

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON COMMUNITY DEVELOPMENT

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January 30, 2012

Start: 1:15pm

Recess: 3:03pm

HELD AT: 250 Broadway
Committee Room, 14th Floor

B E F O R E:
ALBERT VANN
Chairperson

COUNCIL MEMBERS:
Helen D. Foster
Vincent J. Gentile
G. Oliver Koppell
Melissa Mark-Viverito
Diana Reyna
James Sanders, Jr.
Ruben Wills
Leroy G. Comrie, Jr.
Daniel J. Halloran

A P P E A R A N C E S

Mark Ladov
Counsel, Democracy and Justice Programs
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Bernell K. Grier
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Neighborhood Housing Services of NYC, Inc.

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Aisha Baruni
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Alexis Lorenzo
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Bonita Dowling
Pratt Area Community Council

Randal Jeffrey
Director, General Legal Services Unit
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A P P E A R A N C E S (CONTINUED)

Kimberly Allman
Deputy Director
New York Mortgage Coalition

Ilectra Scott-Cook
West Bronx Housing

Alexis Iwanisziw
Senior Program Associate
NEDAP

2 CHAIRPERSON VANN: We're on? Good
3 afternoon. I am Al Vann, Chair of the Committee
4 on Community Development, and today's hearing will
5 explore the systemic problems of the ongoing
6 mortgage foreclosure crises and their effect on
7 New York City neighborhoods. In addition to that,
8 the Committee will also consider the following
9 resolutions. Proposed resolutions number 871A,
10 proposed resolution number 872A, and resolutions
11 numbers 988, 989 and 990. As you know, there are
12 a number of people trying to get into the building
13 for other hearings that are going on. Some
14 members are being delayed as well as some of those
15 giving testimony, but we'll move our hearing along
16 anyway. Some of you may recall that in November
17 2010, this Committee held an oversight hearing to
18 determine the effectiveness of federal and state
19 efforts to address the foreclosure crisis. At
20 that hearing we also took time to review several
21 foreclosure prevention efforts on both private and
22 not-for-profit groups to have a means to look
23 closely at what had been working. To a large
24 extent, the resolutions that are being considered
25 today stem from many of the recommendations that

1 we received from that pervious hearing. Over the
2 past several years, foreclosure rates have driven
3 an increase in the number of civil foreclosure
4 cases before the New York courts. According to a
5 2010 report from the New York State Unified Court
6 System, the number of foreclosure cases pending in
7 2010 rose to 77,815, which is up from the 54,591
8 the year before. In addition, State Court budget
9 cuts have decreased the number of judicial hearing
10 officers available to preside over foreclosure
11 settlement conferences, which was mandated as part
12 of the foreclosure cases in 2009. Experts agree
13 that City residents will continue to feel the
14 impact of the foreclosure crises. According to
15 the Legal Aid Society, approximately 67,000 home
16 loans in New York City went into default between
17 January and August of 2011. Furthermore, the
18 number of homeowners in foreclosure cases who are
19 unrepresented by attorneys has risen from 63% in
20 2010 to roughly 67% in 2011. Another alarming
21 statistic. The NYU Furman Center, last fall,
22 informed New York State's Assembly Standing
23 Committee on Housing, Judiciary and Banks that at
24 least 10,000 foreclosure cases pending in New York
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2 Courts are expected to continue until at least
3 2013. As banks' foreclosure practices have come
4 under more intense review, I am pleased to hear
5 that New York State Attorney General's Office will
6 fund a million dollars in foreclosure prevention
7 services to further assist struggling New Yorkers.
8 This funding will greatly help to maintain
9 critical services that otherwise would have been
10 significantly reduced since federal stimulus
11 funding for New York State Homes and Community
12 Renewals, Foreclosure Prevention Program, that
13 money ran out last month. Aside from assisting
14 families from possibly losing their homes, the
15 Empire Justice Center has brought attention to how
16 it might also help state taxpayers. According to
17 the center, for every foreclosure that is avoided,
18 counties potentially save an average of \$186,695
19 in both direct and indirect costs. I'd like to
20 thank all of you who have come to participate in
21 this very, very important hearing this afternoon.
22 I'd like to acknowledge Council Member Oliver
23 Koppell, who has joined us. Council Member Ruben
24 Wills, who has joined us because of his interest
25 in the issue. He's not a member of the Committee,

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2 but obviously he's welcome, and Council Member
3 Helen Diane Foster, who is here. And Chair of
4 Land Use and sponsor of a major resolution we're
5 considering, Leroy Comrie. Brother. We're now
6 ready to proceed, and our first witnesses, we'll
7 call, Mark Ladov of the Brennan Center for
8 Justice, and Bernell Grier, from the Neighborhood
9 Housing Services of New York City. Bernell? You
10 may proceed.

11 MARK LADOV: Is this working now?
12 There we go. So, my name is Mark Ladov. I'm here
13 on behalf of the Brennan Center for Justice, a
14 non-partisan public policy institute that works to
15 increase low-income peoples' access to legal
16 representation. We support all of the Council's
17 proposed resolutions, but I would like to focus
18 our testimony today on the Brennan Center's
19 research documenting the national crisis in
20 foreclosure legal representation, research that
21 supports the need for robust foreclosure
22 prevention counseling and legal services here in
23 New York State. Now, over the past few years, the
24 Brennan Center has gathered data from court
25 systems across the country. We found that

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2 overwhelmingly homeowners in foreclosure face
3 complex legal proceedings without an attorney at
4 their side. To assure that these homeowners have
5 a fair shot at justice and every possible
6 opportunity to avoid foreclosure, dedicated state
7 funding for foreclosure assistance is critical.
8 Now, New York State's Foreclosure Prevention
9 Services Program exemplifies the value of this
10 assistance. You already mentioned the Empire
11 Justice Center's numbers. We know that the
12 program has assisted more than 80,000 homeowners
13 and saved at least 14,000 homes from foreclosure.
14 It's a great investment in helping families,
15 helping communities, and also shoring up our
16 state's struggling tax base, preventing crime, all
17 the things that we know that it does really
18 effectively. Now, we also know that research
19 shows that legal services attorneys and housing
20 counselors funded by this program help homeowners
21 defend their rights and negotiate more effectively
22 with their lenders. Research shows that skilled
23 counseling makes a significant difference. A 2010
24 study by the Urban Institute found that homeowners
25 in a federal loan counseling program were 1.7 more

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2 likely to avoid foreclosure than those who were
3 not. Homeowners with a counselor, we know, also
4 secured better and more affordable loan
5 modifications from their lenders. So, when
6 homeowners are represented, their attorneys make a
7 significant difference. And by doing so, they not
8 only help each individual homeowner, they also are
9 able to help reform the entire system. The
10 Brennan Center has issue a report entitled,
11 Foreclosures: A Crisis in Legal Representation,
12 and that report, which we left a few copies for
13 the Committee, goes into some more details about
14 the various ways in which lawyers are able to help
15 homeowners. They can raise legal claims to
16 protect homeowners' rights, they help homeowners
17 renegotiate their loans, they make sure that the
18 legal process is followed properly. They can help
19 with things like bankruptcy and other complex
20 legal questions. They can help tenants when a
21 landlord's property is foreclosed. And in general
22 they're able to help those homeowners struggling
23 through foreclosure have a voice in policy reform.
24 Now, in the two years since the Brenna Center
25 issued that report, we've seen in the news, we all

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2 have seen a lot of ways in which these problems
3 have persisted and even gotten work. We've seen
4 the robo-signing scandal, evidence that the
5 lenders and their attorneys were relying on
6 fraudulent documents in many of these foreclosure
7 cases. Again, a scandal that was brought to light
8 because of a lawyer who was helping a homeowner,
9 who was able to investigate in that one particular
10 case something that was happening that we, you
11 know, since learned was emblematic of abusive
12 practices across the country. Here in New York,
13 also, I should just point out that the right to
14 counsel is illustrated by some of the troubling
15 practices that we've seen on the other side. We
16 recently saw the closure of Steven J. Baum PC, the
17 biggest foreclosure mill in the state after a
18 number of federal and state investigations, after
19 a class action suit brought by MFY Legal Services.
20 Some of the problems that we're seeing on the
21 other side of these cases just remind us that
22 although a lawyer is important in every case, and
23 poor people in New York and in the need counsel in
24 all of these litigations, the abuses that we're
25 seeing on the other side of these foreclosure

1 cases just reminds us of how critical that is here
2 as well. We're submitting written testimony that
3 gets into this a little bit in more detail, but I
4 just want to close by emphasizing a point that I
5 think we'll hear a lot today, which is that
6 foreclosure prevention services are a good
7 investment for the State of New York. As a matter
8 of justice, every individual homeowner deserves
9 help saving her and her family's home. But this
10 makes sense for all of us. Financial analysts
11 have suggested that only a widespread program of
12 mortgage modifications, including principal write-
13 downs where appropriate, is going to stabilize our
14 housing market, is going to stabilize our economy.
15 Just last week the Obama administration announced
16 changes to its struggling Home Affordable
17 Modification Program to, among other things,
18 encourage more effective loan modifications
19 through greater principal write down. We also
20 need creative solutions such as rent-to-own
21 opportunities for families who can't afford a
22 modification right now, but where we could prevent
23 a home from being vacant, where a family is kicked
24 out but the bank is just sitting on it. Again, I
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1 know the Furman Center is here. They can talk
2 about their research, but they've shown that crime
3 goes up, that housing values go down when these
4 houses sit vacant. There's ways to prevent that.
5 These are sort of good policy solutions to toss
6 around, but how do those policy solutions get
7 implemented? They get implemented on a case, by
8 case basis, and we need to make sure that we have
9 the counselors and the lawyers available to make
10 sure that each homeowner is able to find an
11 appropriate resolution, because we know that
12 that's best for the homeowners, but we're also
13 seeing data showing that it is best for
14 communities, and in fact it's actually the best
15 thing for the lenders themselves. So, we can't
16 afford to let them shoot themselves in the feet.
17 We need to provide homeowners with the counseling
18 and with the lawyers that they need by doing
19 things like supporting the state budget as
20 reflected in the Council's resolution today. So,
21 thank you.

23 CHAIRPERSON VANN: All right.

24 Thank you. We've been joined by Council Member
25 James Sanders, Jr., to my left as well. And Ms.

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2 Grier?

3 BERNELL K. GRIER: Okay. Thank you
4 for the opportunity to testify today about our
5 state housing programs. And as stated, my name is
6 Bernell Grier, and I'm the Chief Executive Officer
7 of Neighborhood Housing Services of New York City.
8 For full disclosure, I'm also on the advisory
9 board of the Furman Center that's provided quite a
10 bit of the information that is here in support of
11 our foreclosure counseling efforts. So, for 30
12 years Neighborhood Housing Services of New York
13 City has provided resources to stabilize
14 communities and neighborhoods across New York
15 City. The NHS organizations focus on
16 neighborhoods through its counseling, education,
17 financial resources, and neighborhood preservation
18 initiatives. Neighborhood Housing Services of New
19 York City works with six offices throughout the
20 City of New York; in the North Bronx, South Bronx,
21 BedStuy, East Flatbush, Northern Queens, and in
22 Manhattan with our Neighbor Works Homeownerships
23 Center. We also collaborate with NHS of Jamaica
24 and NHS of Staten Island. Our offices partner
25 with corporations and government to help an

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2 average of 10,000 people each year in our efforts
3 to build strong communities. We are led by local
4 residents and guided by local needs. NHS provides
5 program services for low-moderate income families
6 and individuals who are interested in buying a
7 home, working hard to maintain it and to avoid
8 foreclosure. Our organizations also infuse
9 capital into communities to preserve neighborhoods
10 through development and rehab programs. At this
11 point we are also beyond sort of the blame game in
12 the foreclosure crisis, and really working with
13 legal services entities and counseling agencies
14 across New York City and across the state to
15 provide foreclosure solutions. And here today in
16 support of resolution 872-A, where we do support
17 the others, but the focus today is on the funding
18 for foreclosure and legal services. As you know,
19 many housing counseling agencies expanded their
20 capacity in order to adequately address the
21 foreclosure issues that exploded in the state over
22 the past five years. This would not have been
23 possible without the financial support of local
24 and state government programs. I think many of
25 you know that when we first started with this,

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2 there was no funding available and it only came by
3 way of government and support of the City Council
4 and others that have really helped to support the
5 overall effort and the state, particularly the
6 state legislator's leadership in creating Subprime
7 Foreclosure Prevention Program enabled 120
8 organizations to make positive strides in
9 addressing this crisis. Since 1996, NHS has
10 provided foreclosure prevention counseling and
11 education to thousands of community residents and
12 efforts to protect investment in New York City.
13 Just over the past two years, our offices have
14 provided foreclosure counseling services to over
15 8,200 New Yorkers, and have been able to save 565
16 homes with loan modifications and forbearances
17 through the state program funding. If the
18 foreclosure prevention services and neighborhood
19 based advocacy efforts for distressed homeowners
20 gets terminated in New York, the New York's
21 foreclosure crisis will exacerbate, thereby
22 causing the efforts and achievements made in
23 combating foreclosures to be of no effect. If
24 funding amendments are not made during this
25 process, then the network for providers are faced

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2 with commencing the process of dismantling their
3 foreclosure services, thus leaving thousands of
4 New York homeowners without the services on which
5 they have come to rely, to say nothing of the
6 hundreds of well-trained advocates whose jobs will
7 be lost. It's not mentioned in my written
8 testimony, but for NHS of New York City and our
9 office that's in the Bronx, we've had to terminate
10 already three foreclosure counselors, and that's
11 the hardest hit area to be able to have--to need
12 the overall help. And speaking with Cathy Mickens
13 at NHS of Jamaica recently, she too has had to lay
14 off personnel in areas where there is really the
15 greatest need. There are direct links to the
16 foreclosure and vacancies of properties
17 exacerbating the preservation efforts of many
18 community groups, and decreasing the property
19 values of neighborhood homes, which ultimately
20 cause a ripple effect within communities. NHS and
21 many of the preservation companies and foreclosure
22 advocates seek to retard the negative effects that
23 erode the decades of work that many of us have
24 worked to see in our communities across the state.
25 I'm very familiar with what Councilman Vann's

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2 work, you know, across Brooklyn--because I'm a
3 resident of the Brooklyn community. The state of
4 New York's Department of Financial Services' new
5 Foreclosure Relief Unit, the work that current
6 foreclosure counseling agencies and legal
7 providers must continue. Although DFS' new unit
8 will apparently focus on education, outreach, and
9 the review of regulations, the counseling effort
10 of practitioners should not be dismantled, but
11 rather supported as there is a backlog of
12 foreclosures in the system in light of the due
13 diligence that has to occur to verify filings.
14 Counseling agencies and legal providers can work
15 together in settlement conferences to ensure that
16 homeowners are properly represented and are not
17 dismayed through the settlement process. And
18 there's quite a bit of this, again, in my overall
19 testimony. But I wanted to also highlight that
20 neighborhood decline as a result of foreclosure
21 can be stopped by strengthening the resiliency of
22 neighborhoods. That is what NHS is in the
23 forefront of doing, and was among the first of
24 organizations in New York City to identify the
25 mortgage crisis and to build awareness campaigns

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2 for homeowners. We've been involved recently with
3 the Emergency Homeowner's Loan Program, EHLF.

4 This recent government initiative for homeowners
5 provided some well-intended solutions, but given
6 our city's high cost market, many New Yorker's
7 arrearages exceeded the federal program

8 eligibility limits. HUD set out to help 30,000

9 Americans who were at risk of foreclosure and the

10 EHLF programs enabled grantees such as NHS to take

11 applications for qualified homeowners who are

12 eligible for loans up to \$50,000 to address

13 certain arrearages, past due mortgage bills,

14 lawyers' fees, and foreclosure costs. NHS was the

15 only New York City-based foreclosure counseling

16 agency to directly receive HUD EHLF funding. We

17 were selected based upon our successful track

18 record of helping New York families at risk of

19 losing their homes. New York is a high cost area

20 and the maximum award amount was \$50,000, and most

21 homeowner arrearages exceeded that amount.

22 Unfortunately, the applicant restrictions meant

23 that families who desperately needed the help did

24 not qualify, and this was the case in New York

25 City and across the country. For us though, we

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2 were able to help 81 eligible families. And this
3 again is with the help of NHS of New York City and
4 NHS of Jamaica, while we reviewed 495 files. But
5 we had over 1,000 individuals come through our
6 doors during the months of July and August of last
7 year. And without the overall support, we would
8 not even be able to have staff to review these
9 cases and try to provide help for homeowners. We
10 have one new initiative that dovetails the
11 gentleman who was speaking before me in his
12 overall talk about stabilizing communities. We
13 have the Occupied Homes New York. There are valid
14 concerns about the need to stabilize communities,
15 amidst these foreclosures and pending foreclosure
16 sales. But there are current solutions.

17 Neighborhood housing services of New York City, in
18 collaboration with the New York Mortgage Coalition
19 and the Long Island Housing Partnership has been
20 awarded a grant from the Housing Partnership
21 Networks Initiative in Foreclosure Intervention
22 Program. And we intend with our partners and work
23 with business, government, and other not-for-
24 profits, to launch an Occupy Distressed Real
25 Estate pilot program, that will by the summer of

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2 2013, stabilize 100 units in targeted communities
3 in Downstate New York neighborhoods. The program
4 will provide rent to own for people currently
5 facing foreclosure, to rent their homes with the
6 hope of repurchasing their homes under this
7 overall program. NHS of New York City will
8 explore structuring short sales with the owner in
9 place. Owners must be under water, have overcome
10 a clear hardship, and not have available to them
11 mortgage modification with principal write down
12 that would align the mortgage with the current
13 market value of the home. We hope to be able to
14 speak to the Council more about this overall
15 program. But again, we are on the forefront of
16 finding solutions and working with our legal
17 services partners to do so. The foreclosure
18 prevention services program ultimately will reduce
19 abandonment, property vacancies, squatters and
20 other issues that deplete tax revenues. This
21 program brings added value to our communities.
22 Lastly, we are hopeful that the various areas of
23 government, not-for-profit organizations,
24 financial institutions, can create a means to
25 sustain homeownership and homeowners in our

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2 communities. Thank you for the opportunity to
3 speak with you today.

4 CHAIRPERSON VANN: Yeah. Thank you
5 both. Any questions for the...? Just one question
6 before we go to the next panel. It is often said
7 of New York City's mortgage foreclosure crisis,
8 although it is significant, it really pales in
9 comparison with that in other parts of the
10 country. Is that true and can you explain why
11 that is so, either of you?

12 BERNELL K. GRIER: In other parts
13 of the country it's--we find again that it's
14 different from state to state. So I wouldn't say,
15 again, in terms of how it pales in New York.
16 Because the real estate market has always been one
17 where we will see opportunity, there's always
18 investors that are willing to come in and to pay a
19 certain amount of money to be able to purchase
20 properties. What we're really looking for,
21 wherein other communities that might not be the
22 overall case, but for us we want to be able to
23 keep--you know, Councilman Vann, you had mentioned
24 before looking at the strip of equity in Black and
25 Latino communities. We want to be able to keep

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2 homeowners in place, to be able to continue to own
3 their properties, and not have it turned over to
4 someone else. So, in New York, the foreclosure
5 process takes a little bit longer, largely because
6 of the great work of the people in this room to
7 make that happen, but also because of the market.
8 You know, real estate is still a hot commodity
9 here, but we don't want it turned over into the
10 hands of predatory investors. We want to keep the
11 communities whole.

12 MARK LADOV: And I think the only
13 thing I'd add to that is that certainly New York's
14 housing market hasn't collapsed perhaps the way
15 that other markets in the country have, but part
16 of what that means is that it can be more
17 expensive to keep somebody in their home and that
18 can only sometimes make it harder. So, I don't
19 think that we can in any way underestimate the
20 challenges facing foreclosure in New York or the
21 need to invest in the kinds of solutions that
22 would get us out of this crisis here.

23 CHAIRPERSON VANN: Okay. Thank
24 you. Thank you both very much. I appreciate your
25 testimony. Chair would like to call Christie

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2 Peale from CNYCN, and Mary Weselcouch from the
3 Furman Center. We've been joined by Council
4 Member Halloran, thank you Council Member, and
5 Member of Committee, Council Member Gentile.
6 Thank you, Council Member and Committee Member.
7 Okay. We have Christie, we have Mary. You guys
8 can choose to see who goes first.

9 CHRISTIE PEALE: Good afternoon
10 Chairman Vann and members of the City Council
11 Committee on Community Development. I am Christie
12 Peale, Interim Executive Director at the Center
13 for New York City Neighborhoods. I've worked in
14 affordable housing for ten years, specializing in
15 foreclosure prevention at CNYCN since 2008. I am
16 here to speak on behalf of CNYCN, and our citywide
17 network of partners and grantees. We thank you
18 for this opportunity to testify in support of the
19 five resolutions being discussed today. CNYCN
20 strongly supports all of these resolutions, each
21 of which is key to increasing the fairness,
22 transparency and efficiency in the system. But
23 we'd like to focus our testimony on the most
24 pressing issue facing out network and the city's
25 distressed homeowners, the need for \$25 million

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2 for New York State's foreclosure prevention
3 services program in the 2012-2013 executive
4 budget. New York City has long been a leader in
5 the fight against foreclosure. CNYCN was created
6 by Speaker Quinn, members of the City Council,
7 such as yourself, and the Mayor, in order to
8 leverage private and public resources, funds that
9 have been critical in fighting the growing
10 foreclosure crisis. Our model has been very
11 successful. Since 2008, our foreclosure
12 prevention partners have assisted approximately
13 15,000 homeowners, and we've prevented close to
14 3,000 foreclosures. But your leadership is needed
15 now more than ever. New York State funding has
16 been critical to helping us help New Yorkers in
17 Need. The Majority of our network partners have
18 received New York State funding and cannot
19 continue their excellent work without it. The New
20 York State foreclosure prevention services program
21 has been used to build a network of expert
22 counselors and lawyers with strong support across
23 a well-built infrastructure. The loss of this
24 critical funding from New York State would
25 effectively end services for thousands of New

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2 Yorkers. Other resources will also need to be
3 dramatically curtailed. More importantly we lose
4 the irreplaceable expertise of hundreds of skilled
5 non-profit counselors and lawyers. The New York
6 State Foreclosure Prevention Services Program is
7 also the primary funder of New York City's call
8 center, which provides outreach to distressed
9 homeowners in the five boroughs using both the lis
10 pendens notices and New York State Department of
11 Financial Services Delinquent Borrowers
12 information. The call center receives calls
13 directly from 311, connects distressed homeowners
14 directly to housing counselors and legal services
15 providers in their neighborhoods. Since opening
16 in 2009, our call center has assisted 16,000
17 households, and the demand continues unabated.
18 Without state funding, we will lose this essential
19 component of our network. We are now three years
20 into the fight, and while we have made progress,
21 it's clear that the foreclosure crisis is far from
22 over. You'll hear some data from the Furman
23 Center as well, but the New York State Department
24 of Financial Services Delinquency data, which is
25 just--the servicers report to the state on a

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2 monthly basis every homeowner who is in
3 delinquency, on a 60-day, 90-day, 120-days, and
4 120-days plus basis. So, they report that to the
5 Department of Financial Services. DFS shares it
6 with the Center and we use it for outreach. We've
7 seen from these notices that approximately 6,000 a
8 month, 6,000 households in New York City are
9 delinquent every month. So that's not cumulative.
10 It's just on every given month there are 6,000
11 homeowners that are behind on their mortgage. Of
12 these total delinquencies, not surprisingly, 40%
13 were in Queens, 29% were in Brooklyn, 13% were in
14 Staten Island, and 9% were in both the Bronx and
15 Manhattan, that's for December 2011. But we've
16 seen these numbers hold fairly steadily throughout
17 the crisis. So, I'm just going to hit a couple
18 other points before turning over to Max. But one
19 of the reasons that we're so passionate about this
20 is that we know that it works. We know
21 foreclosure prevention services have a profound
22 effect on the households that they touch. We know
23 it works because in a recent study in partnership
24 with the Furman Center, and the Office of the
25 Comptroller of the Currency found that borrowers

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2 in New York City who received counseling from
3 CNYCN were 30% more likely to get their mortgage
4 modified with more affordable payments than those
5 who did not. So, we're very proud of those stats.
6 You also heard Bernell mention the Urban Institute
7 study, which is also very compelling. In addition
8 foreclosure prevention legal services provided to
9 homeowners in foreclosure are crucial. The state-
10 funded legal advocates have provided knowledgeable
11 advice and representation to thousands of
12 homeowners, which is obviously critical in helping
13 them navigate the very complex and sometimes,
14 well, almost always daunting steps of the
15 settlement conference process. As a result, the
16 statewide default rate at settlement conferences
17 has gone down to about 10%, which is a huge
18 improvement over what it was in 2008. We also
19 know that foreclosure prevention services are cost
20 effective. The work we do creates a financial
21 safety net for the homeowners. On average, our
22 network's homeowners obtain modifications to their
23 mortgages that save them \$1,000 a month. So
24 that's \$1,000 a month, and that's usually over at
25 least five years of a modification, if not

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2 farther. Keeping families in their homes
3 obviously has broader economic benefits. You
4 heard some stats from the Empire Justice Center
5 already that Chairman Vann mentioned. Together
6 our network of services providers has prevented
7 over 2,800 foreclosures. We estimate that's at
8 least \$700 million in savings for the City of New
9 York. Counseling and legal services helped
10 homeowners stay in their homes that they can
11 afford and they keep our neighborhoods strong.
12 So, in conclusion, funding for counseling and
13 legal advisors through the New York State
14 Foreclosure Prevention Services Program obviously
15 must be continued to prevent further household
16 displacement, to preserve our communities, protect
17 our city and state from further economic losses.
18 We can't turn our backs on the thousands of
19 homeowners that are currently in foreclosure, nor
20 turn away any new families who are just perhaps
21 only in delinquency and not yet in the foreclosure
22 processes yet. They all desperately need our
23 help. But on behalf of our network and the
24 thousands of homeowners who rely on all of our
25 existence, thank you for your work to reinstate

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2 the funding, and for your ongoing support and
3 leadership. It's very much appreciated.

4 CHAIRPERSON VANN: Thank you. Just
5 before we proceed, we've been joined by Council
6 Member and Committee Member Diana Reyna, to my
7 left. Please continue.

8 MAX WESELCOUCH: Chair Vann and
9 members of the Committee, I'd like to thank you
10 for the opportunity to testify today. My name is
11 Max Weselcouch, and I am a data manager and
12 research analyst at the Furman Center for Real
13 Estate and Urban Policy. The Furman Center is a
14 joint research center of the New York University
15 School of Law and the University's Robert F.
16 Wagner School of Public Service. Since its
17 founding in 1995, the Furman Center has become a
18 leading academic research center devoted to the
19 public policy aspects of land use, real estate
20 development, and housing. We provide objective
21 academic and empirical research on affordable
22 housing, housing finance and foreclosure, land use
23 and neighborhood change. We challenge assumptions
24 and promote frank dialog through our varied events
25 and conferences and regularly provide essential

1 data and analysis on housing markets, demographic
2 trends and quality of life indicators to
3 community-based organizations, policy makers, the
4 real estate and finance industries and the media.
5 NYU's Furman Center has published over 15 rigorous
6 empirical studies or policy analyses on the causes
7 and consequences of the foreclosure crisis,
8 focusing primarily on New York City. I would like
9 to make three key points today based on our
10 research in New York City. First, the foreclosure
11 crisis is far from over. Second, foreclosures
12 affect not only those homeowners who lose their
13 homes, but also their tenants, their children,
14 their neighbors and local governments. Finally,
15 our research indicates the foreclosure counseling
16 does make a difference in outcomes for distressed
17 borrowers. Since 2007, lenders have filed
18 foreclosure notices on over 68,000 one- to four-
19 family homes in New York City. These properties
20 are concentrated in communities that had high
21 levels of subprime lending in the mid-2000s, such
22 as Southeast Queens and Central Brooklyn. These
23 neighborhoods have foreclosure rates that rival
24 severely economically depressed areas such as
25

1
2 Detroit and the Sand Belt cities like Salinas,
3 California, or Jacksonville, Florida. The number
4 of new foreclosure filings in New York City slowed
5 in 2011, compared to the two previous years.

6 About 12,000 new foreclosures were initiated in
7 2011, compared to roughly 20,000 and 17,000 in
8 2009 and 2010 respectively. While promising, this
9 trend is not necessarily a sign that the crisis is
10 easing. This drop-off coincides with the

11 foreclosure moratoriums adopted by several large
12 national banks in the aftermath of the robo-
13 signing scandals. Although the moratoriums were
14 lifted, Chief Judge Jonathan Lippman's October
15 2010 order that attorneys signing affidavits in
16 foreclosure filings attest to the accuracy of the
17 documents they submit has continued to slow the
18 pace of foreclosures. Further, mortgage default
19 rates, a precursor to later foreclosures, remain
20 high. Statewide, nearly 10% of mortgages were 90
21 days past due at the end of the third quarter of
22 2011, according to data made available by the
23 Federal Reserve Bank of New York. While this is
24 lower than the nearly 12% of mortgages that were
25 in default in early 2010, it is still very high

1 relative to the average rate of less than 2% from
2 1999 through 2005. Meanwhile, housing prices
3 continue to decline or remain low in most parts of
4 the city. As a result, fewer homeowners are able
5 to sell their properties to escape the foreclosure
6 process. 10% of the properties that received a
7 foreclosure notice in New York City in 2007 were
8 sold to a third party within one year, but only 5%
9 of the properties that received a foreclosure
10 notice in 2010 did so. At the same time, the
11 number of properties going to auction has
12 increased. Of all the properties that received a
13 lis pendens filing in 2005, 10% eventually went to
14 auction, but 20% of the properties that received a
15 foreclosure notice in 2007 have gone to auction.
16 Finally, changes to the laws governing the
17 foreclosure process, combined with the sheer
18 volume of foreclosure filings have dramatically
19 slowed the process of resolving these
20 foreclosures. In 2007, the typical property that
21 went to auction had received a foreclosure notice
22 one year earlier. By 2010 that time period had
23 doubled. Properties going to auction now most
24 likely received their foreclosure notices in 2009.
25

1
2 Although some homeowners will be able to escape
3 foreclosure early through modifications and short
4 sales, many of the 12,000 foreclosure actions
5 filed this year in New York City are likely to
6 drag on until at least 2013. In sum, even if the
7 economy and housing prices were to recover sharply
8 in the near future, the need for foreclosure
9 mitigation services would be with us for at least
10 a few more years as the backlog of existing
11 foreclosures and the number of people in default
12 who may enter foreclosure soon work through the
13 system. And of course, if the economy and housing
14 prices do not fully recover in the near future,
15 the need for foreclosure mitigation will be even
16 greater. Over the last several years, researchers
17 at NYU's Furman Center have been studying the
18 costs for foreclosures imposed on others, beyond
19 the individual borrowers. Children, for example,
20 likely suffer as a result of foreclosure. More
21 than 20,000 students lived in a building that
22 entered foreclosure in the 2006-07 school year,
23 and those students were considerably more likely
24 to change schools than their peers by the
25 following school year. Further, the schools that

1
2 they ended up attending were of poorer quality on
3 average than the schools they had previously
4 attended. We are now studying how foreclosures
5 and the moves they precipitate affect children's
6 performance on standardized tests. Tenants also
7 suffer when their landlords are foreclosed upon,
8 which may happen even though the tenant has paid
9 the rent and has not contributed in any way to a
10 landlord's default. More than half of all
11 properties in New York City that enter foreclosure
12 have more than one unit. And we estimate that
13 since 2007, buildings entering foreclosure in New
14 York City were home to over 100,000 renter
15 households. Since 2009, renters have been
16 partially protected from immediate eviction by the
17 federal Protecting Tenants in Foreclosure Act, and
18 similar state law. But some renters,
19 nevertheless, are forced to move, even if current
20 with their rent, because a financially distressed
21 landlord missed his utility payments or skips on
22 maintenance. Despite legal protections, parties
23 buying the property out of foreclosure also
24 sometimes bully tenants into leaving.
25 Foreclosures also affect neighboring property

1 owners. Our research found that homes located in
2 close proximity to foreclosed properties
3 experienced price declines, even after controlling
4 for previous price trends in the neighborhood. A
5 single foreclosure can reduce prices of homes
6 within 250 feet by 1% to 2%. Concentrated
7 foreclosures can affect surrounding property
8 values in a larger area. Three foreclosure
9 filings within 500 feet of a home will depress its
10 sale value by about 3%. This can create a vicious
11 cycle. Concentrated foreclosures can drive down
12 prices in a community, which in turn leads to
13 additional foreclosures. In our study of subprime
14 loans in New York City, we found that a
15 foreclosure rate above 3% was associated with a
16 30% increase in the likelihood that a borrower in
17 that neighborhood will default, even after
18 controlling for borrower risk, loan
19 characteristics and other characteristics of the
20 neighborhood. At any point in the foreclosure
21 process the property may become vacant. Owner-
22 occupiers may move out because they know they will
23 eventually be evicted, because as mentioned
24 before, services or maintenance may decline.
25

1
2 These vacant homes make a community less
3 attractive and can invite vermin or garbage, or
4 worse yet, crime. The Furman Center is now
5 conducting a detailed study of the locations of
6 every crime in New York City from 2004-2008 and
7 matching those crimes to the location of every
8 foreclosure. While our results are still
9 preliminary, we find that a significant
10 association between increases in foreclosure
11 activity on a city block and increases in crime on
12 the same block. Since the start of the
13 foreclosure crisis, New York City and State have
14 been leaders in adopting reforms aimed at keeping
15 homeowners in their home when possible ensuring
16 tenants and homeowners are treated fairly in
17 foreclosure proceedings and mitigating the effects
18 of unavoidable foreclosures. While we have not
19 studied the effects of each initiative, our work
20 sheds light on the efficacy of the City's and
21 state's investments in foreclosure counseling. We
22 studied nearly 29,000 mortgages issued in New York
23 City from 2004 to 2008 that became delinquent
24 between 2008 and 2010. The mortgage data, access
25 through a partnership with researchers at the

1 Office of the Comptroller of the Currency,
2 includes detailed information on the loan terms
3 the properties and the borrowers. Additionally,
4 we were able to match these loans to data about
5 which borrowers received counseling through the
6 Center for New York City Neighborhoods.

7 Controlling for all known characteristics of the
8 borrower, such as income, FICA score and property
9 type, the mortgage, including terms and rates,
10 debt to income ratio, and loan to value ratio, and
11 the neighborhood surrounding the property,
12 including its demographics and market
13 characteristics, we found that the nearly 700
14 delinquent borrowers who received CNYCN counseling
15 were 30% more likely than those who did not
16 receive counseling to obtain a modification.

17 Again, our results are still under peer review and
18 are therefore preliminary. Our study cannot
19 determine whether CNYCN funded counseling,
20 actually caused borrowers to be more likely to
21 receive a modification. It may be instead that
22 those who seek counseling have unobserved
23 characteristics, like tenancy or the ability to
24 manage bureaucracy, that make it more likely that
25

1
2 they will obtain modifications. But it does
3 indicate that people with the same observable
4 characteristics, such as credit score, income and
5 loan types, who decided to go to counseling were
6 considerably more likely to end up with a
7 modification. Further, those borrowers who
8 received a modification after counseling were no
9 more likely than other borrowers to redefault
10 after controlling for the modification terms, the
11 borrower's risk and neighborhood factors. In sum,
12 our analyses of the housing and mortgage market
13 show that the foreclosure crisis likely will be
14 with us for some time. We know that foreclosures
15 impose substantial harms, not only on homeowners,
16 but also on tenants, children, neighbors and
17 taxpayers. And finally, our findings make clear
18 that the intervention of foreclosure counseling is
19 associated with a greater likelihood that
20 borrowers will receive modifications. Thank you,
21 and I'd be happy to take any questions.

22 CHAIRPERSON VANN: Yeah, thank you
23 very much. I have a question to be followed by
24 Council Member Gentile and Council Member
25 Halloran. My question is during the decade

1
2 leading up to the City's foreclosure crisis,
3 African Americans and Latinos made historical
4 gains in their share in this City's homeownership
5 ranks. Because homeownership has traditionally
6 served as a means of transferring wealth from one
7 family generation to another, could you explain
8 how the current mortgage foreclosure crisis will
9 affect the economic generational advancement of
10 middle class and working class Blacks and Latinos
11 in New York City?

12 MAX WESELCOUCH: Sure. Well, it
13 was exciting in the previous decade that Blacks
14 and Hispanics were making inroads into
15 homeownership, it was often that they were getting
16 loans that were of poor quality, so they're now
17 the most likely to be foreclosed. And it's
18 possible that many of those families will end up
19 worse off after this is all resolved than they
20 were before. They may be filing for bankruptcy.
21 Their credit scores will be lowered severely by
22 the foreclosure. They may not be able to buy a
23 house again, even if they can afford it, for a
24 decade, because of their poor credit scores. So
25 we think that in sum, this, the rise and the bust

1
2 together probably have a debilitating effect on
3 those homeowners.

4 CHAIRPERSON VANN: Thank you.

5 Okay, thank you very much for that answer. That's
6 a disturbing response.

7 COUNCIL MEMBER KOPPELL: Mr.

8 Chairman, I unfortunately have to go to another
9 meeting. I would like to be listed as a sponsor.
10 I think I'm on some, but on all the ones being
11 considered today, I support. Thank you.

12 CHAIRPERSON VANN: Done. Thank you
13 very much. Council Member Gentile?

14 COUNCIL MEMBER GENTILE: Thank you.

15 Thank you, Mr. Chairman. Director Peale, you had
16 mentioned in your testimony that on the subject of
17 modifications that you've been able through your
18 counseling to achieve savings of on the mortgage
19 of \$1,000 per month. Could you give us an example
20 of what type of modification is done that would
21 save a homeowner \$1,000 a month?

22 CHRISTIE PEALE: I'd have to give
23 you some--maybe I could give you an average
24 mortgage. I'll go back into our data and sort of
25 say that the average mortgage is this amount at

1
2 the inception of counseling and then we can get it
3 down to this amount. So I'm not sure whether the
4 majority of the savings come from forbearance or
5 from interest rate reduction, but that's usually
6 the way the waterfall goes with HAMP is that they
7 start with, you know, they use three tools and
8 just rate reduction, forbearance, and then term
9 extension as well. So, there can be a number of
10 different tools that are used to get down to that
11 \$1,000. But in most HAMP mods you get the
12 reduction down to 2% for the first five years and
13 then interest rates step up over time. But that's
14 usually in combination with one of the other two
15 tools, such as extending the term of the mortgage
16 and possibly forbearing some of the principal and
17 only paying interest on principal on a reduced
18 amount of the outstanding bill.

19 COUNCIL MEMBER GENTILE: And so
20 you've actually seen mortgages where someone can
21 save that amount of money?

22 CHRISTIE PEALE: And more, because
23 that's an average, yes. So, remember New York,
24 our savings are higher because our mortgages are
25 higher in general. So, you know, it may be unfair

1
2 for us to brag about the fact that we get big
3 reductions. The average, I think, in HAMP mods
4 across the country is much lower. But obviously,
5 like in our network, the average mortgage amount
6 is I think almost \$400,000. So that's very high
7 and what that translates to on a monthly basis in
8 terms of principal interest I think is quite
9 significant, which also has a huge impact for
10 homeowners stuck in foreclosure, because every
11 month that you miss a payment, the arrears grow,
12 the fees and everything else on top of the arrears
13 grow, so it can be quite difficult to get out of
14 the longer you're in it.

15 COUNCIL MEMBER GENTILE: And I'm
16 just curious. Your counselors work these
17 modifications out. Isn't this something that a
18 bank itself would want to happen? How is it that
19 a bank couldn't work this out? You're sort of the
20 go-between so that this package is put together.

21 CHRISTIE PEALE: Right.

22 COUNCIL MEMBER GENTILE: But a bank
23 would have that interest also, wouldn't they?

24 CHRISTIE PEALE: We've found that
25 the behavior of servicers and banks varies quite

1
2 greatly between different institutions, so it's
3 very hard to speak globally about the entire
4 industry. But I would say that it appears often
5 folks working for the banks are either untrained
6 or they're very hampered by a lot of different
7 rules and regulations, so they'll close a file
8 very quickly if they don't get a certain paper
9 within a certain amount of time. So, having the
10 housing counselor work with them homeowner and the
11 bank to continually send information in, it's
12 burdensome and it's a long process, but it is
13 helpful in getting the two parties together to
14 see, oh no, there is a potential here, or there
15 might be confusion about how income is calculated.
16 That's often a place where housing counselors and
17 lawyers are very helpful in saying, actually, you
18 know, in New York we have a lot of renters, we
19 have a lot of boarder income, and you can
20 calculate it this way, so there actually is the
21 capacity to pay. You know, they have systems that
22 have been built for national models, and when you
23 put our New York City situation in those models,
24 they often come up with answers that are totally
25 counter-intuitive. So it's really the role of our

1
2 counselors to try and create some rationality in
3 that system.

4 COUNCIL MEMBER GENTILE: And to
5 broaden the alternatives, I would imagine.

6 CHRISTIE PEALE: I'm sorry?

7 COUNCIL MEMBER GENTILE: To broaden
8 the alternatives of what can be done.

9 CHRISTIE PEALE: Right.

10 COUNCIL MEMBER GENTILE: That's
11 really part of the role of your counselors.

12 CHRISTIE PEALE: Absolutely, yeah.
13 If we see somebody that we think has the income to
14 maintain that property, we will do everything that
15 we can to make that happen. But that's the first
16 screen; it's really making sure that it's the best
17 thing for the homeowners, that they have the
18 capacity to maintain that home. That's key.

19 COUNCIL MEMBER GENTILE: Okay,
20 great. Thank you. Thank you, Mr. Chairman.

21 CHAIRPERSON VANN: Thank you.

22 MAX WESELCOUCH: Sorry, if I could
23 just a couple of things to what Christie said.
24 Our work on modifications has studied which types
25 of modifications are most successful to borrowers,

1
2 looking at principle right down to term
3 extensions, interest rate reductions and
4 forbearances. And we found by and far that
5 principle reductions create the most successful
6 modifications.

7 CHRISTIE PEALE: And they're very
8 rare.

9 MAX WESELCOUCH: Unfortunately
10 they're very rare. As Mark referred to earlier,
11 the HAMP program was modified slightly last week
12 to encourage those types of modifications. And
13 also, as for the need for foreclosure counseling,
14 even though HAMP is a standardized program, we've
15 still seen very different modifications from
16 different servicers, and we're not sure exactly
17 why, when they're all supposed to be using a
18 standardized program. So, we think that the
19 counselors are imperative in making sure that
20 borrowers get the best modifications suited for
21 them.

22 CHAIRPERSON VANN: All right.
23 Thank you very much. Council Member Halloran?

24 COUNCIL MEMBER HALLORAN: Thank
25 you, Mr. Chair. I have the unique perspective of

1
2 having had my home in foreclosure and having been
3 a court referee on foreclosures.

4 MAX WESELCOUCH: Wow.

5 COUNCIL MEMBER HALLORAN: So, I
6 have a slightly different perspective on all this.

7 CHAIRPERSON VANN: At the same
8 time?

9 COUNCIL MEMBER HALLORAN: No, not
10 at the same time.

11 [laughter]

12 COUNCIL MEMBER HALLORAN: Although
13 I certainly wish that could have been the case. I
14 would have saved my house at a much lower rate by
15 bidding for it. But let me first start with the
16 Furman Center and ask you if you have done any
17 studies related to the improper attorney
18 verifications, specifically whether any of those
19 attorneys have been sanctions, ethically reviewed
20 by the disciplinary committees, whether there have
21 been significant penalties instituted against
22 those firms, and whether or not the mortgage
23 services who obviously had an obligation as well,
24 had any impact? And I ask you that because I know
25 in my case the firm of Steven Baum, who I actually

1 had done referee work for, had to be recused as
2 the attorney of record on dozens of Queens
3 foreclosures. I received consent to change
4 attorneys on referee cases that I had been working
5 on assigned. And I'm curious, because they had an
6 incredible docket at the Queens Courthouse.
7 People, I think, don't understand how factory-like
8 the foreclosure market is. As a referee I would
9 come in and literally meet with some
10 representative who was not an attorney from there.
11 They would hand me this package and they would
12 have three or four pages of foreclosures they were
13 handling.

14
15 MAX WESELCOUCH: So, we haven't
16 done any research on that. Most of our research
17 is very empirical and focuses on large data sets
18 where they're available, and there hasn't--we've
19 been unable to obtain systematic data, but the
20 Legal Services folks, who I think are here, should
21 be able to talk about some of their experiences.

22 CHRISTIE PEALE: Legal Services and
23 MFY both can speak to that directly.

24 COUNCIL MEMBER HALLORAN: And
25 another area I would suggest perhaps we look at is

1
2 the rehabilitation shuffle that these banks are
3 doing. You sort of started to allude to it when
4 you said there are different standards for loan
5 modifications. And I am aware of several people
6 who have told me they've gone through the
7 modification process three or four times, where
8 they spent three or four months sending in
9 payments on time to be told that one department
10 had lost the paperwork, another department hadn't
11 gotten the approval in time, the third check came
12 in a day too late and wasn't credited in time.
13 And each time they had to wipe out and start from
14 scratch on this modification process. It would
15 seem to me there is a systemic problem in some of
16 those services. And I'm aware that some were
17 pointed out. I know Wells Fargo had received a
18 big hit on some of these issues and other lending
19 institutions. Have you controlled for or looked
20 at any of those claims from homeowners who
21 attempted to self-rescue and were stymied or put
22 into this revolving door of modification in hopes
23 that the foreclosure would go away?

24 MAX WESELCOUCH: Again. We're
25 unable to obtain data about that, but the Legal

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Services folks--

COUNCIL MEMBER HALLORAN:

[Interposing] Sure.

MAX WESELCOUCH: --should be able to share some direct stories, which we've also worked with them closely to inform our research.

COUNCIL MEMBER HALLORAN: All right. And finally, have you looked at the impact of our increasing property taxes, despite the fact that property values have been down, and their ability to actually help or hurt the possibility of foreclosure? We have experienced in my district a continuous rise in property-assessed values, because the catch up process that occurs with RPT. Meanwhile, property values themselves have fallen, and yet both the property percentage rate has gone up and overall the property tax itself has gone up. New York City doesn't seem to be doing what it could to help stanch the wound of foreclosure crises when we're continuing to increase the tax burden on the same people who are in foreclosure.

MAX WESELCOUCH: So, we're actually performing quite a bit of research currently on

1
2 property taxes in New York City. I don't have any
3 findings to share yet. We should have a report
4 out in March, and I'd be happy to share it with
5 you then.

6 COUNCIL MEMBER HALLORAN: It just
7 scares me that my brother in Floral Park in the
8 Nassau side is now looking like his taxes are
9 reasonable when I compare them to my home in the
10 city, so I--that unnerves me. Thank you. I
11 appreciate it.

12 CHRISTIE PEALE: On the redefault
13 issue, I think that what's frustrating from a
14 service provision aspect is that a lot of times we
15 get to the modification and we think, alright, you
16 know, the bulk of our work is done, and that can
17 be a two-year process. And we encourage as best
18 practice to keep the homeowner, to keep them in
19 touch, call us when you've made your first three
20 payments, and then we think things are going to be
21 okay. But I know MFY in particular has a case
22 that they can tell you about where they had
23 somebody all lined up and they had problems. So,
24 it presents problems for us because we cannot move
25 on to the next homeowner. You know, it creates

1
2 clogs within our caseload as well if we have to
3 invest so much in the aftercare process, which we
4 will do. And you know, we will continue to find
5 resources to address that issue, because we think
6 redefault could be the next issue for our
7 communities, but it is something that we've, you
8 know, we struggle with, obviously.

9 CHAIRPERSON VANN: Thank you.

10 Okay, thank you. Before we go on, we've been
11 joined by Council Member Melissa Mark-Viverito, to
12 my immediate right. Is your question, Council
13 Member Sanders, for this group?

14 COUNCIL MEMBER SANDERS: Yes.

15 CHAIRPERSON VANN: Council Member
16 Sanders.

17 COUNCIL MEMBER SANDERS: Thank you,
18 sir. I want to speak with the Furman Center, of
19 course. As a historian, all of this is a
20 remarkable period of world history, especially
21 American History. I'm hoping that you guys can
22 quantify a statement that I'm about to make. And
23 if you knew the answer immediately I would love to
24 hear it, but I would love to see a report on this.
25 The mortgage foreclosure crisis is going to turn

1
2 out to be the greatest transfer of wealth perhaps
3 in history. It will lead to the greatest loss of
4 Black wealth since slavery, the greatest loss of
5 Latino wealth since the Mexican American War, the
6 greatest loss of Asian wealth--and I'll repeat
7 this--since the Japanese internment camps, and the
8 greatest loss of White wealth since the Great
9 Depression. I hold that that is a fact from what
10 I'm understanding, and I would love to see someone
11 quantify this, because if it's not, I'm not that
12 far off.

13 MAX WESELCOUCH: I cannot quantify
14 that for you today. I will say that we're doing
15 research right now on the loss of wealth in the
16 United States in the wake of this crisis. So I'd
17 be happy to follow up with you in the future when
18 we have something specific that we can report on.

19 COUNCIL MEMBER SANDERS: I look
20 forward to the conversation. Thank you.

21 MAX WESELCOUCH: Thank you.

22 COUNCIL MEMBER SANDERS: Thank you,
23 Mr. Chair.

24 CHAIRPERSON VANN: Thank you. Yes,
25 share that with the committee.

1
2 MAX WESELCOUCH: Thank you.

3 CHAIRPERSON VANN: I appreciate
4 your testimony. We have six legal service
5 entities, so we'll do three, I guess, at a time.
6 And they can respond to some of the questions that
7 have been raised and will have an opportunity to.
8 Let's do three. We'll do three and three. Okay,
9 thank you. From MFY Legal Services, Elizabeth
10 Lynch, I believe. Legal Aid Society, Kennedy.
11 Nick? Okay, Nicholas Kennedy. And from the Legal
12 Services New York City, Aisha Baruni.

13 AISHA BARUNI: There are actually
14 two of us.

15 CHAIRPERSON VANN: I beg your
16 pardon?

17 AISHA BARUNI: There are actually
18 two of us from Legal Services NYC.

19 CHAIRPERSON VANN: Okay. If you
20 like. Okay, so both Aisha and Alexis Lorenzo,
21 you're representing the same entity, right?

22 ALEXIS LORENZO: Yes.

23 CHAIRPERSON VANN: Okay. You may
24 proceed in whatever order.

25 ELIZABETH LYNCH: Hi. My name is

1 Elizabeth Lynch. I'm a staff attorney at MFY
2 Legal Services in the Foreclosure Prevention
3 Practice. And we represent homeowners in Queens
4 and Staten Island, and I first want to thank the
5 Counsel for holding this meeting and for
6 presenting these very important resolutions
7 dealing with the foreclosure crisis. I'm sure as
8 City Council members you're all very much well
9 aware of the disastrous impact that foreclosures
10 have had on our city, and in particular
11 neighborhoods, as well as the increased crime, the
12 issues that arise to families and to children in
13 homes that are being foreclosed upon, and the
14 stress that has come for most homeowners in the
15 modification process. That doesn't happen
16 smoothly at all. But today I want to present to
17 you a happy story, a story of a woman who almost
18 lost her home of more than 20 years in Southeast
19 Queens, a home where she raised her children and
20 her grandchildren, a home where she grows perhaps
21 the most beautiful flowers in all of Queens. With
22 the dedicated help of housing counseling services
23 and legal services, particularly our organization,
24 MFY Legal Services, we were able to help her stay
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1
2 in her home after receiving an eviction notice
3 from Fannie Mae, because her home had been sold,
4 unbeknownst to her, in an actual foreclosure
5 auction. So, I want to present to you today Ms.
6 Roberts, and she's going to tell her story, and
7 then I'll just give a little bit more after she's
8 done.

9 LILLA ROBERTS: My name is Lilla
10 Roberts, and I'm from Queens, Southeast Queens.
11 About three years ago, I continued on after three
12 years, I'd been getting notice from I do not know,
13 but it's well here. I tried to get modification
14 done, but as the gentlemen over there said, they
15 sent in papers to then repeat sending papers, and
16 you got to do it over and over. And at the same
17 time I'd been sending in my payment. And one day
18 I saw somebody came to my door and said to me, I
19 bought your house. And I wanted to ask her how
20 much she paid for it, but she kind of run off, and
21 I called the office. I found out it's Steven
22 Baum. So, before I go any further, I want to ask
23 you to find him. Let me sue him, because I lost
24 my nerves over him. He sent the lady to pay me
25 \$10 for key and tried to get my tenant out. And I

1
2 still didn't know what it was. But tell this
3 story over with the story. I had to go to
4 Neighborhood Housing, which they were helping me.
5 But every time I go to them, they wanted more
6 papers. I took papers to them, and it wasn't
7 enough and they keep changing the papers. And I'm
8 saying, Neighborhood Housing is a wonderful place
9 to go for help. They turned me over to Ms. Lynch,
10 and I can tell you that my nerves start getting
11 better. She worked with me. She come to my
12 house. She helped me look for papers, because I
13 would send in \$7,000 to the bank, and the bank
14 said to send it to Steven Baum. I would send it
15 to Steven Baum, and I do not know where my money
16 goes. But I said, thank god, here's Ms. Lynch,
17 that helped me find that paper and step up to the
18 plate and show them where I was paying my
19 mortgage. She helped me to save my house. I'm in
20 there. Right now I'm in there. Fannie Mae got
21 scared of me because I threatened to do something
22 that I was going to do it. After living in my
23 house from 1988, and pay my mortgage and to see
24 that Bank of America and Steven Baum was putting
25 me out, I said I was going to burn it down, and I

1
2 did mean it. I was going to do it. But I was
3 going to call the police first, have the house
4 emptied. Because it's hard for you to work so
5 long. I raised my kids in there and somebody who
6 have money already is going to come and take away
7 your little house. It's a little house. And I
8 said, thanks again to Joan, the photographer who
9 came by, took pictures and put them in the news,
10 put them in the paper, and showed that he's a
11 crook. And he is a crook. So, I'm thanking, and
12 I'm asking you all to help Legal Service to keep
13 us in our home, because they can help a lot. They
14 can help us to stay in our house, because we do
15 not have anything. We are poor. So, whatever you
16 can help it, please help them. And I hope
17 Governor Como was here for me to tell him to stop
18 with all that money with the Casino in my
19 neighborhood and give it to the poor people. Let
20 them help us. And I'm asking you, I will help
21 fight, because whenever they call me, I am here
22 with them. So, whoever have any problem, maybe
23 they can call me and I'll set them on to Ms. Lynch
24 to help. So, please help. Everybody help them to
25 get the money to work for us. I'm asking you.

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Thanks very much.

CHAIRPERSON VANN: Thank you. A great appeal.

ELIZABETH LYNCH: So, just to follow up, Ms. Roberts' story I think illustrates the battles that homeowners face every day. She had been trying to work a modification on her own with Bank of America for at least over a year after her tenant had destroyed the apartment and she had to fix it. She fell behind a couple months. And then she called them when she was able to get back on track. They asked her to make a \$7,000 upfront payment, and then put her on a three-month trial plan with the promise of a modification. That modification didn't come. And that didn't happen just once--that happened three times, and the whole time while that was happening, Steven J. Baum's office was foreclosing on her home. She came to us. The house had already been auctioned off and sold back to Fannie Mae, and we were able to bring a court case, after Neighborhood Housing Services had contacted us, we brought a court case and we were able to save our home. A lot of that also had to do with advocacy

1 within the press. The New York Times did cover
2 her case. So, on one hand, her battle, it
3 illustrates the everyday battles that all
4 homeowners go through, but it also illustrates the
5 success of the current network that we have set
6 up, the foreclosure prevention services program
7 that we have been using for the past four years.
8 Through this program, we have housing counselors
9 like Neighborhood Housing Services on the ground.
10 They have personal relationships with a lot of the
11 homeowners. Ms. Roberts has gone to them before
12 with her home. I mean, it's a home of hers for
13 over 20 years, to get low-cost home repair loans,
14 things like that. As soon as she got the eviction
15 notice, she immediately went to Neighborhood
16 Housing Services. They then turned to us. And
17 they do that with everybody, the housing
18 counselors work with Queens Legal Services, Queens
19 Legal Aid, and in other boroughs the other legal
20 services organizations. So I think it very much
21 shows the strength of this program and the success
22 that it's had. I know the governor has mentioned
23 having a new program within the Department of
24 Financial Services, the Foreclosure Relief Unit.
25

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2 The only descriptions we have of this unit is
3 something that would be a call-in center, where
4 homeowners can call in with a problem. Ms.
5 Roberts's problem was so huge that a call-in
6 center cannot help. And in fact, there is a call-
7 in center for the HAMP program. The federal
8 government does have a call-in center, and that's
9 largely been a failure. So this is not going to
10 be helpful. Another thing is that these
11 homeowners need advocacy in court. You can rest
12 assured that none of those banks are coming
13 without lawyers. So that's why we, MFY Legal
14 Services very strongly supports the resolution and
15 thanks the Council for proposing the resolution to
16 continue to--urging the state to continue funding.
17 In terms of the other resolutions that have been
18 proposed, the ones dealing with MERS, and I know
19 the other attorneys will talk more about it, those
20 are all issues that through this program, this on
21 the ground program, we as advocates for the
22 community, we aggregate Ms. Roberts' problem. We
23 see everybody is having the same program. We are
24 able to bring that to your attention and say, hey,
25 this is legislation that needs to be changed. And

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2 then we also can, I mean, MFY Legal Services saw a
3 problem. Because we can file class actions, we
4 brought a class action against Steven Baum for his
5 abuse of practices. And hopefully that will come
6 to help homeowners in the state of New York. So
7 this network that's on the ground, a lot of these
8 resolutions which you have passed, which are going
9 to continue to help homeowners long after this
10 crisis is over, is a result of our ability to
11 aggregate all the people's problems and present it
12 to state lawmakers and city lawmakers to effect
13 some changes. So we, MFY Legal Services, again
14 wants to thank the Council for its continued
15 support and what we know is going to be ongoing
16 support. And we hope that in future foreclosure
17 crisis meetings, we can continue to have
18 successful stories like Ms. Roberts come forward.
19 Thank you.

20 CHAIRPERSON VANN: And thank you.

21 AISHA BARUNI: Good afternoon. My
22 name is Aisha Baruni, and I'm a staff attorney
23 with the Foreclosure Prevention Project at Queens
24 Legal Services. I'm testifying today with my
25 colleague, Alexis Lorenzo, who is a staff attorney

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2 with the Foreclosure Prevention Unit at Legal
3 Services NYC Bronx. Our agencies are two of the
4 neighborhood offices of Legal Services NYC, and we
5 present our testimony on behalf of LSNYC in
6 support of the passage of the five resolutions,
7 871-A, 872-A, 988, 989, and 990, that have been
8 proposed by the City Council. Legal Services NYC
9 is the nation's largest provider of free legal
10 services to the poor. We're also the oldest and
11 largest provider of foreclosure prevention legal
12 services in this city. We have over 45 attorneys
13 and paralegals fighting foreclosure in some of the
14 hardest hit neighborhoods in the city. As others
15 have told you, New York City families continue to
16 face losing their homes in record numbers. As of
17 March 2011, more than 69,000 New York City
18 homeowners of owner-occupied one- to four-family
19 homes were either in foreclosure or seriously
20 delinquent on their loans. A recent report found
21 that New York City had among the highest
22 foreclosure rates in the country, with
23 approximately 10% of all mortgages in foreclosure
24 or seriously delinquent. We see rates as high as
25 one in three homeowners in default in some of the

1 communities that we serve. I will be addressing
2 proposed resolution 872-A, calling upon the state
3 legislature and the governor to support the
4 continued funding of New York's foreclosure
5 prevention services program. The continued
6 funding of this program is absolutely critical to
7 ensure that New York Homeowners are able to
8 protect their homes from unlawful foreclosures.
9 The program funds more than 120 non-profit
10 agencies throughout the state to provide these
11 essential foreclosure prevention services, which
12 include housing counseling, and legal
13 representation. Without funding from the state,
14 the program will be totally decimated. The
15 statewide network has a track record of success.
16 Program funded advocates have assisted more than
17 80,000 families and avoided approximately 14,000
18 foreclosures, and there are thousands of
19 additional cases still pending. Homeowners need
20 the expert one on one assistance of an attorney or
21 housing counselor or sometimes both, to navigate
22 the complex judicial foreclosure and loan
23 modification processes. Many of the homeowners
24 who come to program agencies for help have been
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2 working on their own with their servicer,
3 sometimes for over a year. Many times they've
4 already been denied for loan modification at least
5 once. Foreclosures are not easy to resolve. They
6 require complex solutions that are almost
7 impossible without an advocate. Our advocates
8 have the ability to challenge improper denials of
9 loan modifications. We also have the knowledge of
10 relevant federal and state regulations in the
11 banking industry. One such complex area is the
12 Federal Home Affordable Modification Program,
13 HAMP, which homeowners have a very hard time
14 navigating without the assistance of an advocate.
15 Many of the mortgage servicers do not understand
16 the program's rules. But the government just
17 announced that it is extending that program
18 through 2013. I don't know what homeowners will
19 do without us. I don't know how they'll navigate
20 that program on their own. Without the
21 foreclosure services program, homeowners will fall
22 prey to the loan modification and foreclosure
23 rescue scammers who haunt the neighborhoods in
24 this city, charging homeowners thousands of
25 dollars, promising them assistance, and doing

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2 nothing, costing them money and time. As others
3 have testified, the program saves the state money.
4 Every dollar invested in foreclosure prevention
5 through the program saves the state \$68 by
6 avoiding decreased property values and the
7 resulting lower tax revenues. A scarier number is
8 from a recent report that estimated that if
9 foreclosures are not prevented, the City will lose
10 more than \$133 million in reduced tax revenue in
11 the coming years. Finally, the program creates
12 living wage jobs at these 120 non-profit agencies.
13 Without the program funding, in addition to not
14 being able to provide services to homeowners in
15 the state, those agencies will have to lay off
16 employees. Ms. Lorenzo will be addressing the
17 other resolutions. Thank you. Excuse us.

18 ALEXIS LORENZO: Good afternoon.
19 My name is Alexis Lorenzo, and as my colleague,
20 Aisha Baruni mentioned, I am a staff attorney with
21 the Foreclosure Prevention Unit in the Bronx. And
22 I thank you for this opportunity to present
23 testimony on behalf of Legal Services NYC on this
24 very, very important subject. I come before you
25 today not only as a foreclosure prevention

1
2 advocate, but also as a constituent of the
3 Williamsbridge Section of the Bronx. I have
4 witnessed firsthand the blight foreclosures have
5 brought upon a once stable and very vibrant
6 neighborhood. Today my testimony will cover
7 resolutions 871-A, 989, and 988, which we believe
8 will go very far in leveling the playing field for
9 homeowners defending foreclosure actions. In the
10 media, a considerable amount of attention has been
11 focused largely on robo-signed documents and
12 fraudulently notarized papers, and that attention
13 is not without merit. However, it doesn't go to
14 the heart of the issue. We cannot go back and
15 rectify sloppy paperwork and dotting some I's and
16 crossing some T's. What is really at the heart of
17 this issue is whether the banks commencing these
18 foreclosures have the legal right to do so,
19 meaning, do they have what is general referred to
20 as standing in litigation. In order to have
21 standing to foreclose, the foreclosing party,
22 usually a bank, must own not just the mortgage,
23 which represents the security interest in the
24 home, but it must also own the note that
25 represents the loan itself. Without that note,

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2 there is no standing to foreclose a case. This is
3 why we commend Chief Judge Lippman for his
4 leadership in promulgating Court Rule subsection F
5 of section 2.2.12 of the Uniform Rules of the New
6 York State Trial Courts, which we all commonly
7 refer to as the Lippman Affirmation. We believe
8 that this rule should be codified by the
9 legislature as it is crucial to ensuring that the
10 party that possess a genuine and legal right to
11 bring a foreclosure action against a homeowner and
12 is the only party that can do so. The passage of
13 resolution of 871-A will encourage legislation to
14 codify the Lippman affirmation required, which we
15 believe will deter sloppy fraudulent foreclosure
16 filing practices and avoid needless motion
17 practice challenging standing. Ownership of the
18 mortgage is in question for most of the homeowners
19 who walk through our doors, because ownership has
20 been obscured by the securitization process and
21 the highly prevalent use of mortgage electronic
22 registration systems as a clearinghouse. When a
23 mortgage loan is recorded as being held by MERS,
24 Wall Street investors and banks transfer the
25 mortgage without recording those transfers with

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2 the Office of the City Register. This practice
3 makes the identity of the true owner/investor in a
4 homeowner's loan extremely difficult to find, even
5 for an attorney. For this reason we need
6 legislation that, one, prohibits lenders from
7 concealing mortgage assignments through the use of
8 MERS; two, forces the foreclosure mills to
9 document the legal right to foreclose at the
10 commencement of the action; and three, permits
11 homeowners to raise these standing issues at any
12 point in the foreclosure action. Just as MERS
13 conceals ownership and creates a thicket of legal
14 problems for all parties involved, pooling and
15 servicing agreements, commonly referred to as
16 PSAs, have been utilized to cloud whether a trust
17 has a legal right to foreclosure. PSAs contain
18 restrictions on how loans can be modified. Thus,
19 it is important for a homeowner to have the PSA to
20 both--I'm sorry, homeowner advocates--to have the
21 PSA to counsel homeowners on modification options
22 and to challenge banks and servicers when they
23 wrongfully deny modifications based on purported
24 investor restrictions. Because it is necessary to
25 review PSAs to determine whether foreclosing, a

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2 foreclosing trust has standing, we support
3 legislation that requires plaintiffs to produce
4 the governing PSA at the commencement of the
5 foreclosure. Finally, because it is virtually
6 impossible at the start of a lawsuit for a
7 homeowner to determine whether the plaintiff owns
8 the note and the mortgage, we also strongly
9 support legislation that provides that only the
10 owner of the mortgage and the note should have
11 standing to commence the foreclosure suit, and
12 clarify that standing as a defense may be raised
13 at any time during the lawsuit. Such legislation
14 is currently pending in the state legislature at
15 bill number S.697/A.629, and we believe the
16 passage of resolutions 871-A, 988 and 989 will
17 encourage the state lawmakers to finally pass this
18 pending legislation. I thank you for this
19 opportunity to present this testimony.

20 CHAIRPERSON VANN: All right.

21 Thank you.

22 NICK KENNEDY: Good afternoon. My
23 name is Nick Kennedy, and I am a staff attorney
24 with the Legal Aid Society's Foreclosure
25 Prevention Project in the Queens Office. I'd like

1
2 to begin by thanking the Committee, Chairperson
3 Vann, and those sponsors of these necessary and
4 proactive resolutions for giving us the
5 opportunity to testify today. I'd like to begin
6 by discussing resolution 872-A. The continuation
7 of foreclosure funding is extremely essential,
8 because people need a voice in the foreclosure
9 process. This is a very complex and extremely
10 difficult area to learn. I know. I am a
11 relatively new attorney in this area and it is
12 humbling. Every day I have to ask question after
13 question to learn this area of the law. It's a
14 very difficult area of the law to learn,
15 especially for a homeowner with no experience in
16 dealing with the legal procedures. What we want
17 to do is hold banks accountable. We want to make
18 sure that they live up to the obligations that
19 they set out for themselves. We have the
20 settlement foreclosure part. And in this part
21 it's meant to bring banks basically to the
22 negotiating table to work out resolutions that are
23 comfortable for both sides. But what ends up
24 happening is the banks send per diem attorneys who
25 show up completely unprepared, with the documents

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2 that they--asking for the same documents that they
3 were given numerous times, and it slows the
4 process. Interest continues to accrue on
5 homeowners' mortgages, and basically what it does
6 is it digs a deeper hole for the homeowner,
7 meanwhile frustrating the system and embarrassing
8 the attorneys who represent them. The Legal Aid
9 Society is excited, because we just started our
10 foreclosure pilot project in the Queens Court
11 system, along with the Unified Court System with
12 Chief Judge Lippman and other legal services
13 providers. We hope through this process, through
14 the new pilot project, we can hold banks
15 accountable, we can make them stick to their
16 deadlines, make them live up to the promises they
17 made. If they offered a trial program, that they
18 will bring the documents, that they will register
19 the payments, and they will offer modification at
20 the end of the trial program. So we feel like our
21 work is evolving. We feel like we're making
22 progress. But to continue this progress, we need
23 funding. There's still too many homeowners that
24 aren't receiving representation. There's too many
25 homeowners that are out there, losing their homes

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2 because banks don't play by the rules. They've
3 shown that. They've shown that by the attorneys
4 they send to represent them at these conferences.
5 And the problem is, these servicers who are hiring
6 the attorneys don't have any incentive to modify.
7 So without legal service to represent the
8 homeowners, to push the modifications, to continue
9 advocating on behalf of New Yorkers, the system
10 isn't going to go anywhere, the mortgages are
11 going to continue digging deeper holes for people.
12 And that's why we are very grateful to the
13 committee for proposing this resolution. I'd also
14 like to discuss Resolution 988. The Pooling and
15 Service agreement is very important because it
16 governs the relationship between the servicer and
17 investors, and it can also guide whether
18 modifications will be given. And we've seen quite
19 often clients come in our office who submit
20 package after package to receive a loan
21 modification, only to receive a one-sentence
22 explanation back, saying that it was denied for
23 servicer restrictions. And what this does is it
24 just wastes resources. Housing counselors have
25 finite resources. Legal services attorneys have

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2 finite resources. We're working with limited
3 funds as we've discussed today. And when the
4 banks don't even live up to their own agreements
5 that they made, that just exhausts our resources
6 even more. In order to challenge them, we need
7 the Pooling and Servicing Agreement. It can be
8 found, but it's very difficult to find, especially
9 even for an attorney who is trained in this. We
10 need to have the language that they agreed to
11 challenge them on their own terms, to show that
12 they are lying to us, that they are not providing
13 and living up to the terms that they agreed to
14 with the investors. That's why it's so essential
15 to have the Pooling and Servicing Agreement. We
16 thank you for proposing, again, these necessary
17 resolutions, and for giving us the opportunity to
18 testify, because it shows to us that our
19 representatives seriously and considerably take
20 the rights of homeowners to heart and are working
21 to advocate the end of the foreclosure crisis.
22 Thank you.

23 CHAIRPERSON VANN: Thank you very
24 much. You've been very clear, and we appreciate
25 your testimony. Thank you so much. Okay. We're

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2 going to call just one last panel, of around five,
3 to give testimony. We're going to start with
4 Bonita Dowling from Pratt Area Community Council,
5 and joined by Mr. Randall Jeffrey, from New York
6 Legal Assistance Group, and Kimberly Allman, from
7 New York Mortgage Coalition, and Alexis from
8 NEDAP.

9 ALEXIS IWANISZIW: Iwanisziw.

10 CHAIRPERSON VANN: I'm not even
11 going to attempt it. You'll tell us. And Ilectra
12 Scott-Cook. Now, I wasn't hesitating on your
13 name. Alexis understands. Oh, your name is
14 Ilectra, and there is also an Alexis. Okay.

15 ILECTRA SCOTT-COOK: I'm sorry.

16 CHAIRPERSON VANN: No problem.
17 You're Scott-Cook, right?

18 ILETCTRA SCOTT-COOK: Yes.

19 CHAIRPERSON VANN: Oh, okay.

20 ILECTRA SCOTT-COOK: Thank you.

21 CHAIRPERSON VANN: Is everybody at
22 the table or in reasonable proximity? Okay, thank
23 you. We'll start with Ms. Dowling.

24 BONITA DOWLING: Good afternoon,
25 Councilman Vann, and thank you for inviting me to

1 speak today and all the members of the Committee.

2 One of the members said today--he left--that we're
3 angels, and I was quite flattered about that.

4 Pratt supports all the resolutions that are

5 proposed. I want to tell you a little bit. I am

6 a homeowner counselor at Pratt, and I meet

7 approximately three homeowners a day. And

8 needless to say, I do keep a box of tissues on my

9 desk. But we're there. We are filled with

10 empathy, not sympathy. I'll tell you a little bit

11 about PACC and what I do. PACC is a 46-year-old

12 community development corporation committed to

13 maintaining a diverse and thriving community in

14 Central Brooklyn. Our areas of activity include

15 economic development and commercial

16 revitalization, affordable housing development,

17 homebuyer and homeowner counseling, and community

18 and tenant organizing. Our home services

19 department, that's the department that I am in,

20 first became involved in the mortgage foreclosure

21 issue in 1993, when a homeowner had lost his home

22 in Clinton Hill over a \$75,000 no doc loan. Since

23 then, we have been active in both providing

24 individual counseling for those facing default or
25

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2 foreclosure, and advocating on behalf of our
3 community to support legislation and other
4 initiatives to save peoples' homes. PACC was a
5 founding member of the Committee for Sound Lending
6 in 1996, which became the citywide taskforce on
7 foreclosure prevention, where practitioners shared
8 experiences, as we all learned about predatory
9 lending. In 2000, a statewide initiative, New
10 Yorkers for Responsible Lending, was launched to
11 work toward legislative change, which led to the
12 passage of the responsible lending act of 2004,
13 with revisions in 2006, and the settlement
14 conference solution in 2009. How Foreclosure
15 Funding Program has helped us, has worked for us;
16 firstly, it enabled us to get another foreclosure
17 counselor as well as an assistant counselor.
18 Prior to that I was the only one doing it, and
19 needless to say I was quite overwhelmed, so that
20 funding really helped us to get more, to get
21 another counselor, to serve more folks.
22 Foreclosure prevention, and we've heard the
23 testimony, is a very long process. Most clients
24 work with a counselor for an average of one year.
25 We take three clients daily each, so the workload

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2 is tremendous. Our process begins with a verbal
3 intake over the phone, followed by the initial
4 counseling session, where budget is taken for an
5 evaluation for the HAMP program, and other bank
6 modification programs. The bank is also contacted
7 and provided with an updated budget so that the
8 client can be reviewed for modification.

9 Additionally, we educate the homeowner about their
10 loan closing documents or refinance documents.

11 Most clients were not aware of the type of
12 mortgages they were getting, so you're talking
13 about TILA, the Truth in Lending, and different
14 things like that. We go over it with our clients.

15 They have absolutely no idea what these documents
16 are. Most of them were given attorneys at
17 closing, so we call that a one-stop shop. We then
18 gather all required documents and send it to the
19 bank or servicer. If the client was served with a
20 summons, the client has to respond in 20 days.

21 And I'll tell you that they have no idea that they
22 have to respond. But we do send them to Adams
23 Street. They will be instructed on how to file a
24 pro se answer by our partner, South Brooklyn
25 Legal Services. This will enable the homeowner to

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2 be eligible for a settlement conference. Based on
3 our experience, this process takes about seven to
4 ten months. Banks rarely process a modification
5 quickly, so our job includes advocating,
6 reapplying for modifications, follow-up calls,
7 escalating, and referrals to needed resources,
8 such as South Brooklyn. We also work with BedStuy
9 Legal, NEDAP for gap loans, the Center for MAP and
10 other escalation points. As counselors, we do
11 more than just counsel for modifications. At PACC
12 we advise our clients of all available services to
13 the homeowners. We advise them of property tax
14 reductions. One of the council members was
15 talking about property tax reductions, through the
16 Department of Finance's programs. The STAR,
17 ENANCED STAR, SCHE, disability, clergy and
18 military, all these programs are designed to
19 reduce your property taxes. For example, one of
20 my client was disabled. We sent in an application
21 for her for STAR, her annual taxes were \$3,000,
22 but because of the program, her annual taxes were
23 reduced to \$1,300 a year. We contacted DEP and
24 National Grid, and of course I have you to thank
25 for the new legislation, sir. We contacted DEP

1
2 and National Grid and we advocate for our
3 homeowners too. For example, one senior was
4 behind in her water bill. We contacted them. DEP
5 has a debt forgiveness program, and the client was
6 able to have her debt suspended. It will be paid
7 if the client refinances or sells the home.

8 Another homeowner did not know she could apply for
9 HEAP. HEAP, home energy assistance program. She
10 was very proud. She had worked all her life, but
11 she was now having a hardship. She did not know
12 the program had existed, and PACC asked her to
13 apply. She did apply, and once she received it
14 she was eligible for National Grid's On Track
15 program, which can further reduce your bill by
16 \$400. We also advise seniors of SCHAP loans,
17 those are low, no interest or 3% interest loans
18 for repairs. And additionally, we advise them of
19 the yearly tax lien sales, and most clients were
20 unaware of that. And again, we'd like to thank
21 you, Councilman Vann, for the new legislation.
22 We've counseled about 177 people over the past
23 year. We had 52 modifications, permanent
24 modifications, and we believe that the clients
25 will stick to them. We're finding that the

1 clients, since 2010, those modifications are
2 coming a little bit more quickly than the ones
3 that originally started in 2009 that people are
4 still probably working on as counselors. And
5 these, and we're finding that our clients are able
6 to afford the payments. I'd like to think
7 funding, and this is where I'm taking from Reading
8 is Fundamental, funding is fundamental. More and
9 more families are losing their homes due to job
10 loss, and we can tell them about some of the
11 programs that are available, that HAMP has an
12 unemployment program, there are forbearance
13 agreements. We're needed, because clients have
14 problems filling out the required forms for
15 modifications. Any missing item will delay the
16 modification request. Clients do need advocates.
17 Homeowners will resort to scam artists for
18 assistance. And we're passionate, and we love
19 what we're doing and we hope we can keep everyone
20 in their home. Thank you.

22 CHAIRPERSON VANN: Thank you very
23 much.

24 RANDALL JEFFREY: Chairman Vann,
25 good afternoon and thank you for the opportunity

1
2 to address the ongoing foreclosure crisis, its
3 continuing adverse affects on New York City
4 Neighborhoods, and the steps that New York State
5 can take to address this crisis. My name is
6 Randall Jeffrey, and I direct the general legal
7 services unit at the New York Legal Assistance
8 Group, where my responsibilities include managing
9 our foreclosure prevention project. NYLAG is a
10 non-profit organization which provides free civil
11 legal services on a wide range of civil law
12 matters. While NYLAG supports all of the
13 resolutions before this committee today, this
14 testimony focuses on resolution 872-A, which calls
15 on the New York State legislature and the governor
16 to support the continuation of New York's
17 foreclosure prevention services program. NYLAG is
18 testifying today as part of its efforts to ensure
19 that the foreclosure crisis that still grips New
20 York City and state does not spread into a crisis
21 of homeowner representation as well. As discussed
22 below, the foreclosure crisis is far from over.
23 Without experienced legal and counseling staff
24 working on behalf of those facing foreclosure,
25 homeowners will be unable to navigate the

1
2 complicated foreclosure prevention process and
3 will unnecessarily lose their homes. The legal
4 services and housing counseling funded by the
5 Foreclosure Prevention Services Program are
6 critical to New York's ability to successfully
7 emerge from the foreclosure crisis. This program
8 has had a huge impact already. It has saved more
9 than 14,000 homes from foreclosure, and has saved
10 the state billions in costs and lost tax revenue
11 because of avoided foreclosures. Every home saved
12 benefits the owner struggling to avoid
13 foreclosure, the community in which the home is
14 located, and New York State as a whole. The legal
15 services and housing counseling funded by the
16 Foreclosure Prevention Services Program are
17 necessary because the foreclosure process in New
18 York is complicated and difficult to navigate.
19 Our experience at NYLAG has proven that the
20 chances of a modification being obtained are
21 greatly enhanced when an experienced attorney or
22 housing counselor prepares the application.
23 Program funding has allowed legal service
24 organizations and housing counseling agencies the
25 ability to advise and represent thousands, as

1
2 we've heard today, of needy homeowners. The need
3 for foreclosure prevention services is just as
4 great, if not greater now, than when New York
5 State first funded the Foreclosure Prevention
6 Services Program in 2008, with mortgage servicers
7 working through their issues with their
8 foreclosure lawsuits and cases being reassigned
9 from the now-closed Baum Law Office that is here
10 in New York State, it is expected that a wave of
11 new foreclosure actions will be filed in the near
12 future. At the same time, there are new
13 opportunities for homeowners to remain in their
14 homes as mortgage modification programs expand and
15 the economy slowly improves. The establishment of
16 the Foreclosure Prevention Unit within the
17 Department of Financial Services will only
18 increase the need for homeowner advocates, adding
19 another layer of both opportunity as well as
20 complexity to the process of foreclosure
21 prevention. By adding the Department of Financial
22 Services as a partner in achieving the best
23 possible outcomes for homeowners, we envision that
24 New York will continue to lead the nation in
25 creative approaches to moving us out of this

1 crisis. Unfortunately, the governor's recently
2 released budgeted failed to include funds for the
3 Foreclosure Prevention Services Program. Without
4 funding for the continuation of this program, the
5 established network of service providers that took
6 years to build will not be able to continue. As a
7 result, the vast majority of New York's distressed
8 homeowners will lose access to the legal
9 assistance and housing counseling that has been
10 available for the last four years. With over
11 250,000 homes in New York State currently in
12 foreclosure or facing foreclosure, the loss of
13 services of the Foreclosure Prevention Services
14 Program will result in additional lost property
15 values and the reduction of the local tax base.
16 If nothing is done to save these homes, it is
17 estimated that New York State will lose over \$61
18 billion in property values and lost tax revenue.
19 Clearly the elimination of New York's program to
20 provide direct assistance to homeowners will
21 result in more individuals losing their homes to
22 foreclosure. An increasing number of homeowners
23 are going to be left with few to no options for
24 representation, and will be forced to face the
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2 bank's attorneys unrepresented. NYLAG's situation
3 is typical of program providers. Until December
4 of 2011, the Foreclosure Prevention Services
5 Program supported four attorneys, two paralegals
6 and one financial counselor. NYAG staff provided
7 the full array of foreclosure prevention services
8 throughout New York City, including representation
9 at settlement conferences, submission of mortgage
10 modifications, and counseling on budgeting to
11 ensure success during trial modification periods.
12 Already, NYLAG has had to reassign certain staff
13 due to the loss of funding. Without continued
14 foreclosure prevention services funding, NYLAG
15 will be forced to reduce its foreclosure
16 prevention staff further, depriving countless New
17 Yorkers of access to critical free legal services.
18 In addition to supporting resolution 872-A, NYLAG
19 supports the additional resolutions before the
20 Committee today. These resolutions call on the
21 New York State legislature, the governor, and the
22 Federal Reserve Bank, to take actions to assure
23 that the foreclosure prevention process is fair,
24 such that homeowners have the appropriate
25 opportunity to defend against foreclosures.

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2 Combined with the continuation of the Foreclosure
3 Prevention Services Program, these actions will
4 put New Yorkers on a firmer footing to remain in
5 their homes, benefitting not just themselves, but
6 also their communities and all of New York State
7 as well. Thank you for this opportunity to
8 testify.

9 KIMBERLY ALLMAN: Good afternoon.
10 My name is Kimberly Allman, and I'm the Deputy
11 Director of the New York Mortgage Coalition.
12 Thank you for convening this hearing, Chair Vann.
13 We think this is very important and an issue that
14 has a broad impact on the New York City community.
15 New York Mortgage Coalition is a non-profit agency
16 that creates and protects affordable responsible
17 homeownership for working families through its 11
18 non-profit housing counseling partners and 13
19 member banks. The New York Mortgage Coalition
20 supports programs in pre-purchase counseling,
21 foreclosure prevention counseling, neighborhood
22 stabilization, and financial literacy. The New
23 York Mortgage Coalition supports all the
24 resolutions that are being considered here, but
25 like many of my colleagues, I would like to focus

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2 on resolution 872-A. And I'll be brief. My
3 colleagues who have come before me have shared a
4 lot of great information. But the funding is, you
5 know, the main issue here. And because new
6 funding has not been included in the 2012-2013
7 budget, many agencies have had to reduce the
8 number of attorneys, paralegals and counselors who
9 work with homeowners. We at the New York Mortgage
10 Coalition are among those agencies. We no longer
11 employ a full-time housing counselor who is able
12 to work one-on-one with homeowners in all five
13 boroughs. And I'd really like to highlight the
14 work of housing counselors. I think most of us
15 are aware of the knowledge and expertise that
16 attorneys bring to the table. But many people are
17 unaware of the many skills that housing counselors
18 bring. Housing counselors are the first--the
19 financial first responders. They're often the
20 first people that provide information to a
21 homeowner in distress. Counselors help a
22 homeowner craft a budget, understand the
23 paperwork, fill out the paperwork. They conduct a
24 financial analysis. They negotiate with
25 servicers, and they're experts on the various

1 options and programs available to homeowners. All
2 of these things are crucial to helping a homeowner
3 avoid foreclosure. New York Mortgage Coalition
4 works closely with the Center for New York City
5 Neighborhoods to provide technical assistance to
6 housing counseling agencies that provide
7 foreclosure prevention counseling to homeowners
8 throughout New York City. We help ensure a strong
9 network of counselors that are experts in the work
10 that they do. We help to maintain a high quality
11 of counselors in New York City, because we believe
12 that our residents deserve the best advocates out
13 there. But it's only possible if funding is
14 available. Not funding the work of counselors
15 assumes that the work that the counselors are
16 doing is not needed, and if people believe that to
17 be true, they don't truly understand what it means
18 to be behind on their mortgage without the
19 existence of experts who will fight for them. And
20 I believe it was asked before, by I believe
21 Councilman Gentile, shouldn't the banks be doing
22 this type of thing. But ultimately the banks work
23 for the bank. The counselors work for the
24 homeowners. So, the banks are looking out for
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2 their best interest. And who is looking out for
3 the homeowners? And it's these counselors who do
4 this work every single day who deserve to be
5 funded so that they can continue to do this work.
6 So, New York Mortgage Coalition is proud to
7 support these resolutions and the protections they
8 bring to the homeowners of New York City. The
9 stability of our neighborhoods is crucial to the
10 success of individuals and New York City as a
11 whole. Thank you.

12 ILECTRA SCOTT-COOK: Good
13 afternoon, hi. Thank you Chairperson Vann and the
14 Committee. My name is Ilectra Scott-Cook. I'm
15 from West Bronx Housing. It's going to be short
16 because I don't have a speech. I didn't prepare
17 anything. I'm just here to speak on behalf of my
18 agency, which we do have one foreclosure
19 prevention person who is part time there. And
20 because of the cuts in the governor's proposed
21 budget, we're about to lose that one person. I
22 myself deal in eviction prevention services. I'm
23 a specialist. What happens is that when a person
24 is foreclosed on their home and they have tenants,
25 it becomes a bigger problem, because now the

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2 tenants are beginning eviction processes too. So,
3 we have to deal with those tenants also who are
4 about to be evicted. The funding is very
5 necessarily needed. We need it in our agency. We
6 are a small agency in the West Bronx. We are the
7 only agency there. Without our funding there,
8 without us being there, the tenants will have
9 nowhere to turn to. I'm talking about homeowners
10 and tenants. I'm speaking in regards to all.
11 They would have no one to turn to because there is
12 no other agency in that office. We employ only
13 three full time employees and one part time and
14 two volunteers. I'm one of the full time
15 employees, which my job also is on the chopping
16 block as well, because of the cuts in the funding
17 inside of the budget. While I do appreciate the
18 proposed resolution, it does have some valid
19 standing and the funding absolutely definitely
20 needs to come back to the Foreclosure Prevention
21 Service Program, because it is well needed inside
22 of the West Bronx. And I thank you for allowing
23 me to testify today.

24 ALEXIS IWANISZIW: Good afternoon.
25 My name is Alexis Iwanishiw. I'm a Senior Program

1 Associate at NEDAP, and I'd like to thank Chairman
2 Vann and all the other members of the Committee
3 and staff who have made it this far through the
4 hearing, for holding the hearing, and for inviting
5 NEDAP to testify. NEDAP is a non-profit resource
6 and advocacy center that works with community
7 groups in New York City and across the state to
8 promote economic justice and to eliminate
9 discriminatory economic practices that harm
10 communities and perpetuate inequality and poverty.
11 As some of you may have heard already, NEDAP is
12 releasing a new report today. We actually just
13 put it out during the hearing. So if you go to
14 our website, it's up now, that shows that the
15 foreclosure crisis in New York is far from over.
16 One thing that you may have seen in the media or
17 in other reports is that the number of foreclosure
18 filings in the courts in New York City and State
19 has been dropping over the last few years. And
20 some people are taking that to think, well, maybe
21 things are getting better, the foreclosure crisis
22 is ending. But what we found is that that is far
23 from the truth. We examined the same data that
24 Christie, from the Center for New York City
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2 Neighborhoods, mentioned earlier, the Department
3 of Financial Services Mortgage Default and
4 Delinquency data that mortgage servicers have to
5 provide to the Department of Financial Services.
6 And what we found is that in 2011 there were
7 94,890 mortgages that were delinquent or in
8 default in New York City alone. There were more
9 than 345,000 delinquent mortgages across New York
10 State. Those are staggering numbers. And these
11 huge numbers of mortgages in default, representing
12 homeowners who are in danger of foreclosure stand
13 in really stark contrast to the number of
14 foreclosure actions that have actually been filed.
15 If you look at the first half of 2011, there were
16 more than 50,000 mortgages in default in New York
17 City, but there were only about 4,200 foreclosure
18 actions filed. Now, that's because, as you've
19 recognized in your resolutions, that there are now
20 additional scrutiny being required in foreclosure
21 legal filings by the courts. Banks are supposed
22 to verify the accuracy of their documents. And
23 what it looks like is that they have not been able
24 to do that. So, they've slowed down their
25 foreclosure filings, but that doesn't mean that

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2 tens of thousands of New York City homeowners
3 aren't still falling behind on their mortgages,
4 whether as a result of abusive lending or as a
5 result of the economic crisis that has people
6 losing their jobs and getting their hours cuts.
7 So, in light of this new evidence that we've
8 uncovered, we very much support the proposed
9 resolution 872-A, for continued foreclosure
10 prevention funding. And we also support all of
11 the other resolutions. They're all great ideas
12 that would go a long way to help homeowners in New
13 York City and state in foreclosure. Now, these
14 distressed mortgages that I'm talking about,
15 mortgages that are delinquent and in default, as
16 will come to no surprise to anyone who is doing
17 this work, are not distributed evenly across the
18 city. For those of you who have a copy of my
19 testimony, if you'd like to look at the first map
20 enclosed, I'll hold the other one up for the rest
21 of you. This shows where these mortgage
22 delinquencies are occurring in the city by zip
23 code. And almost two-thirds of them are in
24 communities of color. So, that is in and of
25 itself a really striking statistic and just

1 demonstrates the depth of the problem in some
2 neighborhoods. Just to give a few examples of
3 different New York City neighborhoods. In
4 Canarsie last year, more than 2,900 mortgages were
5 in default in Canarsie alone. In St. Albans, they
6 had the highest number of pre-foreclosure notices,
7 mortgages in default, per number of housing units.
8 There were more than 150 mortgages in default for
9 every 1,000 housing units in the neighborhood.
10 And some other neighborhoods in Queens, like
11 Springfield Gardens, are in almost as bad shape.
12 So, this crisis is far from over, and it's very,
13 very concentrated in New York City's communities
14 of color and low and moderate-income communities.
15 So, I hope all of this serves to underscore what
16 everyone has been saying today, that this crisis
17 isn't over, that the funding, that the City
18 Council and state legislature have provided for
19 the past three years has been vital, and has
20 really help New Yorkers who are targeted for
21 abusive loans, who have been adversely affected by
22 the economic crisis, come to some resolution with
23 their banks and keep their homes. And because of
24 this funding, New Yorkers have had a fighting
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1 chance to keep their homes, only because there's a
2 strong and well-trained group of legal services
3 attorneys, foreclosure prevention counselors
4 throughout the City and state, who provide high
5 quality and compassionate assistance to these
6 homeowners. Now, the fact that the governor and
7 state legislature have not renewed this funding
8 for these programs at this time will leave tens of
9 thousands of New York City residents and hundreds
10 of thousands of New Yorkers across the state in
11 danger of foreclosure, with little prospect of
12 help. As you've recognized in proposing
13 resolution 872-A, if this funding is not renewed,
14 most of the advocates and programs around the City
15 who are helping these homeowners will be unable to
16 sustain their work, will have to cut back
17 dramatically, and it will be very difficult to
18 hold the industry accountable and to save homes
19 without this continued funding. New York City has
20 long been a leader in foreclosure prevention
21 services. We have our settlement conferences and
22 we've created and enforced strong laws and
23 regulations to protect New Yorkers from predatory
24 practices and to help people affected by the
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1 mortgage crisis fight back against abusive
2 mortgage servicing and foreclosure practices.
3 Without continued funding for foreclosure
4 prevention services and strong legislative action
5 like the resolutions we're discussing today, New
6 York will be at the mercy of the same banks that
7 created this crisis. Thank you for holding this
8 hearing and for taking action to maintain
9 foreclosure prevention funding. Thank you for the
10 opportunity to testify.

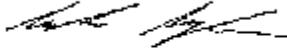
12 CHAIRPERSON VANN: Let me thank
13 you, and thank all of you really, for your
14 testimony. It's really been very clear, very
15 focused, very dramatic and empowering in many
16 ways, reaffirming really is what we must continue
17 to do. And we do intend to strongly urge our
18 governor to include this in the '12-'13 budget.
19 The legislature did include it, by the way, the
20 governor vetoed it, and he established this other
21 thing that we all know about. So, we hope to
22 bring it to his attention very forcefully, and I'm
23 sure our colleagues in the legislature will do the
24 same, so we hope to turn that around, because we
25 realize how important, how critical, those funds

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are for you to continue to do the work that you
do. So, again, thank you for coming. Thank you
for your participation. And the struggle
continues, and we'll continue to struggle on your
behalf. Take care. We are adjourned.

C E R T I F I C A T E

I, Erika Swyler certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature

Date 2/23/2012