

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONSUMER AFFAIRS

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October 6, 2009

Start: 1:00pm

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HELD AT: Council Chambers
City Hall

B E F O R E: LEROY G. COMRIE, JR.
Chairperson

COUNCIL MEMBERS:
Charles Barron
James F. Gennaro
G. Oliver Koppell
James Sanders, Jr.

A P P E A R A N C E S (CONTINUED)

Andrew Eiler
Director of Legislative Affairs
The Department of Consumer Affairs

Barbara Flynn
Chief of Staff, Intergovernmental Affairs
Housing Preservation and Development

Michael Hickey
Director
Center for New York City Neighborhoods

Lisa Parrington
Urban Justice Center

Cyrus Dugger
Staff Attorney, Foreclosure Prevention Project
South Brooklyn Legal Services
Legal Services of New York

Herman de Jesus
NEDAP

CHAIRPERSON COMRIE: Good

afternoon. My name is Leroy Comrie. I'm Chair of the Committee on Consumer Affairs. Today we'll be holding our first hearing on Introductory Bill 1070, a Local Law to amend the Administrative Code of the City of New York, in relation to Distressed Property Consultants. I'd like to begin today by acknowledging Council Member James Sanders, who is the prime sponsor of this legislation. Council Member Sanders, myself, and Council Member Tom White have the dubious distinction of representing three of the council districts hardest hit by the foreclosure crisis that is currently taking place. I'd also like to acknowledge my other Council Members who have joined us today; Council Member Oliver Koppell from the Bronx, Charles Barron from Brooklyn, and John Liu from Queens. Many homeowners who obtained adjustable rate and sub-prime mortgages during better economic times are now finding themselves in difficult situations as their interest rates have ballooned beyond a manageable point and their mortgages have exceeded the actual property value of their homes. Those on the brink of foreclosure frequently seek to

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2 modify the terms of their home loans in order to
3 stave off foreclosure and may need assistance to
4 successfully file a loan modification.

5 Foreclosure assistance organizations may attempt
6 to ease a borrower's burden by negotiating
7 adjustments with lenders such as lowered interest
8 rates, smaller monthly payments and reductions in
9 the remaining principal, or by changing an
10 adjustable rate mortgage into a fixed one.

11 Fortunately for those who are already experiencing
12 financial hardship, loan modification assistance
13 from a non-profit is usually free. Many for-
14 profit firms have emerged in recent years to meet
15 the growing demand of homeowners hoping to rework
16 their mortgages. Unlike non-profit agencies whose
17 services are often offered for free, these
18 individuals often charge a fee of between 1 and
19 1.5% of the total mortgage. Although legal, these
20 so-called foreclosure prevention specialists have
21 attracted numerous detractors. Critics say that
22 these individuals misrepresent their brand in a
23 way that would suggest that they are endorsed by
24 the government, going so far as to use names and
25 website designs that closely mimic legitimate

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2 government and non-profit service providers. They
3 have also been criticized for using exploitative
4 methods, which include scouring local foreclosure
5 filings and targeting people desperate to keep
6 their homes. Most significantly, however, these
7 firms have been criticized for their failure to
8 produce any tangible results, potentially leading
9 to the loss of a homeowner's time, money and
10 ultimately their home. A year ago, Governor
11 Patterson enacted New York's Distressed Property
12 Consultant Law, prohibiting consultants from,
13 number one, performing services without a fully
14 executed written contract with the homeowner;
15 number two, accepting payment prior to completing
16 services; number three, taking power of attorney
17 from a homeowner; number four, retaining any
18 original document relating to the property at
19 issue; and five, including homeowners to sign a
20 contract that does not comply with the new law.
21 The law also mandates specific language that all
22 distressed property consulting contracts must
23 contain, including, informing homeowners that they
24 may cancel the contract within five days of
25 execution with no penalty, and that they should

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2 consider consulting an attorney or government
3 approved housing counselor prior to signing such
4 contract. Intro 1070 seeks to strengthen existing
5 state legislation by regulating this industry's
6 advertising. It would mandate that every
7 distressed property consultant who advertises
8 their services disclose the terms of the state
9 law, including the prohibition on accepting money
10 prior to completing services and acting without a
11 written contract. The advertisements would be
12 required to include a statement that a homeowner
13 may call 311 to lodge a complaint against a
14 distressed property consultant or to obtain
15 additional information pertaining to foreclosure
16 prevention and assistance. I'd like to thank
17 everyone for appearing today. I'll now ask if
18 there are any of my colleagues that want to make
19 an opening statement. Council Member Koppell?

20 COUNCIL MEMBER KOPPELL: Mr.

21 Chairman, I apologize that I can't stay very long,
22 but I want to compliment the sponsor and the
23 committee for this legislation, which I've
24 reviewed. And I wish to be added as a co-sponsor
25 of the legislation. Thank you.

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2 CHAIRPERSON COMRIE: Thank you. At
3 this time then we'll have the first panel come
4 forward. From the Administration we have Andy
5 Eiler from the Department of Consumer Affairs;
6 Barbara Flynn, the Chief of Staff for
7 Intergovernmental Affairs for HPD; and Mr. Michael
8 Hickey, who is the Director for the Center for New
9 York City Neighborhoods.

10 [Pause]

11 BARBARA FLYNN: Good afternoon,
12 Councilman Comrie and members of the Consumer
13 Affairs Committee. I am Barbara Flynn, Chief of
14 Staff of Intergovernmental Affairs at the
15 Department of Housing Preservation and
16 Development, and sitting next to me are Andrew
17 Eiler, Director of Legislation from the Department
18 of Consumer Affairs; and Michael Hickey, Executive
19 Director of the Center for New York City
20 Neighborhoods. We are here today to discuss Intro
21 1070, sponsored by Councilman Sanders, Comrie,
22 Gerson and Nelson, and to share some ideas and
23 concerns about the legislation. We will also
24 present some mortgage foreclosure facts and
25 figures we have collected as well as some of the

1 public service initiatives that the administration
2 is creating and some already undertaken. The
3 mortgage foreclosure problem has grown
4 substantially in New York City over the last few
5 years. There were 13,215 Pendens filings citywide
6 in the first eight months of 2009. And just three
7 years earlier during the same time period there
8 were fewer than 5,500. Foreclosures have a real
9 impact on homeowners and renters by displacing
10 families from their homes, while neighborhoods can
11 face deterioration and destabilization due to
12 vacant properties and declining home values. Many
13 homeowners are afraid and embarrassed by their
14 circumstances and they may naively rely on the
15 first person that offers assistance, whether or
16 not that person is seeking a fee for their
17 service. We would further add that whatever one
18 calls the companies and individuals who take
19 advantage of vulnerable homeowners--distressed
20 property consultants, loan modification companies
21 or mortgage modification consultants--they may
22 often than not serve to destabilize our
23 neighborhoods and our economy. Over the first
24 eight months of this year, over 50% of all
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2 foreclosure filings in the City were in Jamaica,
3 Bellerose, Rosedale, Kew Gardens, Woodhaven,
4 Howard Beach, South Ozone Park and the North Shore
5 of Staten Island. As you know, this
6 administration and the City Council created the
7 not for profit organization, the Center for New
8 York City Neighborhoods, almost two years ago.
9 The Center continues to receive funding from the
10 administration, the Council and foundations and
11 includes some of our largest banking partners such
12 as Citibank, Deutsche Bank, and JP Morgan Chase.
13 The Center has community partners that provide
14 counseling, education and legal services to
15 homeowners at risk, in addition to loan
16 remediation. Homeowners can reach one of the
17 community-based organizations by calling 311 or
18 visiting 311 online. The Center has contracts
19 with multiple community-based not for profit
20 organizations throughout the City that provide
21 both Counseling and legal services to at-risk
22 individuals. There is no charge for any of these
23 services. Mr. Hickey and his staff testify at
24 hearings, attend community street fairs, HPD's
25 homeowners nights and the Mayor's Town Hall

1 meetings, all in an effort to get the word out
2 that we are assisting homeowners at risk of losing
3 their homes, and there is no charge for these
4 services. We are very concerned that companies
5 that prey on elderly or vulnerable city residents
6 should not be given any legitimacy and we
7 encourage homeowners to call 311, where they will
8 be directly to reputable and responsible
9 community-based not for profit providers, who will
10 not ask them for any payment for any services
11 provided. Finally, the administration is offering
12 some practical and immediate steps to help
13 homeowners at risk. While we do not want to
14 include 311 on distressed property consultants'
15 advertising, the Administration strongly supports
16 getting the 311 word out to as many people as
17 possible. The administration supports a
18 combination of enforcement and education and is
19 creating a public service awareness campaign that
20 you will start to see before the end of the month
21 on bus shelters and in flyers being distributed in
22 targeted neighborhoods, informing residents to
23 call 311 if they are having trouble paying their
24 mortgage. We have already launched a few
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1 initiatives informing the public that they should
2 call 311 for assistance. Thanks to your colleague
3 councilmen Lou Fidler, we have included language
4 on homeowners' quarterly statement of accounts
5 which tell homeowners that if they are having
6 trouble paying their mortgage to call 311, and
7 during September, City paychecks included a
8 sentence on the bottom of the check to call 311 if
9 you are experiencing financial trouble. While the
10 administration supports the concept of this bill,
11 you may also want to consider requiring that the
12 distressed property consultants specifically state
13 on their documents that they are a for-profit
14 company. Mortgage foreclosure scams are
15 troubling, not just for the homeowner who has been
16 taken advantage of and perhaps lost money, but for
17 the many dozens of not for profit organizations
18 who are working hard to protect homeowners, and
19 the banks and lenders who are also working with
20 the homeowners to renegotiate their loans, and for
21 our neighborhood and community stability. We hope
22 to work with you and the Center on this disturbing
23 problem of scam artists abusing our vulnerable
24 neighbors. Thank you for the opportunity to
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2 testify. The Department of Consumer Affairs will
3 now discuss their efforts to combat this
4 widespread problem, as well as some of their own
5 concerns regarding the proposed legislation.

6 ANDREW EILER: Good afternoon,
7 Chairman Comrie and Committee Members. I'm Andrew
8 Eiler, Director of Legislation for the Department
9 of Consumer Affairs. On behalf of Commissioner
10 Mintz, I thank you for the opportunity to appear
11 before you to comment on Intro 1070, regarding
12 distressed property consultants. I also thank my
13 colleagues who have broadly described the nature
14 and scope of the problems that distressed property
15 consultants pose for consumers facing the loss of
16 their most prized financial assets--their homes.
17 We agree with our colleagues that this predatory
18 industry poses a huge threat to those most in need
19 of assistance. As Commissioner Mintz testified
20 before the US House of Representatives Judiciary
21 Committee on April 1, 2009, the quote, shadow
22 industry aimed at profiteering from both the
23 enormity of the crisis and federal resources is
24 moving very aggressively and has brought in its
25 wake a tide of foreclosure prevention loan

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2 modification scams that are sweeping across our
3 cities and stripping those who can least afford it
4 of their last chance to save their homes and keep
5 their family finances stable. This shadow
6 industry, referred to as loan modification
7 companies, mortgage modification assistance or
8 more aptly foreclosure rescue scams, varies
9 widely. At their most outrageous, these are
10 outright criminals who engage in deep theft.
11 Others are con artists who offer homeowners
12 assistance in negotiating with lenders or help
13 refinancing, collect an up-front fee and then
14 simply disappear. The more pernicious component
15 of these scams is that these businesses dissuade
16 consumers from contacting their lenders or
17 servicers, thereby wasting opportunities for
18 homeowners to negotiate directly with their
19 lenders. By the time the homeowner realizes the
20 swindle, generally too much time has elapsed for
21 the lender or servicer to modify the loan.
22 According to Commissioner Mintz, even the less
23 fraudulent companies can be just as costly and
24 dangerous, convincing struggling homeowners to pay
25 for a service that ultimately has no value. With

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2 millions of dollars streaming into HUD certified
3 counseling organizations and free legal services
4 provided throughout the Country, there is simply
5 no reason for a homeowner behind on mortgage
6 payments also to pay someone precious dollars to
7 contact a lender on his or her behalf. The City's
8 position is that the only relief that fully
9 protects consumers is banning this practice of
10 providing distressed property consulting services
11 for a fee. This industry has no redeeming
12 features that would make it possible to cure it
13 defaults with disclosure. As Commissioner Mintz
14 informed the House Judiciary Committee on behalf
15 of the City, there is no reason for distressed
16 property owners to pay unqualified for-profit
17 actors to negotiate with their servicers or
18 lenders on their behalf. No for-profit enterprise
19 is better positioned than a qualified not for
20 profit HUD counselor or attorney acting in a legal
21 capacity, or an individual homeowner, to work with
22 a mortgage servicer. This includes mortgage
23 brokers, some of whom have reshaped their business
24 from sub-prime mortgage swindles to foreclosure
25 rescue scams. Akin to the banning of fee-based

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2 debt counseling services in New York, these
3 abusive scams can be curbed immediately with the
4 enactment of a simple ban on fee-for-service
5 foreclosure prevention businesses. While we agree
6 with the City Council's concern about the industry
7 and applaud its efforts through Intro 1070 to
8 shine a spotlight on the shadow industry,
9 requiring distressed property consultants to
10 disclose in their advertising units restrictions
11 imposed on them pursuant to section 265 B of the
12 New York Real Estate Property Law, in other
13 measures it just doesn't go far enough. The
14 Department joins our colleagues in expressing
15 concern that the proposed relief is inadequate to
16 address the predatory practices it seeks to curb.
17 As Commissioner Mintz noted in his testimony, this
18 shadow industry thrives for three reasons all too
19 familiar to consumer protection agencies. First,
20 the intense demand for loan modifications; second
21 a captive, vulnerable and often unsophisticated
22 population; an third, the lack of a single, clear,
23 trustworthy and tamper-proof source to which
24 people can be directed to as their sole source of
25 help. We agree with our colleagues that the City

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2 should not further legitimize this industry by
3 allowing these untrustworthy entities to use 311
4 on their advertisements. The proposal to include
5 a public service announcement in promotional
6 material for predatory products is likely to be
7 counterproductive. It mixes a positive message
8 with a swindler's pitch, which raises a sense of
9 distrust, and this detracts from a public service
10 message. In addition, we believe that the general
11 description of legal rights proposed for inclusion
12 in advertisement is not a sufficiently bright line
13 warning to signal consumers to reach an immediate
14 decision to steer clear of the service. Similarly
15 we believe that the City should not appear to be
16 vetting this industry by listing bad players on
17 DCA's website. The Sanitation Department's
18 experience with enforcing the law, prohibiting the
19 defacement of public property by the posting of
20 flyers is a clear measure of the danger of such
21 listings to warn consumers about bad players.
22 Since January 2009, inspectors have removed 172
23 signs that distressed property consultants have
24 posted on public property, yet the Department has
25 been unable to identify 64 that would be issued

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2 violations. As this experience demonstrates, no
3 enforcement would be able to track and catch the
4 fly by nights whose cell phone numbers appear on
5 the advertisement, tacked to trees and lampposts,
6 hung on doorknobs or shoved under doors. Because
7 the Department would be unable to identify and
8 make findings on all such businesses that violate
9 the law, these violators would never be listed.

10 Lulled into a false sense of security, consumers
11 would then assume that the services of a company
12 not listed as a bad player were safe to use.

13 There are also technical issues regarding the
14 language of the bill that would need to be tweak,
15 such as the definition of what comprises a unit or
16 units of advertising spaces, which requires
17 disclosures. The bill as currently written leaves
18 entirely unclear and ambiguous exactly what kinds
19 of promotional materials would be required to
20 contain the contemplated disclosure. We support
21 and commend the kinds of targeted education
22 initiatives already outlined by our colleagues.
23 Commissioner Mintz suggested in his April
24 testimony that cities use municipal 311 and 211
25 systems as the single source to which consumers

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2 are directed to legitimate counseling and rescue
3 resources through a national public awareness
4 campaign with a single call to action, call 311--
5 just the kind of citywide campaign that our
6 colleagues from HPD has described. The work of
7 the Department of Consumer Affairs Office of
8 Financial Empowerment also reflects the ongoing
9 commitment of the City to provide appropriately
10 for those on the brink of foreclosure. Our
11 financial empowerment centers located throughout
12 the City offer free one on one confidential
13 financial counseling in both English and Spanish
14 to individuals and families in financial crisis.
15 Our robust and comprehensive financial education
16 network of the City's legitimate providers, of
17 financial education workshops and counseling
18 opportunities, is available online in a
19 searchable, accessible database or by calling 311.
20 It was especially designed to offer options to New
21 Yorkers who may prefer to choose from a range of
22 free assistance. The Department also developed
23 several plain vanilla banking products with no
24 fees and no overdraft charges available to all New
25 Yorkers. In addition, the Department implements

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2 the Mayor's Tax Credit Public Awareness Campaign,
3 now in its eighth year, to help put real and
4 substantial dollars back into the pockets of those
5 New Yorkers who qualify for Earned Income Tax
6 Credit and the City's Child Care Tax Credit. That
7 campaign's single call to action has always been,
8 call 311. We commend the Council for seeking to
9 protect consumers from distressed property
10 consultant scams the foreclosure crisis has
11 created and thank the Council for the opportunity
12 to comment. I would wholeheartedly support the
13 enactment of a ban on this industry with the
14 appropriate enforcement mechanism needed to make
15 it viable. We look forward to working with the
16 Council on ways to better address curbing this
17 troublesome and predatory industry.

18 [Pause]

19 MICHAEL HICKEY: Thank you Chairman
20 Comrie and Councilman Barron and other members of
21 the Committee. Rather than read my comments into
22 the record, which although they're insightful and
23 scintillating would really kind of repeat what my
24 colleagues from HPD and DCA have already said, I'd
25 just like to highlight a few points from the

1
2 testimony itself. The Center for New York City
3 Neighborhoods is a non-profit intermediary
4 recently created. We're an independent 501 3C.
5 We're supported by the City Council, by the
6 executive budget, by private funders both from the
7 philanthropic sector and financial institutions
8 locally, regionally and nationally. Our job is to
9 provide free housing counseling and legal
10 services; that's our primary work. We started
11 that a year ago, July. Since then we've seen over
12 5,000 people and offered them counseling, legal
13 services, budget planning and help them submit
14 modifications to lenders and servicers. Part of
15 the work that we do is capturing a lot of
16 information about the folks that we see. When
17 they call 311 they get kicked over to our call
18 center; we ask them questions. One of the things
19 we always ask--are you paying someone to help with
20 your mortgage. What we've seen is actually a very
21 small percentage of the people that come through
22 311 are caught up in these scams. About five
23 percent tell us that they have paid somebody to
24 help them out. Anecdotally that's borne out when
25 we ask that question of--we have 30 non-profit

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2 members. We ask them, how many people coming
3 through your doors are involved with these
4 scammers. They say again, it's a relatively small
5 percentage, around five percent. What we did want
6 to do is we looked at the records that we have.
7 We pulled 40 of those reported scams, just kind of
8 look to see what the content of them was. I
9 wanted to talk about that in the hearing. Fees
10 ranged anywhere from \$500 from an individual who
11 said he worked for JP Morgan Chase and just wanted
12 someone to pay him \$500 to help them out, of
13 course they never heard from him again--to someone
14 who was actually charged \$10,000 for a scam. As
15 soon as we heard that we referred them to the
16 District Attorney's office. But you can see the
17 very wide range. The average or median cost of
18 these interventions, you know, purported
19 interventions, is about \$2,400. So it's a very
20 significant amount of money for someone that's
21 really probably in a very deep economic bind. 75%
22 of the purported specialists in our records are
23 unique, meaning that they're not duplicates. We
24 haven't seen the name before. So we suspect that
25 really what this says is it's a very fragmented

1 industry; it's very mom and pop oriented. It's
2 going to be hard to kind of find those people and
3 have them held accountable. About a third are
4 from out of state, 95% are from outside of New
5 York City. So we have a problem with people that
6 are making their business by coming in from other
7 localities, again very difficult to track them and
8 enforce them. According to the callers, 75% of
9 these entities are not actually achieving any
10 outcomes. Okay, they pay them the cash--they
11 either never hear from them again or they say
12 they're busy, they'll get to it but they're
13 basically getting put off. And as my colleagues
14 have said what that really does is delay the
15 ability to provide an intervention for these
16 folks, in addition to costing them money. And
17 that could be very, very serious. It could have
18 the impact of moving them into foreclosure. And
19 finally two-thirds of the callers that came
20 through with these purported specialists we've
21 automatically referred to legal services because
22 they were already in foreclosure. I a very high
23 number of these people are in very desperate
24 circumstances; that's probably why they're
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2 agreeing to this support in the first place, but
3 they're also the people who can't afford to delay
4 and can't afford to spend the money the most. In
5 terms of the recommendations of my colleagues, we
6 certainly agree. It would be great if we could
7 just ban these activities outright. I understand,
8 you know, why that's complicated to do.

9 Definitely the harder we can make it for folks to
10 do this kind of bad business, the better. And I
11 think better defining what we mean by marketing to
12 include everything, you know, you've seen the late
13 night television ads; you've heard the stuff on
14 the radio. In addition to the flyers and the
15 mailing and all that stuff, there's a lot of ways
16 that people are being bombarded with information
17 from these folks. The robo-calls, all that stuff;
18 it would be great if there were some message on
19 all those that said, oh, by the way there's free
20 resources available from local, qualified non-
21 profits that you can access. And finally, as much
22 as I'd like to say that using them as a venue to
23 kind of counter-market would be a viable solution,
24 really among the colleagues that I've spoken to in
25 the field, we think it will be marginally

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2 successful. We're far more interested in creating
3 proactive marketing strategies. The resources
4 that we have right now are of course dedicated
5 mostly to surface provision. We think that's
6 where they should be focused; just making sure
7 that there's counselors and legal service
8 providers out on the streets who can do the work.
9 But additional resources to actually help us
10 compete with those many, many voices that are out
11 there and really use things like this platform of
12 the PSA campaign around 311 are far, far more
13 effective and far more valuable, and that would be
14 the primary issue that we would advocate for in
15 terms of an intervention. Thanks.

16 CHAIRPERSON COMRIE: Okay. I want
17 to thank all of you for testifying today. And you
18 pretty much have laid out a compelling argument
19 for working to ban these types of businesses
20 altogether. But since you say that mostly--95% of
21 the businesses are not physically located in New
22 York City and it was my understanding, because it
23 was my first desire to ban this type of business
24 all together--do you have a suggestion on what
25 could be done to ban it altogether other than

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doing a major PSA campaign, which I'm fully in

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favor of and like to support and hopefully be

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there when you do the roll out on that campaign as

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well?

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MICHAEL HICKEY: Probably from the

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City level I think banning it is not an option.

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Really we have to compete with it.

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CHAIRPERSON COMRIE: Okay.

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MICHAEL HICKEY: So that's what we

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would advocate for.

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CHAIRPERSON COMRIE: Right.

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Because it was my understanding that we didn't

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have the authority to do the ban. It would have

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to be the state or federal that could do that.

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That's why we were trying to do the highlighting

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of it by having this hearing and by notifying

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people and, as you know, Michael, I've tried to do

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as much as I can in the community, let people know

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that people are being charged for this service--

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they should run away before they pay any money.

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And, you know, I think that clearly trying to

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identify these businesses and highlight them in

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some public manner as a bad player I think is

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incumbent on us as well, and working in tandem to

1 do that. And if we can do that through the City's
2 website or through your website that you're using,
3 the Center for New York City Neighborhoods, I
4 think it would be very helpful, so that we can let
5 homeowners know. And as much as we can do to
6 expand the program so that we can get more
7 providers that can come in the community and
8 actually do the door-to-door links. And since a
9 lot of people are doing--as was said I think by
10 either you or Andy--doing actual searches for
11 people that are in distress to identify them and
12 cold call them and coerce them into trying to
13 purchase their product, which over two-thirds of
14 the time leads to them only being in further
15 distress, I think would be important. So, I don't
16 disagree with you that we need to ban them. I
17 would hope that at least highlighting this
18 practice by doing PR and public notification could
19 be helpful. I think that, you know, we did
20 propose this legislation because it was similar to
21 the regulation that we did regarding payday
22 lenders, which I think has been somewhat helpful
23 to try to push back on that process. And we
24 wanted to find some type of way to continue to
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2 raise New Yorkers' awareness about what they put
3 themselves into. So, do you have any other ideas
4 on what we could do to regulate or restrict the
5 actions of these predatory lenders that are now
6 claiming to be foreclosure specialists, or
7 foreclosure relief specialists or foreclosure
8 prevention specialists or whatever they're calling
9 themselves? Is there anything else that the City
10 is planning in the next couple of weeks to do
11 that?

12

MICHAEL HICKEY: I will just say
13 that there's been a lively conversation around
14 this idea of licensing these folks. We have
15 actually not supported that concept because we
16 think the net result would be that they would
17 legitimize them more than kind of corral them.

18

CHAIRPERSON COMRIE: Right.

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MICHAEL HICKEY: I will mention
20 that--and as a matter of fact Barbara mentioned it
21 as well--one of the great things we did is we
22 actually included information about reaching 311
23 if you're at risk of losing your home, and all the
24 tax notices that the City has mailed out. You
25 know, the Center has done a lot of marketing.

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2 We've done press events with the Speaker, with the
3 Mayor; we've done letters and cold calls. The
4 single most effective intervention has been that
5 notice. When people see their tax bill and it
6 says call 311, numbers in our call center jump up.
7 So other opportunities to kind of seed official
8 communications from the city, particularly at
9 people who are homeowners are terrifically
10 effective interventions. I'd be happy to partner
11 with you on any of that. And I will also mention
12 that the Center makes cold calls, that we use the
13 same technique that these foreclosure rescue
14 specialists do; we pull down filings of those
15 pendens notices and we have the extra advantage of
16 we actually get the notices from the Courts. When
17 they file a foreclosure action against someone
18 they send copies of those notices to us and we use
19 that contact information to try to reach these
20 folks. Almost, we never get phone numbers. We
21 always have to do reverse engineering to try and
22 find a phone number on folks. So we get a
23 fraction of a fraction that actually come back to
24 us and seek services. So again, we've tried a lot
25 of strategies, we're going to continue with those.

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2 But mostly what we just need is to market, market,
3 market.

4 CHAIRPERSON COMRIE: In Queens also
5 we have a lot of homeowners that are reluctant to
6 travel to get to services, and it's important that
7 we try to get Queens-based providers or providers
8 that can come out to do the intervention
9 necessary. And as you know, there's also a multi-
10 level need, because most of the people that are in
11 the foreclosure crisis are also in jeopardy with
12 their other utilities or services as well. So I
13 just wanted to know if you had gotten a report
14 from the centers that Catholic Charities set up,
15 and how are those centers working out? Catholic
16 Charities set up a--I'm forgetting the title of
17 it.

18 MICHAEL HICKEY: The home-based
19 program?

20 CHAIRPERSON COMRIE: Yeah, the
21 home-based program. And they put together a new
22 program that's right based in Jamaica down at
23 Hillside and Merrick Boulevard. And they said
24 that they're bringing in the banks, your office
25 and other offices to try to do that joint relief.

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2 And have you gotten any feedback from them on how
3 that's working?

4

MICHAEL HICKEY: Okay.

5 Commissioner Mintz actually just joined the Board
6 for the Center for New York City Neighborhoods,
7 which is great. He sits there with Commissioner
8 Sistero, and Lou Fidler is also on our board. So
9 we have a very deep connection with the Department
10 of Consumer Affairs and particularly with the
11 Office of Financial Empowerment, which really put
12 this Center in place. It's just up and running
13 now and unfortunately it's somewhat limited in
14 terms of its capacity. It just has one or two
15 folks that are providing these additional
16 resources.

17

CHAIRPERSON COMRIE: Right.

18

MICHAEL HICKEY: We have very
19 aggressively pursued providing supports to Queens-
20 based organizations, a number of whom already
21 operate actually in both your districts. And if
22 you'd like I can certainly follow up with you
23 later and give a list of the folks who are
24 actively providing service there. As a matter of
25 fact I'll just go ahead and do that and I'll send

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2

you the contact information for them.

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CHAIRPERSON COMRIE: Great.

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MICHAEL HICKEY: But those

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organizations, we chose them because we wanted

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people to have local access to those resources.

7

One other thing--yeah, go ahead.

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ANDREW EILER: We just want to

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point out that one of--our FEC office is located

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there, so they're providing that kind of service

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and information. So there's outreach going in

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different ways. So yes, we're all attuned to it.

13

CHAIRPERSON COMRIE: Okay.

14

ANDREW EILER: One of the things

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that I might--is the point on reaching people who

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are getting in to this kind of trouble, the

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earliest and fastest they could be reached is the

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best. In other words, when people begin to have

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trouble paying their credit in any form

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whatsoever, the last thing becomes the mortgage,

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but the first things becomes other stuff. So if

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there's a way that could be used to identify when

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people are becoming financially distressed and

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then have positive outreach to those individuals

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at the earliest possible time would be the best

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2 way or the way to really begin to provide
3 effective intervention that would be most useful
4 to people, rather than waiting until they're neck-
5 deep in water and then try to throw, you know, a
6 broken reed to them to get them out; that's very
7 difficult. So the earliest--that's something that
8 we might want to certainly explore, is how we can
9 bring this kind of intervention to people at the
10 earliest possible stage.

11 CHAIRPERSON COMRIE: Yes. That's
12 what I was saying also. So if it's possible to
13 link up with the utility companies, because that
14 would give you a good early indicator. Also I
15 know that there is a link with the water board to
16 some degree to let folks know. And also dealing
17 with the Department of Finance with the tax
18 payments. And if there's a possibility to expand
19 and maybe bring in the utility companies into the
20 Office of Financial Empowerment or through the
21 Center for New York City Neighborhoods, I think
22 that would be a good thing. Just back to--you
23 know, since everyone is saying we should work to
24 ban these folks altogether, has there been any
25 proposed legislation from Albany or to Albany

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regarding a direct ban on this industry? Or is that something we could craft together quickly so that we could take it to Albany for their next session?

ANDREW EILER: I'm not aware--the legislation that was enacted last year, of course, has stuff in it about regulating the practice, as has been done in a number of other states. And there's nothing that I know of right now. But we should definitely--our recommendation is to explore every possible way to reach that ban. Because this is a kind of an industry that, you know, regulation is not the answer. They're not providing anything that people can--except taking people's money. This really is exactly the same kind of industry as the debt management companies used to be. In the 1950s Attorney General Lefkowitz spearheaded the effort to ban the providing of debt management services. Now I'm talking about people who took money from consumers and then supposedly paid off creditors and tried to settle things and so forth and so on, not people who didn't take money and tried to rearrange debts, but people who took consumers'

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2 money. What they would do is take a big cut of
3 the money that consumers gave them and very little
4 ended up going to creditors. And so in the 1950s
5 this kind of practice was banned; it was just made
6 illegal. And this is the kind of thing that this
7 predatory practice of these scam artists who are,
8 you know, talking about redoing mortgages and so
9 forth--it's essentially the same practice, so they
10 should be treated in exactly the same way.

11 MICHAEL HICKEY: Can I just add
12 that this City in Fiscal Year '10 committed a
13 total of, well, with rollovers about \$3.5 million.
14 We've essentially doubled that with funds from the
15 private sectors. The State through DHCR committed
16 \$25 million last year. It looks like they're
17 going to be okay to release another significant
18 RFP within the next couple months. Tremendous
19 amounts of money are being poured into providing
20 free, local, non-profit and qualified housing
21 counseling and legal services. It really makes
22 you wonder why this industry exists at all except
23 to circumvent those resources, for the benefit of
24 the, you know, people that are pulling in the
25 cash.

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2 CHAIRPERSON COMRIE: Council Member
3 Barron has some questions.

4 COUNCIL MEMBER BARRON: Yes. Thank
5 you very much. I'll definitely talked to
6 Assemblywoman Inez Barron, and see if we can look
7 at some of the past legislation that did ban that
8 practice you just spoke of, and maybe we can get
9 something started in Albany. So I'll definitely
10 address it with that. I wanted to know if any of
11 you spoke to the Mayor about his overriding our
12 predatory lending bill in 2002, which would have
13 prevented a lot of these homeowners from being
14 into foreclosure in the first place? We had one
15 of the strongest predatory lending bills in the
16 nation. And not only did the Mayor override it in
17 2002--I mean veto it. We overrode his veto, then
18 he took us to court and said this was a state
19 thing and said we couldn't do this. Shortly after
20 that there was a flood of foreclosures and people
21 were kind of unprotected. So I wanted to know,
22 did you talk to your boss and ask him why did he
23 do such a thing like that in 2002 when we could
24 have protected these very people that we're trying
25 to protect from those scams?

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MICHAEL HICKEY: In 2002 I'm afraid I wasn't--

COUNCIL MEMBER BARRON:
[Interposing] Well you can speak to him now. That's okay.

MICHAEL HICKEY: Yeah.

COUNCIL MEMBER BARRON: You can still talk to him now.

MICHAEL HICKEY: I'd be happy to straighten him out.

COUNCIL MEMBER BARRON: Yeah, you can still straighten him out, even though you weren't a not-for-profit then, you can get him now. You want his number or anything? Because I have the number to his home.

MICHAEL HICKEY: I'd be happy to drop him a line.

COUNCIL MEMBER BARRON: Yes.

MICHAEL HICKEY: His number is listed, right?

COUNCIL MEMBER BARRON: Yes. He lists his home number. So you can even call him at home about it if you'd like.

ANDREW EILER: Well I don't usually

1
2 have those conversations, but I recall that
3 legislation, not in great detail, but the way it
4 was crafted was an issue in terms of how the City
5 could effectively piggyback on top--or dealing
6 with financial institutions and how that leverage
7 would work. And I think there were some issues
8 involving that and that's where the pitfalls were.

9 COUNCIL MEMBER BARRON: That's a
10 neat out. That's very good. You did your
11 legislative job. But no, that wasn't the real
12 issue. We protected them from balloon payments;
13 we protected them from exorbitant fees that should
14 not have happened. It was far beyond that. It
15 was the interest class that the Mayor was more
16 interested in protecting than the working class.
17 But moving right along; that's not a part of this
18 hearing. I am concerned about something though,
19 the not-for-profits. You know we focused a lot on
20 the for-profits. But in my community, in East New
21 York, there are a lot of not-for-profits charging
22 fees as well, and charging monthly fees. Like
23 even if it was not the \$500,000, \$5,000 or \$500,
24 but sometimes \$60 a month. And these were not-
25 for-profits coming in and saying that we'll assist

1
2 you in this process to deal with your foreclosure
3 and deal with securing the right loans and things
4 like that. But even some of these not-for-profits
5 are charging fees. So I was wondering if there
6 was any evaluation of the not-for-profits that
7 come in? And while you can charge a fee and make
8 a profit as long as it goes back into the company.
9 But I saw a lot of that happening in my district,
10 that not-for-profits were coming in and charging
11 fees as well. Did you know anything about that?

12 ANDREW EILER: Well the not for
13 profit debt services that were allowed, and
14 they're supposed to be licensed under the state
15 banking department, and they're supposed to review
16 their conditions or financial situations and so
17 forth and so on. And they are supposed to charge,
18 I believe, a nominal fee. I mean they're not-for-
19 profit, they're not supposed to be out to make
20 money, but they do have a basis for charging some
21 fee. If I recall, this goes back a long, long
22 time when I first got into this consumer
23 protection profession. I had discussions with
24 people in Michigan who were doing this debt
25 servicing. And one of the reasons they came to

1
2 say it was important, although they waived their
3 fees, it was important to pay some fee, is because
4 they were finding that if a consumer didn't pay
5 anything and the service was totally free, then
6 basically they didn't take it seriously. If they
7 had some stake in it, they would take it more
8 seriously as something they would need to do. So
9 they came up with the possibility of doing nominal
10 fees for this kind of service. But the fee is not
11 supposed to be something that is taking a lot of
12 money out of the consumer, but just something that
13 makes it into a credible service. So there's some
14 foundation for having some fee for the service,
15 but not the kind of outrageous stuff that's being
16 charged for doing nothing. That's a wholly
17 different thing. Now--

18 COUNCIL MEMBER BARRON:

19 [Interposing] But see this is a different time and
20 with this economic crises, people are already
21 paying dearly.

22 ANDREW EILER: Right.

23 COUNCIL MEMBER BARRON: So when
24 they get these kind of services that they can be
25 rescued; if it's free, trust me bring it to East

1
2 New York. They will take it seriously and they
3 will not be needing a fee to get serious about
4 assistance in helping you out in a foreclose
5 situation.

6 ANDREW EILER: I think you're
7 absolutely right. Given the crisis and the
8 government at every level trying to, you know, do
9 something constructive, yes, I think at this point
10 for these kind of foreclosure situations, there's
11 no need for government-backed services to be
12 charging a fee.

13 COUNCIL MEMBER BARRON: Right.

14 ANDREW EILER: I mean, you know.

15 BARBARA FLYNN: Let me just add one
16 thing. On the public service announcements that
17 we're going to be doing, some of them will be in
18 your neighborhoods.

19 COUNCIL MEMBER BARRON: Very good.

20 BARBARA FLYNN: The flyers will be
21 given to churches and not for profits and--so
22 hopefully you see it.

23 COUNCIL MEMBER BARRON: And any
24 assistance you need with that, I know all the
25 major churches and stuff. Our office would be

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2 glad to assist.

3

4 BARBARA FLYNN: Great and we can
give you flyers as well.

5

COUNCIL MEMBER BARRON: Absolutely.

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7 MICHAEL HICKEY: Councilman, as far
as I know none of the members of my network are
8 charging fees, and if they are, we would have some
9 strong counsel for them.

10

COUNCIL MEMBER BARRON: Okay.

11

12 MICHAEL HICKEY: I'm also fairly
confident that none of the members of the network
13 supported by the state through DHCR are charging
14 fees for any type of homeownership counseling.

15

16 COUNCIL MEMBER BARRON: I'll give
you a list of those and you give me your list and
17 we'll see how it matches.

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19 MICHAEL HICKEY: I would very much
like to know who they are.

20

21 COUNCIL MEMBER BARRON: I can name
the companies that--

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23 MICHAEL HICKEY: [Interposing] I
would like to know.

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25 COUNCIL MEMBER BARRON: --
corporations that do that. Thank you very much.

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CHAIRPERSON COMRIE: Thank you.

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Michael, you said DHCR is getting ready to do a

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second round of RFPs regarding it. And when is

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that RFP supposed to go out?

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MICHAEL HICKEY: You know, the last

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time I spoke with my contact there she said she

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was hoping to release that RFP within the next 30

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to 60 days. You know, they're trying to make sure

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that they have clearance from the budget office

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before they commit the funding.

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CHAIRPERSON COMRIE: Well let's

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hope the state's budget stabilizes where they

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don't have to worry about taking that money also.

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MICHAEL HICKEY: I think everybody

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considers it a priority.

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CHAIRPERSON COMRIE: Right.

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MICHAEL HICKEY: And I think

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there's good momentum to maintain the funding.

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CHAIRPERSON COMRIE: Right. And

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just on another question, regarding the ability to

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do the refinancing or to sit down with the banks

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at the Court level. Has there been more

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cooperation with the Court Administration Office,

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Court Administration, as far as doing

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2 restructuring meetings? Or is there still a large
3 backlog of settlement opportunities? I don't know
4 if I'm using the right technical terms, but I'm
5 getting reports back from the non-profits that are
6 affected that they're getting stuck in the
7 settlement process because they're not being able
8 to get their hearings done.

9 MICHAEL HICKEY: Right. I'm sorry.
10 What the Councilman is referring to is there was a
11 state law that was passed at the end of 2008,
12 which requires somebody who is in foreclosure to
13 have a settlement conference, a meeting with their
14 bank to try and negotiate an outcome rather than a
15 foreclosure. We actually just completed a study.
16 We looked at 800 of those conferences in June and
17 July. We're just about to release the results of
18 that study and I'll make sure everybody on the
19 Council gets a copy of it. It should, with any
20 good fortune, it w will come out in the next week
21 or so.

22 CHAIRPERSON COMRIE: You can't--

23 MICHAEL HICKEY: [Interposing]
24 Generally I can say a couple of things about it.

25 CHAIRPERSON COMRIE: Right.

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2 MICHAEL HICKEY: You know, there
3 are multiple parties in this. We're very
4 concerned, not just with how the courts are
5 interacting with this process but how the banks
6 are interacting with it. Obviously we're
7 disappointed. It appears to us that the banks are
8 not taking the process of attending these
9 conferences very seriously. They don't seem to
10 come prepared. They don't seem to come with the
11 proper authorization to negotiate and they
12 generally are more interested apparently in kind
13 of delaying or avoiding the conferences than
14 engaging in them. Our concern with the Courts,
15 and we've had many conversations with the Office
16 of Court Administration, Judges Fout [phonetic]
17 and Judge Fisher have actually been very receptive
18 to our concerns. We're concerned that the courts
19 are not providing kind of deeper enforcement of
20 the obligations of the law on the banks. And
21 we're working with them to try to craft rules and
22 procedures that would give a little bit more bite
23 so that there's a greater incentive for the banks
24 to comply.

25 CHAIRPERSON COMRIE: So you're

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2 getting cooperation from the administrative end
3 from the Office of Court Administration.

4 MICHAEL HICKEY: Those have been--
5 we actually just met with a committee of the
6 administrative judges about two weeks ago to
7 discuss these issues. And they're in the process
8 of drafting some rules, which they've told us they
9 will provide to us for comment.

10 CHAIRPERSON COMRIE: And are they
11 willing to get training from your office so that
12 they can be better versed in what to expected when
13 they are approached by all of the parties that are
14 involved then?

15 MICHAEL HICKEY: Legal Services of
16 New York City and NEDAP [phonetic] have already
17 been involved in training. In Queens and in
18 Brooklyn that training has clearly made a
19 difference. I think the Administrative Judges in
20 the Bronx and Staten Island are certainly open to
21 that training, and it's clear to us that OCA is
22 open to the training concept in general.

23 CHAIRPERSON COMRIE: Right. Well
24 that's good news. Well we've been joined by the
25 sponsor of the legislation, Council Member James

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Sanders. And he has a statement and some questions.

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COUNCIL MEMBER SANDERS: Thank you, Mr. Chair. I thank you for your hearty endorsement of this legislation. Of course you have and so does my colleague here, have every reason to be. We perhaps are the most devastated parts of New York City with predatory lending and it's good to see you again. But I was reminded of a movie when you were speaking, sir, one of my favorites.

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MICHAEL HICKEY: Did I look really handsome in it?

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COUNCIL MEMBER SANDERS: Absolutely. In fact you were one of the leading roles in it, as a matter of fact. The movie is of course Casablanca. And it was a period where one of the people was saying that he was shocked, shocked that there was gambling taking place in the establishment. And it reminded me, why are we shocked today on these things? Why are we shocked that the banks have no intention of doing right? You have to excuse my fervor, sir. I'm really tired of looking into the eyes of mothers and

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2 telling them that there's absolutely nothing that
3 anyone can do or is willing to do to help save
4 their homes. And all we are doing, even with this
5 great bill, is tinkering at the edges, giving
6 aspirin to cancer, as our communities go further
7 and further down the drain. And this has nothing
8 to do with you here, of course. As I have stated
9 many times, this will be the greatest loss of
10 black land since the end of the Civil War. This
11 will be the greatest loss of Latino Land since the
12 Mexican American War, and the greatest loss of
13 Asian Land since the interment camps that we have
14 seen in World War II. We are at an incredible
15 crisis. Land of course equals wealth. It has
16 been the number one way that communities have
17 developed wealth and created a middle class in
18 America since the birth of this country. And
19 we're still tinkering with things. Of course the
20 banks--let's be clear. Can at least in this room
21 we be honest with ourselves? The banks have no
22 intention of doing anything except riding the
23 storm out. They intend to let you guys talk
24 yourselves blue or whatever you want to get, and
25 they will do nothing and they will come and they

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2 will nod and we will do great reports and we will
3 do important studies to show that they have no
4 intention on doing anything. And why are we
5 shocked at this when the City Council, to its
6 credit, came up with Local Law 36 of 2002? We saw
7 this crisis coming. This is not a strange drop
8 from the sky, no one saw anything--we saw it. And
9 the people at this table, to their credit, were
10 some of the strongest proponents. I was the prime
11 author of that one too, where we said and we
12 created a law that simply said, banks, you cannot
13 lend money to people who can't pay you back. That
14 was the essence of the bill. There was nothing
15 more to it. The only other thing was it said, if
16 you do you can't do business with the City. That
17 was it. Now wait a minute. Isn't that good
18 banking? Isn't that the thing that banks--lending
19 money. Could it be possible that these banks have
20 figured out a legal swindle where they will lend
21 you money to buy a house where they know you can't
22 pay it back, and then when you have gone through
23 all of your resources they'll take it from you and
24 sell it to you and you and you, and continue that.
25 Could it be? Of course our banks would never do

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2 such a thing, nor would their influents in these
3 mortgage companies do the same. We saw it coming.
4 We wanted the administration to be with us on that
5 one. It is sad that the administration was not
6 with us on Local Law in 2002. As a matter of
7 fact, it led the charge in overturning that law.
8 Let the truth be the truth. Let the truth go
9 wherever it has to go. So why are we so shocked
10 and surprised that we're here now and we're coming
11 up with a worthy bill. It's worthy. But faced
12 with what we are dealing with. In once sense, and
13 I'm the author, I too should be ashamed of myself.
14 This is the best that we have come up with to
15 protect the people of New York City. And while I
16 admire that we are having a very worthy
17 conversation, should we charge little or should we
18 charge none should be very worthy conversations.
19 But I urge you--you should not be responding to
20 legislation. You guys should be leading this
21 battle. You guys should be absolutely at the
22 forefront in leading and putting the City Council
23 in the dust on protecting the people of New York.
24 We simply are not, and at least in this room,
25 until the ceiling comes down we should tell the

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2 truth as we understand it. Now I urge you, my
3 friends, do not respond to what I just said. It's
4 kind of nice to sit in those chairs, and I urge
5 you not to respond to it. Because the response
6 will only bring more questions and those questions
7 might not reflect well upon us. So I'll give us
8 an honorable way out and I'll bring us back to
9 this great subject before my chair hits me with
10 that mallet for taking too long--only for taking
11 too long. And it seems to me that the essence of
12 the question that you have raised is, and I'm late
13 and I apologize for that, should we ban this
14 outright, the policy of charging any fees or not.
15 And to that I would just say, there's merit on
16 both sides. If they were charging a reasonable
17 fee, especially for a non-profit, it may be a
18 useful thing. But there certainly is merit on
19 both sides, and I look forward to more of the
20 argument. And that is my honorable way to move us
21 all and keep us on track. Thank you, Mr. Chair.

22 CHAIRPERSON COMRIE: Thank you.

23 We've been joined by Councilman Jim Gennaro from
24 Queens, a member of the Committee. I just want to
25 thank the panel also for being here this afternoon

1
2 and giving us your ideas. I hope that we can--we
3 can quickly come up with some state legislation to
4 look to ban these groups altogether. And since,
5 as you've identified, most of them are not in the
6 City but are doing business or putting up
7 notification that they are working through the
8 City and using cell phone numbers and other
9 temporary numbers, I think we need to look for
10 some federal legislation as well and hopefully we
11 can be at the forefront of presenting that. And
12 again, I would like to also encourage you, when
13 you get ready to do the 311 roll out, to please
14 let us know so that we can make sure all of our
15 local groups are aware of it and we can do local
16 presentations as well. I think that that's
17 something that I know every church in my district
18 would like to be aware of and every major civic
19 group would like to be aware of as well.

20 BARBARA FLYNN: Sure. And we can
21 get flyers to each of your offices, to the Council
22 Members' offices.

23 CHAIRPERSON COMRIE: I'd like to
24 make sure that we're all part of the initial roll
25 out to some degree, if we cannot make the actual

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2 press conference event, but to definitely be able
3 to do a direct roll out in our neighborhoods.

4 BARBARA FLYNN: Great.

5 CHAIRPERSON COMRIE: Thank you.

6 MICHAEL HICKEY: I'm sorry; I can't
7 resist responding to the Councilman's comments.

8 CHAIRPERSON COMRIE: I knew you
9 couldn't resist, Michael.

10 MICHAEL HICKEY: I'm sorry.

11 CHAIRPERSON COMRIE: I was giving
12 you a break, but go ahead.

13 MICHAEL HICKEY: You know, I deeply
14 sympathize with his sentiment that we're kind of
15 fiddling in the flames. There are many people
16 who--many parties that were involved in these
17 transactions, not just the banks but investors and
18 brokers. This happened in an environment where
19 loose regulatory management encouraged
20 speculation, particularly in communities that are
21 low-income and working class and communities of
22 color in New York City. That right now our
23 primary issue is not sub-prime and predatory
24 lending; our primary issue is a housing crisis
25 that's morphed into an economic crisis. The

1 majority of people that come to us in distress
2 have loss of income as their primary income, not a
3 reset. And our resources to support people that
4 have simply lost their job or a portion of their
5 job extremely limited. So we do what we can with
6 what we've got. I take very seriously your
7 request that we also step up and show leadership
8 and accountability. In the settlement conference
9 report that we issue we took great pains to make
10 sure that we actually crafted proposals for rules.
11 There are draft rules that are included in the
12 report that could also be amended as state law.
13 So we didn't just take the time to think about
14 what all the problems were. We really put forward
15 the things that we think are the crucial steps in
16 forming solutions. I think myself and my other
17 colleagues in the non-profit sector take that
18 burden of leadership extremely seriously. And we
19 don't want to just kind of come up and sound like
20 we're complaining. We really want to be able to
21 offer to you our best thinking on interventions
22 that we think can be most effective.

24 COUNCIL MEMBER SANDERS: If I may?

25 Since we are working together in another vehicle

1
2 to try to figure this thing out, I would just
3 remind everyone in here that we have not closed
4 the barn door on this. That indeed, when this
5 crisis is over, there are no laws to say that
6 these banks and other exotic entities, mortgage
7 entities, will not do the same thing again. The
8 federal door has not been closed, the state, nor
9 the City. We must, in this environment, where
10 there is at least some people saying that it's
11 wrong, we should not lose sight and we need to
12 find a way at least to close the barn door or to
13 some degree, can we at least put a stake in the
14 vampire now while it's resting rather than waiting
15 until it gets up there and goes out there again?
16 The New York Times the other day was speaking of
17 how they are mutating and now they're looking at
18 the life insurance policies of people, where they
19 are going and creating exotic mortgages or
20 pensions or packages dealing with the life
21 insurance of people. SO the problem is mutating.
22 And this one will come back. They made too much
23 money from this beastie to leave this one alone.
24 It's just a matter of time before they come back
25 roaring into this with a new generation of people

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2 who don't know any better. It's just a matter of
3 time. We should use our time well. We, you know,
4 we have all taken a type of oath that we should do
5 something right for these people. Perhaps there's
6 precious little that we can do for those, since
7 the federal government, a government that I
8 supported, seemingly doesn't want to do anything.
9 Perhaps there's very little that we can do. But
10 we should at least make sure it won't happen in
11 the future. That's just my soul responding. You
12 responded well, sir and I will respect our Chair.
13 Thank you, all. And thank you very much. You
14 have put in long hours. This is not to say the
15 three of you have not dwelled with this one and
16 wrestled with this one; you have. We just have so
17 much more to do. Thank you very much.

18 CHAIRPERSON COMRIE: Did you want
19 to respond to that Mike or no? Okay. Just did
20 not want to not ask. And, you know, I will echo
21 what the Council Member has said. You know,
22 people that started off as predatory lenders that
23 morphed, from what Andy had said, they're debt--
24 people that were trying to help you clear your
25 debt back in the '50s; you know, loan

1
2 consolidation people will just continue to find
3 other avenues. But we have to close down each
4 avenue as quickly as possible. And unfortunately
5 we are in a follow mode as opposed to being in a
6 mode that's ahead of them to try to eliminate them
7 altogether. But I hope that we're continuing to
8 enlighten this, continuing to strengthen the
9 Center for New York City Neighborhoods, making
10 sure that you're fully funded. And, you know, I
11 would ask you a funding question today. I'm sure
12 you're not fully funded and you could use some
13 more money. You can just nod your head quietly
14 and we'll work on that another day. But making
15 sure that the Office of Financial Empowerment is
16 fully up and running and expanded so that because-
17 -you know, as Michael said, more people are coming
18 in because of the economic downturn because they
19 don't have money. You know, they're out of work
20 or they're underemployed and they're in financial
21 situations that they can no longer--that they can
22 barely exist on in the beginning and they now
23 can't exist on at all. We really need to deal
24 with that in a more substantial way, and I hope
25 that we are more aggressive with finding those

1
2 opportunities to make those fixes ahead of the
3 curve and not behind the curve. But I really wan
4 to thank the three of you. You have been working
5 hard, as Council Member Sanders has said, to do as
6 much as you can with the resources you have, which
7 are not nearly enough. So thank you very much.

8 ANDREW EILER: Thank you, Mr.
9 Chairman.

10 CHAIRPERSON COMRIE: Thank you. We
11 now will hear from some advocates, Lisa Parrington
12 from the Urban Justice Center; Cyrus Dugger from
13 South Brooklyn Legal Services, Legal Services of
14 New York; and Herman de Jesus from NEDAP.

15 [Pause]

16 COUNCIL MEMBER SANDERS: The usual
17 suspects.

18 CHAIRPERSON COMRIE: No, you mean
19 the usual advocates, the usual victors.

20 COUNCIL MEMBER SANDERS: Same
21 things. When we speak of ways of trying to stop
22 this madness the three of--

23 [Off Mic]

24 COUNCIL MEMBER SANDERS: --have
25 been in the forefront. The usual suspects.

CHAIRPERSON COMRIE: Ladies first.

LISA PARRINGTON: Thank you. Good afternoon. My name is Lisa Parrington and I am here on behalf of Harvey Epstein, the Project Direct of the Community Development Project at the Urban Justice Center. The Urban Justice Center is a project-based umbrella legal services and advocacy organization serving New York City residents. The Community Development project represents homeowners who are trying to negotiate loan modification plans with their lenders and thereby save their homes from foreclosure. Prior to seeking our services, many of these homeowners were approached by and subsequently fell prey to unscrupulous for-profit distressed property consultants. In our experience, every client who has worked with a distress property consultant has lost money to the tune of several thousand dollars that otherwise could have gone to pay down mortgage debt and interest. In each case, these consultants promised to deliver home saving services, but instead deliver nothing. This bill requires disclosure of current state law regulating distressed property consultants in

1
2 written advertisements, but unfortunately does
3 little else. Beyond educating homeowners of their
4 rights under state law, the City Council needs to
5 create and pass laws that will adequately govern
6 the distressed property consulting industry and
7 prevent the exploitation of vulnerable homeowners.

8 The Urban Justice Center Community Development
9 Project recommends that this bill be revised and
10 strengthened so that the City of New York could
11 see real progress in the fight against distressed
12 property consulting fraud. Specifically short-
13 comings of this bill include, one, it covers only
14 print advertising and ignores in person and
15 telephone solicitation. Many distressed property
16 consultants rely on door-to-door and telephone
17 sales pitches rather than traditional print
18 advertising. Second, it does not require
19 disclosure that others may provide the same or
20 similar services for free. While current state
21 law requires disclosure of a list of housing
22 counselor available from the New York State
23 banking department, it does not disclose that
24 these services provided are similar and are
25 without cost. Number three, it does not require

1 disclosure that homeowners are always free to talk
2 with their mortgage lenders or servicers on their
3 own and at any time. It is our experience that
4 some consultants tell consumers that after signing
5 a contract. These consumers are prohibited from
6 attempting to negotiate with their mortgage lender
7 on their own. Number four, it does not require
8 disclosure that hiring a distressed property
9 consultant does not stop the foreclosure process.
10 One of our clients was told by a distressed
11 property consultant that she did not have to
12 respond to court papers, and as a result, she
13 missed the statutory period for responding to a
14 complaint. And five, it does not require
15 disclosure that there is no guarantee that they
16 will obtain a particular result. Some homeowners
17 will initially approach a government not-for-
18 profit counselor. When they are told truthfully
19 that there is no guarantee of a successful loan
20 modification and that there is a possibility that
21 they will lose their home--after hearing this
22 news the homeowner will then turn to a paid
23 distressed property consultant, because these
24 consultants will tell homeowners that they can
25

1
2 guarantee a successful modification.
3 Recommendations; this bill is a good first step in
4 creating awareness among homeowners of their
5 rights regarding distressed property consultants.
6 However, this bill should be strengthened in the
7 following ways. Include all mediums of
8 solicitation, rather than just print
9 advertisements; require disclosure that the same
10 or similar services provided by the distressed
11 property consultant are available to the homeowner
12 for free; require disclosure that homeowners are
13 always free to speak with their mortgage lender or
14 servicer at any time; require disclosure that
15 hiring a distressed property consultant does not
16 stop the foreclosure process; and finally, require
17 disclosure that hiring a distressed property
18 consultant does not guarantee any particular
19 result. Thank you for holding this hearing today
20 and giving me the opportunity to testify on this
21 important issue.

22 HERMAN DE JESUS: Thanks again for
23 having us, Chairman and Committee Members. My
24 name is Herman de Jesus and I am with the
25 Neighborhood Economic Development Advocacy

1
2 Project, NEDAP. And for years, for years and
3 years we've been saying this is a problem that's
4 going to spiral out of control; and it fell on
5 deaf ears. It's only now that this crisis has
6 taken New York--you know, it's happened even a
7 couple years ago, but because property values in
8 New York were soaring a lot of homeowners were
9 either duped into property sales or were duped,
10 you know, in many, many different ways. NEDAP is
11 a non-profit organization that provides resources,
12 policy and advocacy to organizations on the front
13 lines working on these issues. We do not deal
14 directly with homeowners. We provide technical
15 support, capacity building and training to
16 organizations working on economic justice issues.
17 We do a lot around foreclosure prevention and sub-
18 prime lending issues. We also have a consumer law
19 project that runs a hotline that assists New York
20 City residents with abusive debt collection
21 issues. We also administer a foreclosure
22 prevention gap loan program and lien program to
23 help homeowners gap themselves when they need
24 money to either pay off a second mortgage holder
25 or enter into some form of modification that's

1
2 affordable to them. I only started with NEDAP a
3 couple of months ago. Before then I was with
4 Legal Services for New York City at South Brooklyn
5 Legal Services where my colleague, Cyrus Dugger is
6 from. And I was there for, you know, over seven
7 years and prior to that at a not-for-profit
8 organization in East New York. And I can tell you
9 from the first day that I started at that not-for-
10 profit organization, that community-based
11 organization, the problem was very obvious. And
12 only after several and several years of doing this
13 work and helping advocate for homeowners did we
14 realize the scams continue and continue and
15 continue to mutate into different scams. Today's
16 sort of scam that, although has been around for
17 some time now, are these loan modification scams.
18 And I know that you've already heard it from other
19 advocates and the Urban Justice Center and I'm
20 sure from other folks from around the City that
21 this is a growing problem and these companies need
22 to be stopped completely. They should not be
23 allowed in any way to engage in any services to
24 New York City residents, especially homeowners
25 that are the most vulnerable. Now, speaking from

1
2 experience, the majority of the clients that I
3 worked with were minority, elderly, working poor
4 single mothers, working poor in general and the
5 recently unemployed. These homeowners that I
6 worked with for several years tended to have been
7 victims of abusive mortgage lending. Now with the
8 huge spike in foreclosures, these folks, these
9 very same victims are again being targeted by the
10 same companies that got them into their problem
11 originally, these same mortgage brokers, real
12 estate speculators, so-called real estate
13 professionals; they've changed hats and now
14 they've started their own loan modification
15 companies soliciting the most vulnerable folks in
16 our communities. And for what purpose? To charge
17 them huge up front fees, to provide them with face
18 promises of saving their property, to say that
19 they have 100% success rate when they help
20 someone. There is absolutely no rationale for the
21 existence of these companies. To make matters
22 worse, organizations like those funded by the
23 Center for New York City Neighborhoods provide
24 quality services for free. Obviously we urge the
25 City Council to please consider banning these

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2 companies to the extent that you can. I want to
3 talk briefly about a story that just came in from
4 an advocate working for a legal services
5 organization, which I'm sure is sort of what
6 you're hearing from your constituents day in and
7 day out. Single mother with a disabled child,
8 Iraq War veteran, recently came back from her tour
9 in Iraq, was unable to secure work, fell behind on
10 her mortgage, was targeted aggressively,
11 aggressively, by a loan modification company that
12 was hiding under the cover of an attorney--one of
13 the loopholes in the state law. That company
14 promised to help her, told her what you heard from
15 Urban Justice Center today, there's no need to
16 respond to the foreclosure. There's no need to
17 speak with your lender, we're going to help you
18 save your home and we'll come up with a plan
19 shortly, just pay us thousands of dollars up
20 front. Desperate, especially to try and keep the
21 home where she's raised on her own her disabled
22 child for a couple of years, she paid the money.
23 And what happened at the end? Her property was
24 foreclosed on. In all of the years that I have
25 done this work, whenever we've come across a loan

1
2 modification company that's offered their
3 services, 100% of the time they've done nothing
4 except steal the person's money. Lastly what I
5 want to talk about is our concerns with the
6 current legislation. Again, we also agree with
7 our colleagues at the Urban Justice Center about
8 the language that's in the legislation. For
9 example, it's not enough to say or to restrict
10 them on their written materials. We also think
11 that--on every publication, if there's no way to
12 ban these companies, that they need to go beyond
13 just letting folks know in writing that they can
14 contact 311. However, we're also concerned that
15 if these companies use 311 on their solicitations,
16 that it might be legitimizing these companies.
17 We're really worried in any way, especially last
18 year when the State and the City Council was
19 considering licensing these companies, that that
20 would legitimize these companies, because then it
21 would be able to say, we're licensed by the New
22 York City Department of Consumer Affairs. Now
23 it's sort of a quandary, because we're worried
24 that if they put 311 on their solicitations,
25 what's going to happen. Homeowners are going to

1
2 see this and think that these are legitimate
3 companies--they have 311, the City's main line for
4 assistance on their solicitations. Aside from
5 that, one major loophole in the legislation that
6 we've noticed is the attorney and mortgage broker.
7 Those companies are exempt from the legislation.
8 What we're seeing is that there are several
9 attorneys that front for these loan modification
10 companies. It's John Doe, Esquire; but when you
11 call you speak to Billy, who is in some other
12 state, who is not an attorney, and you never,
13 ever, ever get to speak with an attorney. Aside
14 from that, mortgage brokers, I don't think I have
15 to tell anyone here the history that mortgage
16 brokers have in these hard-hit communities.
17 Mortgage brokers, real estate speculators, all
18 sorts of mortgage industry folks have engaged in
19 egregious abusive lending practices. Current laws
20 sort of prohibit and the market sort of crashing
21 is making it hard for mortgage brokers to go and
22 make mortgage products to first time homebuyers or
23 to refinance folks that are clearly underwater on
24 their mortgage debt. So what do you think those
25 mortgage brokers are going to do? They're going

1
2 to--under their mortgage broker license--offer
3 loan modification services. There needs to be a
4 complete stop, a complete ban on these companies.
5 And that's our position and we will, as an
6 advocate for those unheard homeowners, we will
7 continue on all levels, the City and the State, to
8 push for effective regulation of these companies
9 or to ban these companies entirely.

10 [Pause]

11 CYRUS DUGGER: Good afternoon. My
12 name is Cyrus Dugger and I am a Staff Attorney for
13 the Foreclosure Prevention Project at South
14 Brooklyn Legal Services. Thank you to the
15 Committee on Consumer Affairs for inviting me to
16 speak today about Introductory Bill 1070, a Local
17 Law to amend the code of the City of New York in
18 relation to Distressed Property Consultants. For
19 more than ten years the Foreclosure Prevention
20 Project has represented low to moderate-income
21 homeowners in New York City who are at risk of
22 losing their homes because of predatory lending
23 practices. Through litigation and advocacy, we
24 have been able to save hundreds of homeowners from
25 foreclosure. In recent years, our project has

1
2 advised hundreds of New York City homeowners, most
3 of whom have defaulted on unaffordable mortgages.
4 As you know, the nation has recently become
5 embroiled in a foreclosure crisis with devastating
6 consequences for homeowners and their communities
7 throughout New York City. In addition, during the
8 last two years, South Brooklyn Legal Services has
9 witnessed the rise of the Distressed Property
10 Consultant industry. As the housing market
11 imploded, many of the same actors responsible for
12 the foreclosure crisis reconstituted as distressed
13 property consultant companies. These for-profit
14 companies claim to be experts in loan
15 modifications and foreclosure prevention and
16 aggressively solicit distressed homeowners. They
17 often convince troubled homeowners to pay
18 thousands of dollars in up-front fees with
19 irresistible and inflated promises about their
20 ability to resolve distressed homeowners'
21 foreclosure or mortgage defaults. After spending
22 their savings to pay up-front fees, many
23 homeowners are instructed to stop making mortgage
24 payments or communicating directly with their
25 servicer. Others are told that they should not

1
2 respond to court papers. Thus, while these
3 consultants usually do little to nothing to help
4 homeowners obtain affordable loan modifications,
5 they simultaneously force homeowners further into
6 default, thereby causing or contributing to
7 thousands of potentially avoidable foreclosures in
8 New York City each year. Unfortunately and
9 ironically, many of the homeowners working with
10 costly and usually ineffective distressed property
11 consultants could have obtained high quality
12 assistance negotiating affordable loan
13 modifications free of charge from neighborhood
14 housing counselors or legal services organizations
15 like South Brooklyn Legal Services. In an
16 acknowledgement of the widespread problems with
17 the distressed property consultant industry in New
18 York State, on August 5th, 2008, Governor Patterson
19 signed into law program bill number 44 A10817,
20 commonly referred to as the Foreclosure Prevention
21 Responsible Lending Act of 2008. Among many other
22 important provision, through the addition of Real
23 Property Law Section 265-B, this bill imposed
24 substantial limitations on the activities of
25 distressed property consultants. If universally

1
2 adhered to, these prohibitions and requirements
3 would effectively prevent the most unscrupulous
4 practices of distressed property consultants.

5 Unfortunately the primary shortcoming of section
6 265-B has been that distressed property

7 consultants flagrantly violate the law every day.

8 Among other violations, distressed property

9 consultants continue to collect up-front fees and

10 fail to execute written consulting contracts to

11 comply with the requirements stated in section

12 265-B. In the vast majority of cases, only with

13 our intervention are clients able to have these

14 illegal up-front fees refunded. Another issue

15 with the current law is that attorneys admitted to

16 practice law in New York are exempt from the

17 requirements of section 265-B. Alarminglly,

18 distressed property consultant firms increasingly

19 seek to avoid the application of section 265-B by

20 hiring lawyers and coordinating their services

21 with law firms, leaving homeowners without any

22 recourse. We welcome the Council's attention to

23 this issue and hope you will continue to work with

24 the consumer advocates to address the foreclosure

25 crisis. In reality the most effective way to

1
2 prevent homeowners from being taken advantage of
3 by distressed property consultants would be to
4 prohibit them from operating. South Brooklyn
5 Legal Services has yet to see a distressed
6 property consultant that substantially assisted a
7 homeowner, prevent a foreclosure, or cure a
8 default. Nonetheless, to the extent the Committee
9 is unable to prohibit distressed property
10 consultants from doing business in New York, the
11 concepts in the proposed amendment could prevent
12 some homeowners from being induced into these
13 fraudulent schemes. Clear disclosures could
14 dissuade some homeowners from contacting
15 distressed property consultants and educate
16 homeowners about some of their rights. However,
17 as currently drafted, it appears the amendment
18 merely requires that the advertisement restate the
19 relevant statutory language of section 265-B. A
20 notice like this will not be comprehensible to the
21 majority of New York City residents. The
22 disclosures must be in plain English and in a
23 readable font and size in all advertisements. If
24 the disclosures are difficult for consumers to
25 understand or too small for them to read, they

1
2 could do more harm than good. South Brooklyn
3 Legal Services also supports the idea of
4 encouraging homeowners who's rights have been
5 violated to seek legal assistance from a legal
6 services office or a government enforcement
7 agency. Indeed, we need to dramatically increase
8 the public awareness about these fraudulent
9 schemes and how homeowners can access free
10 assistance. However, we are concerned that
11 requiring these companies to put 311 in their
12 advertisements may mistakenly lead some consumers
13 to believe that the City is actually endorsing
14 these companies. Although section 265-B was an
15 important first step towards strong consumer
16 protections for New York City homeowners, South
17 Brooklyn Legal Services' experience has been that
18 it has yet to effectively control the conduct of
19 distressed property consultants in New York City.
20 Much more needs to be done to stop these
21 consultants from targeting vulnerable homeowners
22 for fraudulent schemes and to address the
23 foreclosure crisis more broadly. We look forward
24 to working closely with the City and State on
25 these issues, and thank you for inviting me to

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2

speak today.

3

CHAIRPERSON COMRIE: Thank you.

4

Council Member Sanders, you had a comment?

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COUNCIL MEMBER SANDERS: Yes. Let

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me first concede that I'm going to go back to our

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attorneys and look at all the recommendations that

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you have given to see how many we can incorporate,

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how many we can do all of those things that you

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have done. As you probably heard from the tenor

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up here, there is no desire to protect this

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industry at all. There is a desire and a

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responsibility to protect people, and we insist on

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doing these things. So I see nothing that you

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have said that I cannot accept. I will speak to

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our attorneys to see how that goes, but we will go

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there. But just as an aside, there's another part

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of the story that needs to be mentioned, and that

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is the banks. Even after we do these very worthy

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things, my understanding and everything that I

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know says that these banks are not making the

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modifications by and large. If you have more

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information, perhaps--well let me ask a question.

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To the practitioners, what percentage of your

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clients get positive modifications from these

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2 banks?

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CYRUS DUGGER: It's a hard question to answer for a couple of reasons. One, you know, a modification is the technical term for changing the terms of a loan.

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COUNCIL MEMBER SANDERS: Yes.

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CYRUS DUGGER: But the question is really is it an affordable modification.

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COUNCIL MEMBER SANDERS: Yes.

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CYRUS DUGGER: Often--it's changed somewhat as the crisis has happened, but it's a hard question to answer. What I can say is that you're all familiar I think with the Home Affordable Modification Program that the President, that the Treasury Department has implemented. As a variety of reports have shown, the vast, overwhelming majority of people who were assumed--who Treasury assumed would qualify for that program, have not been given modifications. So to the extent that there's difficulty even with the program that has very clear guidelines and has been promulgated by the Treasury Department, I can say that the difficulty getting modifications outside of that program is even more severe. I

1
2 can't give you specifics on all of the
3 modifications that we deal with, because I don't
4 have those numbers in front of me right now, but
5 the vast majority do not get affordable
6 modifications, at least any time quickly or
7 anytime soon or in a way that is satisfactory.

8 COUNCIL MEMBER SANDERS: Anybody
9 else want to take a shot at that one?

10 HERMAN DE JESUS: Although NEDAP is
11 not a direct service provider, we do work with
12 non-profit organizations that are on the front
13 lines every day and we provide them with the
14 resources that they need in order to do their
15 work. We also chair the New York City anti-
16 predatory lending task force. And what I can tell
17 you is that as a matter of fact, just roughly two
18 weeks ago we had this very same conversation. Are
19 loan modifications happening or are lenders,
20 servicers, investors, hindering homeowners'
21 applications for these modifications? The answer
22 is yes. The modifications are not getting done.
23 Homeowners that are clearly eligible for these
24 modifications are not getting them. And there is
25 this huge industry unwillingness to make these

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2 modifications a reality. And even in instances
3 where modifications are offered, what we're
4 hearing from advocates--even before I left Legal
5 Services--the modifications that were being
6 offered were either as bad or worse than what the
7 homeowners already had. Has it changed since I
8 left Legal Services a couple of months ago? No.
9 And that's what we're hearing from advocates
10 around the City. So on that note, for a company
11 to come in and say that they have a 100% success
12 rate in getting modifications--what I can say is
13 that there have been some clients that have come
14 to the office when I was at Legal Services, that
15 had gotten loan modification offers from one of
16 these companies that they've gotten through their
17 lender. And 100% of the time the offers that they
18 got were more unaffordable than what they
19 initially had. And besides being more
20 unaffordable, what they would agree or what they
21 would agree to in writing was to have the
22 homeowners waive all of their rights so that they
23 would be unable to raise any sort of defenses
24 later on if they chose to, and where they were
25 ultimately validating a debt that may have had

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2 egregious mortgage lending issues from its
3 inception.

4 LISA PARRINGTON: And I would echo
5 the sentiments of my colleagues. The number of
6 borrowers that we're seeing come out with a
7 successful modification is very small. I don't
8 have the exact numbers, but I could follow up with
9 you or your office with more information. And
10 then just echo a comment that was made earlier.
11 We are seeing just a lot of delay on the efforts
12 of the mortgage providers and trying to stall out
13 the process of negotiation and asking for
14 adjournments of court dates. And just the process
15 is taking longer than it seems necessary to take
16 in many of the cases that we're working with.

17 COUNCIL MEMBER SANDERS: Mr. Chair,
18 having--I've studied this issue also and I would
19 argue that we're seeing less than ten percent of
20 the population getting truly affordable
21 modifications of the situation that they're in,
22 their home situation. It seems to me that it
23 screams out a hearing on that very issue. What
24 are the banks doing to obey the Home Program and
25 all of the other programs that were weak to begin

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2 with, that were insufficient to begin with and
3 that were seemingly a giveaway to the banks to
4 begin with? And I say that as a President Obama
5 supporter. I say that as a person who supported
6 the President before Iowa. This is one of the
7 most shameful periods in American History in terms
8 of the banking industry and your Committee is
9 empowered at least to raise those very worthy
10 questions to the banks. What percentage, in New
11 York City--we can't speak of the world but we can
12 speak of New York City--what percentage in New
13 York City are getting affordable housing
14 modification? However, as the practitioners have
15 pointed out, as these good people before you have
16 pointed out, you need to define affordable.
17 Because these guys are experts in using words to
18 say nothing. So I just wanted to say that.

19 CHAIRPERSON COMRIE: That is a
20 hearing that we are preparing and an issue that
21 clearly needs to be addressed and can be addressed
22 by this Committee. We can do oversight on the
23 banking industry in limited degrees, and that's a
24 hearing that we've been talking about internally
25 to do. And that's something that we truly want to

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do--

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COUNCIL MEMBER SANDERS:

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[Interposing] I'd love to help you with that, sir.

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CHAIRPERSON COMRIE: --before the

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end of the year. So we're going to get that done.

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I just want to say also that I appreciate the

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testimony from the advocates. I'm in agreement

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with you on all of your suggestions. I'm also

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leaning towards the full ban more than anything

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else. I think that any way, shape or form that we

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legitimize these illegal industries, to give them

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any imprimatur of legitimacy may be more dangerous

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than anything else that we may do. So while I

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hear of all of your suggestions, to do anything

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short of banning them I think would be dangerous.

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Because if people are running to them after they

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go into the free service because they feel that

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they have some imprimatur of legitimacy, only

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creates problems. So I think that we need to

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think about doing all of these things as a

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separate bill, but not to give them any legitimacy

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at all is I think what really is our main goal

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here. And I hope that, you know, together we can

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work to go to Albany to get the ban done and to

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2 also do the other crackdowns, so we can at least
3 push them out of New York State market and to find
4 ways to close them off altogether. And I have
5 been in contact with Darryl Towns, who is the
6 Chair of the Assembly Committee on Banking, and
7 he's keenly interested in maybe doing a joint
8 hearing on this as well to talk about the fact
9 that the modifications are not happening. I've
10 been hearing from NHS and other providers that
11 David Aviles [phonetic] and also MFY and other
12 providers are doing legal intervention about the
13 delays in having the--you know, in even getting
14 the banks to the court to do the adjustments and
15 to do the opportunities for the--I forget the
16 technical term that was said earlier by Michael--
17 the court appearances necessary to even talk about
18 modifications. And, you know, my concern is that
19 homeowners are waiting and waiting and then they
20 get frustrated and then try to go to these illegal
21 providers because they think that because of the
22 waiting times that these illegal providers that
23 are offering fake guarantees can actually break
24 that log jam. So I think we need to clear that up
25 and do everything we can working together,

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2 hopefully with the administration, or hopefully
3 with a new administration if need be, to get these
4 things highlighted so that people won't feel the
5 need to go to anyone that's putting out false
6 advertisement. And any way that we legitimize
7 them or give them the imprimatur that they have
8 some legal standing when they're only trying to
9 rip people off is a problem. I just also want to
10 thank the South Brooklyn Legal Services for really
11 being at the forefront of fighting with the banks
12 to make sure that they do at least try to come to
13 the table and work on the loan modifications
14 necessary. I know that I refer many people in
15 Brooklyn to your agency as well. The phone calls
16 keep coming in and, you know, many things are
17 being done. But your organization has tried to
18 step up to the plate and provide the service. And
19 not to negate any other providers, but I know that
20 people have been well served by South Brooklyn
21 Legal Services I would ask you a budget question
22 also, but I know you're all under funded and
23 you're all looking for more money, so, you know in
24 order to deal with this crisis. You're all under
25 staffed. I know that only too well because of the

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2 volume of calls that are coming in. So, with that
3 I want to thank you for being here today. I'd
4 also--you know there was an issue of whether or
5 not non-profits should charge for the service and
6 I think that that's something we need to talk
7 about some more, because if people are getting
8 frustrated and going to the for-profit ones
9 because they feel it's a free service, they're not
10 getting the passion or the work that they think is
11 needed to be done--we need to deal with that
12 psyche also. And I think that that may be a
13 larger discussion that we need to have. While I'm
14 reluctant to charge people, we may need to figure
15 out some way to keep them motivated to stick with
16 it, because it is an involved process. It's not
17 something that's going to get done overnight. And
18 most of these people got into these loans because
19 they did it in an instant; they did it because
20 they wanted things done quickly. And to get it
21 undone they will have the same attitude,
22 unfortunately. And I think we need to get them to
23 slow down. And one way to get them to slow down
24 may be in fact to find out how we can get them to
25 understand and be more invested in the whole

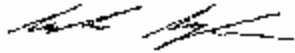
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2 process. So with that I want to thank you all for
3 being here. I want to thank Lacey Clark
4 [phonetic] and Damian Batuick [phonetic] for
5 putting the hearing together. I want to thank
6 Council Member Sanders for, you know, developing
7 the legislation so that we could at least have the
8 discussion and making us realize that we're going
9 to have to do a lot more to clamp down on these
10 heinous people that are putting on different hats
11 just to rip people off. With that I want to thank
12 you all and declare the hearing closed. Have a
13 good afternoon.

14 MICHAEL HICKEY: Thank you.

15

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 _____ October 14, 2009 _____