first-time, working poor homeowners into purchasing intentionally over-appraised properties in poor condition – a practice known as property flipping. Many of the first-time homebuyers targeted in these schemes ended up with unaffordable mortgages, and lost their only shot at homeownership.

I cannot emphasize enough how much abusive subprime lending is a civil rights issue in New York City and in urban areas throughout the country. The same New York City communities with the highest concentration of homes owned by people of color that mainstream lenders historically subjected to redlining – such as Bedford Stuyvesant, Flatbush, and East New York in Brooklyn, and Jamaica, St. Albans, and Springfield Gardens in Southeast Queens – have now been subject to "reverse redlining," where higher cost and abusive loans are heavily marketed. The result -- skyrocketing rates of foreclosure – has significantly destabilized these neighborhoods, .

Lenders have used these loans to strip hundreds of millions of dollars in equity from homeowners and communities of color. Many seniors and families who had owned their homes for generations lost all of their equity and were forced out of their communities. The unaffordable loans that have resulted from property flipping schemes have deprived huge numbers of young, working class families of color of any chance of viable homeownership. Lenders have widely steered people of color with decent credit histories into higher cost loans simply on the basis of race, propelling them into a cycle of debt and foreclosure. The attached map, produced by NEDAP, shows the extent to which lenders have concentrated high-cost subprime loans in communities of color, and the extent to which these loans have led to high numbers of foreclosures. This discriminatory targeting makes the massive abuses in the subprime market even more egregious.

The dramatic increase of non-traditional mortgages, such as 2/28 ARMs, has only exacerbated the situation. Although the initial rates on 2/28 ARMs are often referred to as "teaser" rates, in reality many of the ARMs were high-cost and unaffordable at their inception. The ARMs are underwritten at the initial rates, so that those borrowers who are able to make the initial payments can no longer afford their mortgages when the rates re-set and the payments significantly increase after two years.

In 2005, there were a high number of foreclosure filings in New York City, nearly 7,000. By 2007, that number had doubled, to nearly 14,000, an unprecedented number. I have attached a chart that breaks this number down by neighborhood, and further demonstrates the dramatically higher rates of foreclosure in neighborhoods of color. Although the subprime industry has touted itself as having provided expanded homeownership opportunities, it is abundantly clear that the explosion of irresponsible subprime lending has led to <u>diminished</u> homeownership opportunities. This is especially true since the bulk of unsustainable subprime loans have been in the refinance market, where already existing homeowners have been induced into loans that put their homes at risk.

Wall Street investment banks shoulder a huge responsibility for the subprime fiasco. Without the easy liquidity provided by the securitization process, mortgage lenders could not have continued to originate such a high volume of unaffordable and unsustainable loans. The securitization of subprime loans became so highly profitable, that investment banks aggressively marketed exotic and non-traditional products to the mortgage lenders, urging them to make a higher dollar volume of loans regardless of sustainability.

There was no incentive at any level of the process to make responsible and sustainable loans to borrowers—mortgage brokers got their fee up front regardless of affordability, lenders were guaranteed a secondary market for unaffordable loans, and the Wall Street underwriters of the securitization trusts made a killing bundling the loans and selling various creative slices of the trusts to investors. The ready accessibility of bond insurance, and the consequent AAA rating from the ratings agencies, ensured that everyone profited, except the working poor and working class homeowners themselves, who were left holding the bag. There was certainly never any consideration in this process for the plight of borrowers – the mortgages which put so many families at risk were commodified in such a way that they were seen as little more than pork bellies to be traded and profited from.

Despite the long-standing damage that abusive subprime lending has caused, this situation was not seen as a "crisis" until subprime mortgage-backed securities began to take a dive and investors suffered. Advocates throughout the country had complained for years to Wall Street and to Federal regulators that many of the subprime loans backing the securities were unaffordable and abusive, and that the securitization trusts were therefore a veritable house of cards. The investment banks that underwrote the trusts ignored ample evidence that the securities that they were heavily marketing to investors were built on shaky ground.

Federal regulators, in particular the Federal Reserve under Alan Greenspan, also had ample notice about the myriad problems in the subprime market, but failed to take needed action out of blind faith in the markets as a corrective. As a result of industry irresponsibility and federal inaction, millions of Americans have lost their homes, and millions more are at risk of foreclosure.

Congress must therefore act now to protect borrowers facing foreclosure, and to enact strong preventative legislation that will both prohibit abusive loans, and ensure that the secondary market is held accountable for the purchase of such loans.

Servicers cannot be relied upon to voluntarily offer comprehensive and sustainable loan modifications

Despite the industry's insistence, it has become evident that servicers are not modifying loans in any kind of scale needed to legitimately address the current foreclosure crisis. For example, numbers released by the Mortgage Bankers Association for the third quarter of 2007 show that subprime foreclosures outnumbered loan modifications by a 7 to 1 ratio. For subprime ARMs, this ratio was 13 to 1. Furthermore, many of the servicers encourage forbearance, or repayment, plans instead of affordable loan modifications. These forbearance plans, in which borrowers waive their legal defenses to foreclosure, fail to assist borrowers whose loans were unaffordable in the first place.

The Bush-Paulson plan, which relies on servicers to voluntarily freeze the interest rate on ARMs that are facing re-set, falls woefully short of the response needed. The eligibility is so narrow, that the Center for Responsible Lending estimates that only 3% of homeowners with subprime ARMs are likely to get assistance under the plan.

Generally, the securitization structure has given servicers a disincentive to work with borrowers and seek sustainable loan modifications. It costs servicers money to complete a loan modification (as cited in *Inside B & C Lending)*, while servicers receive fees for foreclosures. Servicers therefore resist modifications and push foreclosures, even though in most instances modification would be in the best interests of investors. While voluntary actions by servicers will not solve the crisis, Congress should use all of its powers to push the industry much further to offer streamlined and sustainable modifications that are in the best interests of homeowners and investors.

<u>Bankruptcy changes permitting court-ordered modifications are desperately needed, and HR 3609 represents a sound compromise framework that could save many homes</u>

One clear way to slow the foreclosure crisis and assist distressed homeowners is to allow bankruptcy judges to modify existing loans by court order. Under current bankruptcy law, judicial modification of loans under a Chapter 13 payment plan is prohibited—in fact, despite the central importance of housing to the health of families and communities, mortgage debt is the only debt that judges are not allowed to modify.

HR 3609 would allow bankruptcy judges to modify certain distressed subprime mortgages, and in doing so would help more than 600,000 families facing foreclosure to keep their homes (*Center for Responsible Lending*), without any cost to the U.S. Treasury.

I have heard complaints from the industry that allowing subprime loans to be modified in bankruptcy would dry up the secondary market for such loans, but the compromises made in HR 3609 should alleviate any industry concerns. Relief would be available only when a family lacks sufficient income to pay their mortgage and is facing foreclosure, and the proposed bill limits the discretion of judges to ensure that the rates and terms of the modified loan stay within commercially reasonable rates. The bill will sunset after 7 years. Finally, under the compromise, relief is available for existing loans only, rendering moot any industry concerns about the future availability of subprime credit.

While permanent changes in the bankruptcy code are needed to better assist distressed homeowners, HR 3609 is a critical and straightforward emergency fix that would help stem the bleeding from the foreclosure crisis. I would like to strongly encourage any members of the Subcommittee who have not already done so to co-sponsor this bill.

S. 2452, the "Home Ownership Preservation and Protection Act", would prevent widespread lending abuses in the future and create a fair mortgage marketplace

The Federal Reserve's amendments to Regulation Z, while a step in the right direction, do not go nearly far enough in providing key protections to homeowners in the future. Strong federal legislation is urgently needed.

S. 2452 provides critical safeguards, and would help stabilize the market by making Wall Street investment banks accountable for the loans that they purchase. Introduced by Senator Dodd, S. 2452 requires that loans are underwritten for affordability for the full term of the loan, rather than at the initial rate, and prohibits subprime abuses such as loan flipping, yield spread premiums, and prepayment penalties.

Most important, S. 2452 provides for limited assignee liability— which gives distressed borrowers recourse against the current holder of their loan so that they can effectively fight foreclosure. The securitization process has effectively "laundered" predatory mortgages, by helping to strip borrowers of their ability to raise defenses in foreclosure. When borrowers assert defenses in foreclosure, the trusts inevitably assert the "holder in due course" doctrine, claiming that they purchased the loan with no knowledge of the abuses. Borrowers are left defenseless -- their only legal recourse is against the originators who no longer hold the loan and have no ability to stop the foreclosure. Many of these originators have gone bankrupt. Depriving borrowers of the right to defend against foreclosure is wrong as a matter of fairness and public policy.

The lack of assignee liability has created a total lack of accountability in the secondary market, and has enabled Wall Street investment banks to purchase unsustainable and irresponsible loans without any concern for the viability or legality of the loans. This lack of accountability has created huge profits for Wall Street at the expense of millions of American homeowners, and ultimately at the expense of investors. This failure in the marketplace must be addressed by holding the secondary market accountable for the loans that they purchase. The Dodd bill, by providing for limited assignee liability, would help to disincentivize the securitization of predatory loans, and would give borrowers targeted by abusive loans a means to fight for their home.

The House equivalent of the Dodd bill, HR 3915, contains certain strong protections, but does not contain provisions for assignee liability. This would leave many borrowers in foreclosure defenseless, even if the loan violated the law. For this reason, I strongly urge the members of the Subcommittee to work to adopt a preventative bill modeled after S.2452.

There is a desperate need for large-scale federal remediation efforts, and for further flexibility in the underwriting of loans guaranteed by the Federal Housing Administration

While bankruptcy relief is critical to saving the homes of hundred of thousands of Americans, further large-scale and emergency remediation efforts are desperately needed to slow the wave of foreclosures. There are few refinancing options for homeowners who are stuck in unaffordable loans, but who could afford a loan if it were priced fairly.

Representative Vaca of California has proposed legislation (HR 4135) that would create a Family Foreclosure Rescue Corporation, modeled after the Depression-Era Home Owners' Loan Corporation, to purchase distressed loans from securitization trusts at a discount. The borrowers would then be able to refinance into more affordable, fixed-rate loans. Senator Dodd is introducing similar legislation in the Senate, which would capitalize a Federal Homeownership Preservation Corporation at $10-20 billion, paying for the distressed mortgages with long-term government bonds. Both initiatives are promising and deserve strong support.

One hurdle that the initiatives may face in their ability to assist a large volume of homeowners is a lack of flexibility to make loans to borrowers who are more than 60 days delinquent, but who have the ability to make payments on a fairly-priced loan. This lack of flexibility results from an inability to sell such loans to the Government-Sponsored Enterprises (GSEs), or to any other secondary market entity. States like New York and Massachusetts have set up loan programs to assist distressed subprime borrowers, but these programs are limited to borrowers who are less than 60 days delinquent.

Advocates across the country know that most borrowers do not seek assistance when they are already more than 60 days past due on their mortgage. This is a primary reason why the programs in New York and Massachusetts have been able to refinance only a very small handful of borrowers. For any large-scale refinance program to function effectively, there has to be a secondary market that has the flexibility to purchase sustainable loans made to borrowers who are more than 60 days delinquent, or who have lower credit scores due to abusive lending.

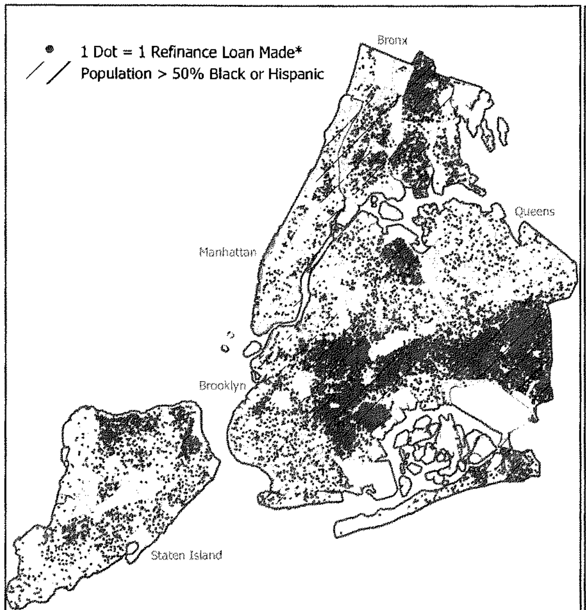
If Congress were to empower the Federal Housing Administration (FHA) to guarantee loans refinanced through special programs to borrowers who have the ability to pay but were more than 60 days delinquent on their prior loan, it would help make the federal and state loan fund initiatives far more effective. If these special refinance loans were guaranteed by FHA, they would be easy to sell into the secondary market, and would enable tens of thousands of distressed borrowers to refinance into affordable loans.

Conclusion

Thank you for holding this hearing on such a critical topic. If Congress acts quickly and decisively, it can take a leadership role in saving the homes and communities of millions of Americans, and in restoring stability and integrity to the mortgage markets.

New York City

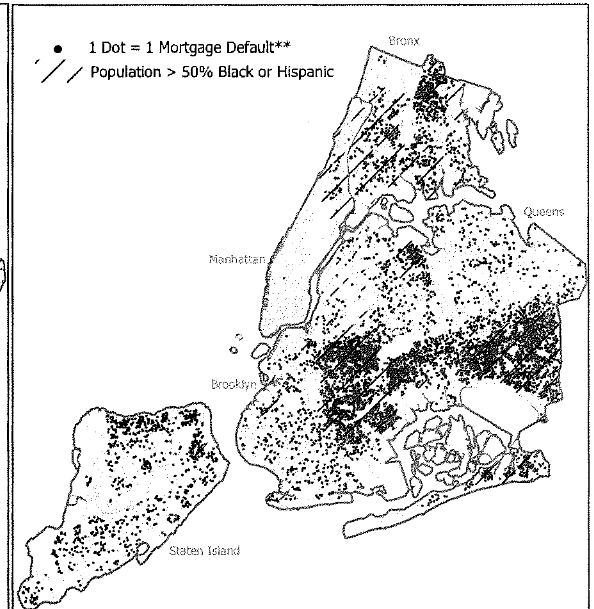
HIGH-COST REFINANCE LOANS MADE - 2005



*first-lien loans with annual percentage rates of 3% above Treasury securities of comparable maturity

17,374 Total in NYC for 2005

FORECLOSURE PATTERNS - 2006



**based on *lis pendens* of mortgage default filings on 1-4 family homes, reported in 2006

9,088 Total in NYC for 2006

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Sources: HMDA (2005); Profiles Publications; U.S. Census (2000)

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Foreclosure Actions *(Lis Pendens* Filings) - New York City
1-4 Family Properties

Borough	2004	2005	2006	2007
Bronx	949	808	1128	1585
Brooklyn	2514	2557	3307	4895
Manhattan	53	39	43	62
Queens	2599	2666	3624	5789
Staten Island	750	803	986	1500
NYC	**6865**	**6873**	**9088**	**13,831**

Top 15 Most Affected Neighborhoods, 2004-2007

	total lis pendens filings				(over the four years)		
	2004	**2005**	**2006**	**2007**	**Total**	**% of total**	**% of borough**
Flatbush	440	457	526	778	2201	6.0%	16.6%
Bed-Stuy	374	371	541	744	2030	5.5%	15.3%
Rochdale	324	359	498	778	1959	5.3%	13.3%
East New York	271	282	402	682	1637	4.5%	12.3%
Jamaica	270	278	379	589	1516	4.1%	10.3%
Canarsie	230	233	315	423	1201	3.3%	9.0%
South Ozone Park	139	437	188	333	1097	3.0%	7.5%
St. Albans	200	200	251	360	1011	2.8%	6.9%
Bushwick	141	152	216	381	890	2.4%	6.7%
Queens Village	167	166	217	319	869	2.4%	5.9%
Ocean Hill	134	167	207	302	810	2.2%	6.1%
Richmond Hill	115	134	170	345	764	2.1%	5.2%
Crown Heights	169	158	179	250	756	2.1%	5.7%
Rosedale	138	125	174	294	731	2.0%	5.0%
Far Rockaway	96	111	171	272	650	1.8%	4.4%

Source: Profiles Publications (weekly reports published in each calendar year)

Prepared by NEDAP

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